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Neutral Citation Number: [2026] CIGC (Fam) 9

**IN THE GRAND COURT OF THE CAYMAN ISLANDS
FAMILY DIVISION**

CAUSE NO. FAM 277 OF 2021

BETWEEN:	HNL	PETITIONER
AND	JAL	RESPONDENT

Appearances: The Applicant represented by Ms. Shelly Perryman-Pollard of Samson Law Associates

The Respondent represented by Ms. Francesca Dowse of McGrath Tonner

Before: Hon. Justice Richard Williams

Heard: 15-16 January 2026, 19-20 January 2026

Petitioner's written Submissions: 27 February 2026

Respondent's Written submissions: 3 February 2026

Draft Judgment circulated: 13 July 2026

Handed Down: 21 July 2026

Permanent relocation application – Child meeting the Judge prior to hearing and the relevant guidelines

JUDGMENT

Introduction

1. *“(Relocation) cases are particularly traumatic for the parties, since each of them conceives so much as being at stake. They are very, very difficult cases for the trial judges. Often the balance is very fine between grant and refusal. The judge is only too aware of how heavily invested each of the parents is in the outcome for which they contend. The judges are very well aware of how*

profoundly the decision will affect the future lives of the children and how difficult it will be for the disappointed parent to adjust to the outcome.”¹

2. The parties have produced and presented a substantial amount of written and oral evidence. Some of it is helpful, and some is not. They have also suggested a number of findings which they invite me to make. I adopt the observations made by Thorpe LJ in ***Re F (Shared Residence Order)*** [2003] EWCA Civ 592, [2003] 2 FLR 397, namely that although one of the functions of the Judge is to make findings, the Judge is to be selective and to make findings that are relevant and necessary for the disposal of the issue.

The parties and the child

3. I am concerned with one male child aged 11 who was born in Orange County, California. Both of his parents grew up in Orange County. They were in a relationship for seventeen years and were married for ten years. The child’s mother (HNL) is a US national and is aged 40. The child’s father (JAL) is also a US national and is aged 42. The parties were married in 2008 in Nassau, the Bahamas.² They lived in Orange County where they owned a home. They lived in very close proximity to the wider paternal family and with the encouragement of both parents, the child was, from birth, fully integrated into and spent a great deal of time in the company of that side of the family. For the sake of convenience, I will hereafter refer to the Petitioner as “the mother” and to the Respondent as “the father”.

Background – The move to the Cayman Islands

4. The parties had become rather enamored by the Cayman Islands after their vacation visits and because of their shared interest in diving. That is why the mother sought employment as a teacher in Cayman, with the child and the father both being dependents on her work permit. When the child was three years old, in August 2018, they relocated from California to Grand Cayman. The father said that the paternal grandparents and his brother came to Cayman to help them move and get settled in. The father contends that the move was supposed to be a temporary move for only one year. He said that they wanted to do it whilst the child was in kindergarten and before he went to “*real school*” and that at the end of that school year, in June 2019, they would return to California. The mother accepts that it was initially supposed to be a temporary move but contends that it was

¹ Thorpe LJ’s observations were made in ***RE G (Leave to Remove)*** [2007] EWCA 1497.

² The Skeleton Submissions filed on behalf of the mother wrongly records, at paragraph 3, that they were married in California.

a move for a minimum of two years due to her signing a two-year teaching contract.³ The mother indicated at paragraph 6 in her Affidavit sworn on 5 April 2022 that there had been:

“An agreement that was made while we were a married couple to return to California on (the father’s) timeline.”

The father is an attorney admitted to the Californian Bar. It was agreed that he would work remotely for his law firm located in Orange County and for whom he had, by March 2022, been working with for 15 years.

Background – Events after the move to the Cayman Islands

5. Only 3-4 months after the relocation in November/December 2018, the parties separated. The circumstances surrounding the parties’ separation and the commencement of both parties’ relationships with their spouses are not relevant to the determinations I now have to make. The father says that the parties agreed to move back to the US with his parents covering their health insurance. The father said that, although he was only aged 4 at the time, the child believed from what he had gleaned from both his parents and from his extended family that the move to Cayman was supposed to be a temporary one and that the intention was that they would be returning to California. The father said that the move back was then going to be in December 2018 during the school winter break. The mother agreed that there was a discussion between November and December about her breaking her teacher contract and returning to California “*due to a rough onboarding experience*”⁴ that she had at the school. In support of his contention, the father relies upon the mother writing to her former employer in Orange County enquiring about full and part time job opportunities.⁵ He highlights language used in that correspondence such as “*return to California sooner than anticipated*”. The mother accepts that the parties engaged in discussions about returning together to California and that she made enquiries to her previous employer about available teaching jobs. It is submitted on behalf of the mother⁶ that:

³ “*Our plan was to live in the Cayman Islands for the duration of my teaching contract. (the Father) and (the child) were going to be dependents on my work permit and (the father) would work remotely for the length of my contract. There was no plan as a family (before we agreed to separate) to move back in June 2019, as I had another year on my teaching contract...*” Paragraph 4 mother’s Affidavit sworn on 5 April 2022.

⁴ Paragraph 5 mother’s Affidavit sworn on 5 April 2022.

⁵ In her email to her former employer dated 12 November 2018 the mother wrote: “*Contrary to what we initially planned, my family and I are needing to return to California sooner than anticipated. With that being said, I am wondering if you foresee any opportunities to place me in an open (or soon to be opened) position.*”

⁶ Paragraph 6 Skeleton Submissions filed on behalf of the mother dated 12 January 2026.

“On discovering that there were no jobs available and realizing that she would be leaving her job mid-contract with no prospects of another job and no health insurance available for (the child), she indicated to the father that she did not wish to leave the Cayman Islands security he had there.”

The father said that she then asked him if they could stay for the remainder of the school term so that it would not reflect poorly on her work record.⁷ In his Affidavit sworn on 4 June 2025 the father said that another reason was that the mother wanted to remain in good standing with the Cayman School’s parent company. In his Affidavit sworn on 4 June 2025 the father said that, because her students had formed bonds with her, the mother did not want to leave them abruptly. He said that they stayed and when the school term was coming to an end, the mother asked him if they could stay in Cayman for the Summer. He acquiesced as he had the consent of his then employer to stay here and work remotely as long as he returned to California each month. However, the father said that at the end of the summer term the mother said she wanted to remain living in Cayman and that she would not allow the child to relocate to the US with the father.

6. The mother accepts that she wrote to her former employer, but she was only offered an unacceptable one-month part time position without benefits. She said that the parties then agreed that it would be in the best interests of the child if they remained in Cayman. In her 5 April 2022 Affidavit, she indicated that any view expressed by her about returning to California when they were a couple did not apply post separation as they *“would have significant hardships on her financially and professionally as a single mother”*.
7. In around March/April 2019, the mother commenced a relationship with her now husband, and, by June 2019, it became evident that she saw her future to be in the Cayman Islands. The father contends that the mother’s decision to remain was not based on what was in the best interests of the child but was *“personally motivated”* leaving the family since that time *“in limbo”*.
8. The parties continued to reside together in the matrimonial home until the lease came to an end in September 2019. The mother then permitted the father, until November 2019, to stay in a new property which she had leased. The father said that this happened because they recognised the high cost of living in Cayman and because they had previously agreed to return to California in June

⁷ Paragraph 8 Affidavit of the father sworn on 28 March 2022.

2019. The mother said it was because the father could not afford to pay for independent accommodation. The mother said in her Affidavit sworn on 5 April 2022 that the reason why she allowed the father to temporarily stay was “*in order for the (child) to have access to his father*”.

9. In November 2019, the mother commenced child proceedings in the Summary Court.⁸ In December 2019, the father initiated divorce and child proceedings in California and filed a Summons for a permanent relocation order in the Summary Court.⁹ He said he filed the latter because it became clear to him that the mother did not wish to return to California. It appears that the mother expressly consented to the jurisdiction of the Californian Court in her Answer filed in those proceedings. However, the court in California decided that the matters would be better resolved in the Cayman Courts on *forum non conveniens* grounds.

Background – The mother’s circumstances in the Cayman Islands

10. The mother independently purchased a home in January 2022. After the Decree of Dissolution was granted in July 2022,¹⁰ the mother married her now-husband in November 2022. He is a US national who has been a long-term resident of the Cayman Islands and he also holds Caymanian status. He is the major percentage owner of a watersports company. In his evidence he states that due to their marriage the child now has access to local education, scholarships, residency and future career opportunities as he holds dual citizenship. The mother now has residency through her husband.

Background – The father’s circumstances in the Cayman Islands

11. The father, on the other hand, does not have such a benefit and he has the insecurity of only being in Cayman with visitor immigration status. In August 2021 he was removed as a dependent on the mother’s work permit. He has been an attorney licensed to practice at the California Bar for 17 years. In his first 15 years of practice, he worked for one firm. He says that for the last year that he lived and worked in California, his annual income was around US\$250,000 and that his income has understandably dropped to an average of US\$100,000-\$120,000/year after the move to Cayman. In his present employment, he earned US\$172,000 plus incentive-based and discretionary bonuses¹¹ in 2025. In 2023, as a consequence of the father losing his largest source of business, he had to find new employment. After various interviews with different prospective employers, he accepted a job

⁸ See paragraph 31 below.

⁹ See paragraph 31 below.

¹⁰ See paragraph 43 below.

¹¹ One of the bonuses requires the father to bill 2,200 hours for the year which amount to around 184 hours per month/8.5 hours per day.

with an Insurance Defence firm as the job was almost entirely remote. Although it is remote employment, his hours are in PST, so he must be available between noon and 8:00PM Cayman time. This impinges on his time and care of the child and he says that this is “*not fair*” on the child as they would both “*love a normalized work schedule*”. Another issue with his employment is that the national law firm employing him has recruited him on the basis that they believe that he is working from California. He is understandably concerned that they will find out that he is in fact residing in and working remotely from Cayman. The father believes if he was living in California that he would be a strong candidate for elevation to a managing partner in the office there. He feels that being in Cayman has meant that important “*facets*” of his job “*have been completely curtailed*” and that his “*own goals have been set aside*” and that a return to reside and work in California “*is critical*” to his employment advancement.

12. The father has no right to reside in Cayman and since 2023 he has been entering the country as a visitor and obtaining visitor extensions so that he can stay with the child until their next California trip. It appears that after his return to Cayman following the Christmas 2025 break he and his accompanying family members were held and interviewed by Immigration Officers upon arrival at the airport. The father says that Immigration granted him only a two-week extension and has indicated to him that future extensions may not be granted. This is a highly precarious arrangement and is far from satisfactory, especially when coupled with his employment circumstances. I note that he has had to seek guidance from an immigration lawyer to extend his stays in Cayman and he understands that he may be prohibited from re-entering Cayman in the future. His immigration status means that he cannot obtain a local bank account. This makes it difficult for him to make basic payments for rent and utility bills. He has to make payments using a US debit card. I accept that is not a sound way for a person who appears in reality to be residing in a country rather than just visiting to arrange their financial affairs.
13. The father has explored avenues to regularise his immigration status in the country. One example of this was when he and the mother’s husband considered whether he could obtain a work permit as a Divemaster through the latter’s company.¹² With that in mind, the father said that he trained for and obtained a Divemaster’s certification. However, the mother’s husband felt that it would not be appropriate to take this course after taking on board the views of his business partner. I do not

¹² The mother’s husband is the 80% owner of a five-star dive company serving locals and tourists as well as he being “*an internationally recognised underwater photographer*”.

criticise either person for that potential option not progressing. However, it is an indication of how great the father's desire is to be a hands-on parent to his child as he was willing to give up his already long legal career to be a dive master if it meant that he could live close to his son. Another example is the husband exploring setting up a company in the Special Enterprise Zone at Cayman Enterprise City. As a consequence of his research, he found that he did not have the required funds and that it was unlikely that the purpose of his proposed business would fall within any of the required areas of specialised economic activity.

14. The mother has suggested that the father gives up his US legal career and obtain employment in the financial services industry here. I agree with the father that her suggestion is unrealistic, especially as he has been an Insurance Defence lawyer throughout his working career. It would involve him adapting to a completely different career path in which he had no employment history or professional reputation and which likely would result in a drop in income. It is also a rather unattractive suggestion for her to make, when one sees: (i) that the family's circumstances post-separation have fallen squarely in line with the mother's personal employment wishes; and (ii) that the steps taken by the family have been designed to enable the mother's desire to teach in Cayman to continually be met, a career which comes with a far less income capacity to meet the child's needs than the father would potentially have as a lawyer working remotely in Cayman or even more so, if working actually based in the US.
15. Rather surprisingly, this legally represented mother submits that the father could remain in Cayman and practice as a member of the Cayman Bar. That is an ill-informed submission for her to have made at an earlier time to a counsellor during one of the child's counselling sessions and to continue to make during this hearing. Also rather surprising is the fact that, in the Court Welfare Officer's Report dated 6 November 2025 ("the November 2025 Report"),¹³ Ms. Carol Robinson, the assigned Social Worker, aka Welfare Officer, appears to adopt the mother's meritless suggestion when she inaccurately wrote concerning the father's "*full-time employment*" in Cayman as:

"a qualified Attorney, (the father) possesses skills that make him highly employable and a strong candidate within any competitive job market."

In this judgment I need not conduct a review of the Legal Services Act 2020. It is patently obvious that, although he has five years' post-qualification experience, the father does not meet the statutory

¹³ Paragraph 80 in the November 2025 Report.

criteria to be admitted to the Cayman Bar. Probably the quickest route might be for him to requalify as a solicitor of England and Wales through the Solicitors Qualifying Examination (SQE). That could only happen if his experience with the US law firm fulfills the admittance requirement for that course and his application for the qualification was ‘signed off’ by a solicitor from England and Wales. If successfully completed, obtaining that qualification would take at the very least one year. He could study online and sit the examinations. If he passed those examinations, he would then need to acquire five years of post-qualification experience after admission in one of the Commonwealth jurisdictions. His time as a practicing member of the Californian Bar would not count towards that. It would take many years to qualify and of working out of the Cayman Islands before he could be considered for admission to the Bar in Cayman. If he was not able to study for the SQE, the other avenues for obtaining a Commonwealth qualification would take longer than the SQE route. Therefore, the requalification suggestion made by the mother, which was seemingly immediately adopted by the Welfare Officer without her conducting any meaningful enquiry into the same, is fundamentally unrealistic. All of the mother’s suggestions about the father’s employment options were ill thought out and flawed. I found the mother’s failure to genuinely acknowledge the considerable sacrifices made by the husband and the detrimental impact on the father’s employment and career due to him remaining in Cayman due to his primary desire to be close to the child to be rather unattractive. It was only during cross-examination when she was reminded about his various attempts over four years to obtain immigrant status that she said that:

“I acknowledge that it could have been hard for him. I accept he made efforts and that is a sacrifice.”

However, she then went on in an unsympathetic way to answer questions about the impact it had on his career and added at the end of that:

“I (had) no idea that his life (is) on hold.”

My notebook from the hearing contains a contemporaneous note made by me after that answer that I saw a reluctance by the mother to acknowledge the sacrifices that have been made by the father and, from my post hearing review of all her evidence and from her demeanour in Court when giving evidence, that is a view that I still hold.

16. I do not agree with the unattractive and unsympathetic contention made on behalf of the mother in her Closing Written Submissions that:

“The father’s current immigration dilemma rests squarely on his own shoulders.”

Although his work remains based on an unusual arrangement with a US law firm employer, she is critical of the fact that he has not regularised his status here. The reality is he would highly likely not meet the permanent residence requirements and as already highlighted, he is not qualified to be admitted to the Cayman Bar. He has tried to find what one might describe as being employment below the stature of his qualifications and work experience just so he can be close to his child. He has been endeavouring to do that whilst in an insecure immigration and employment situation whilst the mother has had the benefit of moving on with her life from the temporary arrangement that the parties envisaged when they arrived in Cayman with the father being a dependent on the mother's work permit and securing and cementing her: (i) domestic status; (ii) immigration status; and (iii) employment status. It seems that she is unable to recognise how she has benefited since the parties' separation whereas the father's position has become precarious through no real fault of his own. The current circumstances and the father's predicament have not come about due to something that the father has or had not done. They have come about because the mother changed the parties' original plan that they would reside in Cayman temporarily, on her case for two years on the father's case for one year and then return to California. The mother is entitled to do that and to seek to now put down her roots for the longer term in Cayman, but it is wrong for her to fail to recognise the effect and consequences that her diversion has had on the father and child's lives.

17. The mother's focus in her evidence has been on her personal career coupled with academic advancement and the setting down of long-term roots for herself, and admittedly for the child, in Cayman with her husband. The mother made clear to the counsellor that she would not move because she owned a home in Cayman and her husband owned a business in Cayman, adding that if she were to move he would have to retire early. Of course, she would have to leave her current teaching post and find a new teaching post.

18. The father sums up his personal circumstances post the parties' separation and the impact of that on the child as follows:

"I accepted the cost-of-living issues in Cayman, my immigration struggles, and the daily difficulties that I have faced for the past six years and my challenges. However, this is a myopic view of the situation as it ignores the reality that (the child's) quality of life would be better in a less expensive place where his father is making sufficient money, ways income goes further, where he can legally reside, and where he did not have to face difficulties performing the most ordinary tasks. It frustrates me greatly that I have sacrificed so much and overcome so many obstacles for the last six years to be a good father to (the child),

but (the mother) is unwilling to listen to us and make similar sacrifices for him. It is also separate from (the child's) independent wishes and feeling."

It is submitted on his behalf that the mother's decision to remain in Cayman was a unilateral one driven by her personal circumstances and not by any assessment of the child's welfare needs. It is submitted that this has resulted in the family being "*in limbo*", something which the father has "*learned to live with*". The mother criticises him for taking this living with the status quo stance which she says:

"has brought himself and by extension the child into this difficult position."

It is submitted on her behalf that he should have restored his relocation application sooner after it was adjourned due to the Covid-19 restrictions that came into place when the earlier relocation proceedings were before the Summary Court.

19. From my review of the November 2025 Report, it was evident to me that she failed to comprehend the reality of the father's employment and immigration predicament. When one considers the father's present circumstances, it is clear that this family has reached a crossroads that it has been in reality approaching for years post the parties' separation. As is often seen with expatriate families who move to Cayman, upon the breakdown of the parents' relationship one of them has to leave Cayman for immigration or employment reasons. In this case, for quite some time, the father has remained here on what can, at best, be viewed as being artificial immigration and unusual employment arrangements. It is clear that the hitherto used visitor's visa approach to immigration is not something that should be regarded as being appropriate or able to be relied upon as being a means to be a resident in Cayman. The reality of the position is that the father cannot securely live and work here and the time has come when he will have to relocate to the US. Therefore, in the absence of parental agreement, the Court will now have to determine on the parents' behalf whether it is in the child's best interests to leave and relocate with his father to California probably without his mother relocating also or stay in Cayman with his mother without his father being here. The circumstances that the father now finds himself in and his clear unquestionable bond with the child satisfy me that his application to relocate is a genuine one.

20. The father officially started a relationship with his new wife in March 2023. She is a Canadian national. She has a six-year-old son from a previous marriage¹⁴ but who was aged three in 2023. They were married in October 2025 in California. Therefore, his wife will be able to obtain a ‘green card’ which would lead to US citizenship. She and her son, like the father, do not have rights to remain in Cayman and therefore she finds herself to be in the same precarious immigration position that the father is in. She and the child, like the Respondent, have to rely upon visitors’ visas for their immigration status in Cayman. The father’s wife’s son is a British and Canadian citizen. She has a Consent Residence Order for her son and says that she has a “*pretty amicable*” relationship with his overseas father who has contact with their son on holidays and breaks. She said that, if this Court acceded to the father’s relocation application, she and her son would also move to live in California with the Respondent. Her son’s father, who is a British national residing in Canada, has provided his written consent for their son to relocate to California from Grand Cayman.¹⁵ She stated that a US immigration lawyer has advised that she and her son would be able to stay in the USA whilst “*her residency is coming*”. The father said that the child has a good relationship with his wife’s parents and he calls them “*Nana*” and “*Poppa*”. Importantly he says that the child and his wife’s son, his stepson, interact like bonded siblings and they refer to each other as “*brothers*”. The father says that:

“The four of us have lived together the past couple years and have formed a tight-knit stable and secure little family.”

Background – The parties’ new spouses and relationships

21. I have had the benefit of seeing and hearing from each of the parents’ spouses when they gave their oral evidence. From the review of the evidence I have conducted and reviewed below herein both stepparents are important parts of centric family units and each stepparent has bonded with the child and they both provide appropriate care for the child. The child appears to have some concerns, which are not overly alarming, about what he views as being unwelcome interventions from the wife’s husband when he is trying to speak with his mother. I found the father’s wife to be a warm-mannered individual who had fully integrated into the child’s paternal family unit with her own young child. I found the mother’s husband to be a solid individual who is a good provider for his family. He came across as more rigid and outspoken in his character than the father’s wife, and it

¹⁴ The father’s wife’s previous marriage ended with the granting of a Certificate of Dissolution in May 2025.

¹⁵ Email from that father to Ms. Dowse dated 7 August 2025.

is evident that he, like the mother, places great emphasis on a routine for the child. He is clearly a very supportive spouse.

22. Although the mother wishes to place emphasis upon it in these proceedings, her account of the history of father's relationship with a former girlfriend which commenced in 2018 is not helpful to the Court. It seems that the lady in question had significant mental health issues resulting from a very traumatic incident which she experienced. The social worker, Ms. Kernita Bailey, in an email sent to the parties at the time¹⁶ commended the parties for the "*mature approach*" that they were then talking to attempt to resolve the knock-on issues for the child and his contact with the father. When looking at the child's welfare at this time, the father has a stable and long relationship with his wife who has day-to-day care of her own child from her previous marriage by agreement with her former husband and cares appropriately for the relevant child when he resides in their household.

The applications

23. In light of the background set out above and the parties' present very different circumstances. They have both brought applications seeking different orders. Although made second in time, the primary application before me, which has occupied the vast majority of the hearing time, is the one made by the father for the child to permanently relocate with him from the Cayman Islands to California, USA. The application is brought by a Summons filed by the father on 5 June 2025. In his Summons the following orders are sought:
- (i) A variation of the existing Shared Residence Order dated 25 July 2022 to allow the father to relocate the child to California where the child will primarily reside with the father;
 - (ii) A variation of the current contact arrangements specifically of the child's school holiday time to be spent with the mother to include times during summer, Christmas, Easter, spring break and other mutually agreed times, with both parties sharing the costs of the child's travel equally unless otherwise agreed; and
 - (iii) An order for regular virtual contact between the child and the mother during school terms, with a minimum of four times per week, to maintain and support the parent-child relationship.

¹⁶ 7 September 2020.

24. The father says in relation to his application:
- “My application is made in good faith, as was my previous application in 2020. (The child) has consistently, strongly, and rationally exercised his right to be heard by expressing his desire to return to CA, where he was born, where he spent the first three years of his life, and where his extended family resides. This application is also not about my personal preferences or my career ambitions; it is about ensuring that (the child) grows up in an environment that he desires to be in, one that nurtures him emotionally, supports him academically and provides him with the highest possible quality of life.”*
25. The Mother opposes the relocation application as she believes that it is in the child’s best interests to remain in Cayman. When the mother was asked to comment upon the child’s expressed wish to return to California made in circumstances where he has stated that he knows that it would mean that he would no longer be living with the mother 50% of the time, she rather dispassionately replied, more than once, that that was *“disappointing”*. The mother accepts that: (i) the child loves both parents; (ii) the father is a good parent to the child; and (iii) the father is desperate to remain with the child. Having her own informed knowledge about Orange County she does not argue that California is an inappropriate location for a child to live and therefore no independent or expert evidence has been obtained about Orange County. Like with the father, the child is heavily bonded to her. She is a good mother who can clearly meet the child’s day-to-day needs well. Although I may not agree with some of the allegations the mother makes about the father and with her assertion that relocation should not take place because of emotional harm she wrongly believes has been inflicted on him by the father and the paternal family, having regard to the settled family life that she has been able to develop in Cayman after her change of plan to make what was to be a temporary move to Cayman into a permanent one with her new husband, her opposition is based on a genuinely held belief that it would be in the child’s best interests for him to remain here under her care if the father leaves.
26. The Welfare Officer recommends that permission for the child to relocate with the father to California should not be granted *“at this time”*. Her recommendation would not change if circumstances dictated that the father was unable to reside in Cayman and must return to California with his wife and her young child. The Welfare Officer adds that the child should receive counselling support related to the issue of relocation, particularly if the relocation application is denied.

27. The Welfare Officer indicated in the November 2025 Report that she did not believe that the father “*had fully satisfied the Court*” with a comprehensive relocation plan, especially in relation to new schools in the US. Having read his written evidence and heard the father’s oral evidence, I do not accept that conclusion reached by the Welfare Officer. The uncertainty of the outcome of these proceedings inevitably prevents the father providing the level of certainty that the Welfare Officer in her report felt was necessary. That is the situation seen in most, if not all relocation cases, especially if a child is going into state (non-private) education. The Welfare Officer has not read all of the filed Affidavits, and it appears she has failed to digest the relevant parts which outline the father’s planning. The Affidavits included sufficient information about the father’s proposals for education, housing, financial stability and the preservation of the child’s relationship with the mother. At paragraphs 97-105 in his Affidavit sworn on 4 June 2025, the father set out a helpful academic comparison between Cayman and California. Therein he informed the Court that he believed that a school place for the child would be available for 13 August 2025. However, the father accepted at the hearing that he could not obtain a firm confirmation of a school placement as he would need to provide the school with a residential address before they could confirm a placement. He made clear, and I accept, that a placement in the school district would be assured but a place at the preferred school could not be guaranteed as it would be dependent on student numbers. I note that, after the November 2025 Report was filed, the father provided the Welfare Officer with approval forms and related email correspondence from a school in California.
28. The Welfare Officer commented that the father had provided some details about accommodation, but his Affidavit included multiple specimen rental listings near the school including a financial analysis of the cost of living. When examples of the rental properties were shown to her by Counsel for the father, she said that:

“He did mention to me that he had some options.”

A comment that I recorded in my contemporaneous notes during the hearing concerning this exchange was that the Welfare Officer, when questioned, reluctantly agreed that it had been wrong for her to criticise the father for not having such information. It, of course, was unreasonable for the Welfare Officer to have expected the father to have entered into a lease when the uncertainty of the outcome of these proceedings remains.

29. At the end of the line of questioning addressing the criticism levelled by the Welfare Officer about the father’s relocation planning, the Welfare Officer then conceded that the father had done the

right level of research about what schooling opportunities were available and she accepted that he should not be criticised, adding:

“It is a comprehensive plan that he has, if you look at it this way.”

I am satisfied that the father’s plans have sufficient clarity and that, if a relocation order was made, there would be no schooling issues for the child and the father would have no difficulty finding suitable short-term accommodation provision, possibly with his family before finding his own home. Under the father’s plan, the change of schooling would take place to coincide with the start of the new academic year, thereby making it a smooth transition. Importantly it would also coincide with the start of Middle School, so the child would be joining a new peer group who are all commencing that stage of their education at the same time and he would have the full three years integrating there before entering High School. If the father is at work and there is a need for childcare at any time, for example straight after school ends, there would be many paternal family members to whom the child is close who are available. The father’s reasoning behind his application and his plans/proposal, including the arrangements around increased holiday contact for the mother, satisfy me that it is a realistic plan. His employment position will be more settled in California. From day one he will have sufficient income to meet the child’s needs and he will have greater prospects to progress in his career and increase his income. Therefore, I do not share the Welfare Officer’s view expressed in the November 2025 Report that the father’s relocation planning is a factor that, in the balancing exercise, weighs against a relocation order being made.

30. The mother’s Summons dated 20 March 2025 seeks orders for:

- (i) A variation of the existing contact order, especially in relation to school vacation contact;
- (ii) The father to execute the documentation to apply for the naturalisation of the child; and
- (iii) The parties to attend ongoing co-parenting counselling sessions.

In her Summons, orders were also sought for arrears of maintenance which the mother said stood at US\$1,035 and to restrain the father from engaging in inappropriate communications with the child surrounding custody valuations, vacation travel and relocation.

Background – The child related proceedings until the Certificate of Dissolution dated 25 July 2022

31. On 21 November 2019, the mother filed a C1 Application form seeking:

- (i) a residence order in her name;
 - (ii) contact orders; and
 - (iii) an order for *“leave to travel with the child”*.
- 32. On 12 December 2019 the father filed a cross-application by a Summons. In his Summons, he sought orders that:
 - (i) the mother deliver up the child’s passport to him forthwith; and
 - (ii) he be granted permission to permanently relocate with the child to California, USA.
- 33. The parties’ applications came before Magistrate McFarlane on 17 December 2019. The Learned Magistrate made an Interim Shared Residence Order. She made defined contact orders outlining the time that the child should spend with the father. She gave leave to the father to temporarily remove the child to California between 21 December 2019 and 7 January 2020, along with related passport orders. She made a referral for a Welfare Officer’s Report in relation to the father’s permanent removal application and listed the matter for a directions hearing to be held on 10 January 2020.
- 34. On 10 January 2020, Magistrate McFarlane gave comprehensive directions to a three-day relocation hearing date for after May 2020. A Notice of Hearing was issued on 20 January 2020 which fixed that three-day hearing to commence on 11 May 2020. On 31 January 2020 the mother filed an application for interim child maintenance payments in the sum of \$820 (or US\$1,000).
- 35. A Welfare Officer’s Report prepared by Ms. Kernita-Rose Bailey was filed on 15 April 2020. The reporter noted that she had not received a report from the international social services dealing with the father’s circumstances and proposals for the US. She recognised that the delay may have been caused by the global circumstances flowing from the Covid-19 pandemic. She stated that, due to the absence of that international report, it was not possible for her to prepare a balanced and thorough assessment or to *“make clear and defensible recommendations”* concerning the relocation application. She recommended that an updated report should be provided to the Court and said that the parties should *“be encouraged to seek mediation on this matter, in light of the uncertainties associated with Covid–19 virus.”*

36. On 17 April 2020, the Summary Court gave further directions. Ms. Kernita-Rose Bailey was directed to reach out to the Californian authorities to enquire about when the international report could be made available. It was agreed that the trial would not be vacated at that stage. The matter was listed for a further review on 1 May 2020. At the hearing on 1 May 2020 the case management matter was adjourned to a further hearing on 5 June 2020.
37. On 14 May 2020, Ms. Kernita-Rose Bailey filed a further Welfare Report in which she said:
“In the light of the lack of clarity surrounding (the father’s) finances and his plan for housing and education for (the child), it is not possible to assess that the relocation plan that was presented as feasible at this time.”

Ms. Kernita-Rose Bailey recommended:

- (i) that the child reside with the mother;
 - (ii) that the child reside with the father during the entire Christmas and Easter school vacations and during three-quarters of the summer vacations;
 - (iii) that the child reside with the father for the time when he visits Cayman (but if the visit was for more than a week they may agree a parenting time schedule); and
 - (iv) that an order should be made specifying the child contact via social media with his paternal grandparents.
38. On 19 May 2020, Ms. Kernita-Rose Bailey filed a further report solely to exhibit a school of choice transfer request for Peters Canyon Elementary School which appeared to show an approval dated 27 March 2020 for the child’s transfer to that school.
39. The matter came before Magistrate McFarlane on 6 June 2020. The preamble of her Order (by consent) made on that day recorded the parties’ view:
- (i) that the child was habitually resident in the Cayman Islands; and
 - (ii) that the issues relating to which jurisdiction the child would reside in are to be determined by the Courts in the Cayman Islands.

The preamble also recorded that the shared care arrangements in relation to the child embodied in the order dated 17 December 2019 were to continue until further order of the Court or otherwise agreed between the parties. With those agreements recorded in the preamble, that Consent Order

provided that the father's application to permanently remove the child was adjourned *sine die* with liberty to restore. The note of the hearing written on the Summary Court file indicated that:

"The parties were to contact the court with a view to relisting once (a) clearer picture is known re: Covid-19 etc."

40. When the matter came before me on 6 April 2022¹⁷ I made certain observations in the *ex-tempore* ruling concerning the circumstances surrounding the June 2022 hearing. I stated at paragraph 11 in the perfected ruling that:

"The June 2020 hearing came on in the midst of the Covid-19 pandemic and, at that time, there were no known Covid-19 infections in the community and there were very strict international travel regulations in place. Despite that, (the mother) now seeks to argue that (the father) was compelled to agree to not pursue his removal application due to the contents of the welfare report. I am satisfied that it was the prevailing circumstances arising out of Covid-19 pandemic that resulted in the position taken in the consent order."

I highlighted that the above note made by the Learned Magistrate on the Summary Court file was consistent with that. I still retain that view in relation to the non-progression of the permanent relocation application in June 2020.

41. On 11 November 2021, the mother filed her Petition for Divorce relying on the ground of two years' separation by consent. The father provided his requisite consent to that ground and the Petition was proved on 30 March 2022.
42. On 28 March 2022 the father filed a Summons in which he sought an order for temporary removal of the child to California for the period 15 April 2022 to 23 April 2022. The mother opposed the application and the matter came before me on 6 April 2022. I gave an *ex-tempore* ruling and a perfected version of it was circulated on 7 April 2022. In that ruling reference was made to the "Divorce and Child" proceedings which had been initiated by the father in California in December 2019. At an earlier hearing the father stated that he brought the divorce proceedings in California because there was no jurisdiction to enable him to do so under the Matrimonial Causes Law (as it was then termed). He previously said that he had made an error in the entry in the relevant box on the Californian Family Court pleadings when he ticked a box indicating that he was applying for

¹⁷ See paragraph 42 below.

custody. He said that his actual position in relation to any custody application had been made very clear to the mother's Californian attorneys. The mother highlighted that the father had wrongly alleged in the California proceedings that the child was at that time resident in California.¹⁸ The mother said that the father's actions, including service of the proceedings on her when she was in California, were why she had reservations about the father taking the child to California at that time and why she feared that the child may not be returned if the leave for temporary removal was granted. I noted that in September 2020 the courts in California had dismissed the father's application on the basis that he did not have jurisdiction and found that the appropriate forum to determine the parties' child and divorce matters was the Court in the Cayman Islands. In the *ex-tempore* ruling I found that the father's approach and actions relating to the proceedings in California did not lead to a conclusion that he would not comply with any orders made by this Court if temporary removal was permitted by the Court. Also in the ruling, after considering the risk of Covid-19 infection and applying what is often referred to as the "welfare checklist", I was satisfied that it was in the child's best interests for leave to be provided for the temporary removal to enable the short holiday to take place. The parties were sent to mediation in respect of the divorce proceedings. Before I move away from the April 2022 hearing, I note that I expressed a concern that the mother's Affidavit disclosed that her legal fees at the time were already in excess of US\$70,000.

43. Mediation was successful and the parties submitted a Final Consent Ancillary Relief/Children Order, which I approved on 25 July 2022 ("the July 2022 Consent Order"). The child arrangements provisions in the order provided:
1. That the issues of residence and contact with respect to the child shall be addressed solely in the Cayman Islands until further Order by the Court.
 2. That the parents shall have a Shared Residence Order in respect of the child and the child shall live with the father as follows under this arrangement:
 - i). Overnight access on Tuesdays, Wednesdays, Saturdays and Sundays (week 1);
 - ii). Overnight access on Monday, Thursdays and Fridays (week 2), and
 - iii). Any other times as may be agreed between the parties.

The Decree of Dissolution was granted on the same day.

¹⁸ The father stated at the time that the issue of residency in California was not straightforward and that is why he indicated that he and the child had been resident there for the requisite period of time.

Background – The holiday contact arrangements post Decree of the Dissolution

44. The July 2022 Consent Order did not contain any provisions about holiday contact. The father says that in her written and oral evidence the mother sought to paint an inaccurate picture of him being domineering about how the child's school holiday time was to be split between the parents. In such circumstances, unopposed, the father produced an email from the Mediator written to the parties on 20 September 2022. The email outlined the mediated agreement that the father would have two of the three mid-term breaks (during which he could take the child to California), with the mother selecting the one that she would like before the beginning of the school year. The agreement said that when either parent is in California for at least a week each party would offer the other party's parents the opportunity to see the child. The email highlighted the agreement that any block of two weeks in the Summer would be matched by the other parent getting two weeks. The Mediator's email did not say that the parties had agreed that the father could travel with the child for every school break to California, but it clearly showed that they had agreed a departure from equality of time in favour of the father.
45. The Mediator ended by saying that the parties were going to consider whether their agreement should be recorded in a consent order. With that in mind and with the emphasis that the father has placed on mediation at paragraphs 51 to 52 of his Closing Written Submissions, I note that in the mother's message exhibited to her Affidavit sworn on 20 March 2025¹⁹ she said:
- "I understand that mediation discussions took place regarding travel, but I want to clarify that mediation agreements are not legally binding unless incorporated into our court-filed consent order. The consent order we both agreed to and that was approved by the court is what governs our custody arrangements, including decisions about travel and any resulting custody variations."*

The parties did not put the mediated arrangements into a court order, and it is evident from the parties' emails that they had different interpretations about what agreement had been reached in mediation. The father said that he felt that the parties had agreed in mediation that he could take the child to California during all his school breaks.²⁰ He said in an email dated 25 February 2025 that that contact arrangement is what had occurred for a number of years and that it was put in place

¹⁹ Bundle – Section B, Tab 1, page 61.

²⁰ For an example of that see his message to the mother exhibited to her Affidavit sworn on 20 March 2025 - Bundle B, Tab 1, page 59: "(The child) knows that we agreed that I could take him to California during the breaks. So do you. We agreed to that in mediation...."

as a concession for the mother not allowing the child to move back to California to live. The mother in her email dated 28 February 2025 said that her recollection about the mediated agreement differed from the father's. The mother highlighted that the consent order did not state that the child should travel to California with the father on every school break and added that any past travel decisions were made at her discretion and not by a legally binding agreement. She would be correct, especially if she was including midterm breaks, as the Mediator's email specifically recorded that the child would travel with the father on two out of three mid-term breaks to California. The mother agreed that the child has spent the majority of his school breaks in California. The mother felt that the father and his family pressured her into permitting the trips as they booked the trips before first obtaining her consent. It appears that it is this confusion about what had been agreed and the mother's view that her parents should be included in the balance of the child's time which led to her, shortly after the above emails, filing her Summons dated 20 March 2025. The mother is correct to say that there was no agreement that all the holidays would be with the father as asserted by the father. The father is right to say that there was an agreement that the child could travel with the father on most of the holidays. In light of the above, if permission to relocate is not granted to the father, it is understandable why the mother, by her Summons, seeks orders to make clear the arrangements for holiday contact.

Background – The Care arrangement post the Certificate of Dissolution

46. It is quite clear that a shared care arrangement still exists, even with the child seemingly spending more time with the father and the parental wider family during school vacations than he does with the mother. On the facts of this case, neither parent should be claiming to be the primary parent/carer. So, when the mother now states that the child “*resides with me and his stepfather*” she is wrong, as the reality is that the child resides with both parents. The father is concerned that the mother has on a number of occasions referred to herself as being the child's primary carer because of how such a belief could impact the balance in the parents' relationship with the child after the father has had to leave Cayman to live in California. There is no principle that requires the Court to settle the division of the children's time between each parent before considering the application to relocate. Black LJ stated at paragraph 145 in **K v K**:

“... I would not expect to find cases bogged down with arguments as to whether the time spent with each of the parents or other aspects of the care arrangements are such as to make the case “a Payne case” or “an In re Y case”, nor would I expect preliminary skirmishes over the label to be applied to the child's arrangements with a view to a parent having a shared residence order in his or her armoury for deployment in the event of a

relocation application. The ways in which parents provide for the care of their children are, and should be, infinitely varied. In the best of cases they are flexible and responsive to the needs of the children over time. When a relocation application falls to be determined, all of the facts need to be considered.”

Any argument that there is an assumption that a child should have a “main carer” that needs to be determined by the Court is outmoded and discriminatory in a way that the Court of Appeal in England and Wales has repeatedly sought to avoid. The paramount consideration is whether the relocation is in the best interest of the child. Whether a relocation application is made by a primary carer or non-primary carer does not give rise to any presumption in favour of or against a parent. I accept that it may be one of the factors to be considered in the overall assessment of whether relocation is in the best interests of the child, and the weight to be attached to this factor depends on the facts of the case. In this case there is no primary parent.

Background – Events post the Certificate of Dissolution - Therapy

47. The mother indicated that she had learned from at least two other parents that the child was telling their children that he was moving to California. She said that the parents informed her that their children had said that the child had been told not to inform the mother or their parents. She said that she spoke to the child about this and that he told her that in December 2024 the father had told him that he was relocating to California and that he should keep it secret from the mother. Shortly thereafter, in or around April 2024, she unilaterally decided to have the child enter counselling. Of course, before doing that, she should have consulted with the father. The father only found out about the counselling when the child told him that he had been removed from class early to meet the counsellor and asked his father why that was. The mother says that the reason why she felt therapy was needed was because of what the other parents had told her concerning the information shared by the child with their children about relocation as well as what she viewed as being secret communications between the child and the father and members of the paternal family. Although the mother felt that in such circumstances the father would not have given his consent or approval to therapy, that was not an acceptable reason for her failure to seek his approval before referring the child for therapy. The mother said the delay in letting the father know about the therapy was due to the fact that the father did not have a local working phone number. Again, that is not an acceptable reason for failing to provide information to a parent with parental responsibility.

48. The father is concerned that prior to the referral there had never been any indication made to him by the mother that she had any concerns about the child's emotional well-being which required therapeutic input. The mother's attorney wrote to the father on 7 June 2024 to inform him that the mother of a close friend of the child told her that her child was told that he was moving to California in January 2025 and that it was a secret. The attorney also wrote that the paternal grandmother had instructed the child to delete messages which they sent to each other as the mother did not like them talking too much. The attorney informed the father that this had caused a change in the child's behaviour and that is why he should engage in the course of counselling to help him sort through his emotions. She highlighted that it was inappropriate to have discussions with the child about California as he needs some assistance in navigating the situation. She told the father to refrain from making promises about moving to California which would be confusing and upsetting for the child. This is consistent with the reasons which the mother provided to the Court. The mother told the Court that she had enrolled the child in therapy because around about the same time that the other parent had spoken to her, she had seen changes in the child specifically, increased anxiety, secrecy and behavioural withdrawal. The father stated that the mother told him that the therapy was to help the child cope with the divorce by speaking about his feelings with a neutral person. The father's belief is that the mother took this course to put in place some litigation building blocks to resist a formal relocation application. I note that the parties had been living in separate homes since September 2019 and the Certificate of Dissolution was in June 2022.
49. The father spoke to the school counsellor about why the child had been removed from class. He said that the school counsellor shared with him her understanding that the child strongly desires to move back to California. He said that she agreed that a move would be good for the child. The mother says that the school counsellor provided her with a written "affidavit"²¹ which contradicts what the father says. As the father had heard nothing from the Department of Counselling Services, he emailed Ms. Natalie Baldwin who was the child's assigned therapist on 23 July 2024. He said that he met with that therapist the next day and she expressed surprise that the mother had not followed the normal practice of discussing counselling with the other parent before the sessions were fixed. He was informed that the reason the mother gave to the counsellor for therapy was to help the child cope with his desire to move to California in circumstances where she refused to

²¹ The "affidavit" is not formally before Court as it was not properly formatted. Despite that it was exhibited to the mother's Affidavit sworn on 28 July 2025. I do not place any weight on its content.

allow him to do so. When the father heard this, he said that he consented to the counselling moving forward.

50. From July 2024, Ms. Baldwin met with the child on a number of occasions. It is clear that the child felt able to freely express a firm view to her that he wanted to go back to California. As mentioned, some of these sessions included the parents and stepparents. Even in those meetings the child again made it patently clear that he wanted to leave to California and provided the reasons why. The fact that the child felt able to communicate that view to the therapist in the presence of the mother and his stepfather is an indication of the depth of his wishes and is actually quite a brave thing for him to have done. The father's view is that the mother's husband acted inappropriately during that same meeting when he was more vocal than the mother and appearing to speak on her behalf.²² The father said that at one point the mother's husband told the child he needed to understand that he and his mother would never leave Cayman and it meant that if he moved to California he would be doing that without his mother. Although the father regarded this as being rather harshly expressed, he said that he did not stop the conversation as he felt that the child needed to understand that the mother's position is that she would be staying in Cayman. The father said that the child responded in the same session that he understood that, adding that although he would wish the mother to also move to California, if she did not, he still wanted to go himself and he would see her during school breaks and holidays. The father stated that at that stage the mother then said that if he moved he would not see her every day and the child again responded that he understood and that he still wanted to move to California.

Background – The proceedings from March 2025

51. On 21 March 2025 the mother filed her Summons dated 20 March 2025.²³ In support of that Summons the mother filed an Affidavit sworn by her on 20 March 2025. In that Affidavit the mother alleges that since the July 2022 Consent Order, the father had:

“engaged in a campaign of manipulation, emotional and financial abuse, as well as parental alienation, creating significant challenges to co-parenting.”

52. On 14 April 2025 the mother filed a Summons seeking leave to temporarily remove the child to Florida and Colorado over the Easter vacation from 18 to 26 April 2025. The mother sought an

²² See paragraphs 133-134 below – Email from Ms. Seymour commenting about the meeting.

²³ See paragraph 30 above.

order restraining the father from engaging in inappropriate communication with the child surrounding custody variations, vacation travel and relocation. She applied for an order to vary the July 2022 Consent Order to provide for structured contact for the school holidays. An order was sought to have the father execute the necessary documentation required to apply for naturalisation for the child in the Cayman Islands. The mother also sought to enforce arrears of child maintenance which she said amounted to US\$1,035. The Summons was supported by an Affidavit sworn by the mother on 20 March 2025. A Notice of Hearing fixed the mother's Summons for a case management hearing on 21 May 2025.

53. On 5 June 2025 the father filed his Summons which is currently before me.²⁴ That Summons was supported by an Affidavit sworn by the father on 4 June 2025. The father and the mother's Summonses were listed for a mention hearing on 9 June 2025. At that hearing the parties gave the following cross-undertakings:

- (i) not to denigrate the other in the presence or hearing distance of the child;
- (ii) not to speak to the child directly about child arrangements or the proposed relocation;
- (iii) to ensure that all child arrangements are made directly through the parties; and
- (iv) that in the Summer 2025, the child shall be with the father between 28 June and 7 July and again between 9 and 18 August. That the child shall travel to California at the father's election and that during all other times, the child shall live with the parents on the regular 2, 3, 2 alternating arrangement.

54. At the 9 June 2025 hearing comprehensive directions were given to a 5-day final relocation hearing to commence on 19 January 2026.²⁵ A Case Management Hearing was listed for 4 September 2025. A Referral for a Court Welfare Officer's Report was made by the Court to the Department of Children and Family Services ("DCFS") for a report on the issue of relocation and about the content in the mother's Summons. The Court directed that the report be filed by or on 1 September 2025.²⁶ The reporter was asked to consider whether the DCFS should request a report from their equivalent

²⁴ See paragraph 23 above.

²⁵ On 12 November 2025 the Court changed the commencement date for the relocation hearing to 15 January 2026.

²⁶ On 24 July 2025 the Court approved a Consent Order extending the timeline for the filing of evidence. An extension was given for the filing of the Welfare Report to 17 October 2025. As a consequence of the extensions given a new Case Management Hearing was listed for 30 October 2025. On 4 September 2025 a further extension was given to the father to file his Affidavit. On 10 October 2025 the Court vacated the 30 October 2025 hearing and refixed it for 16 December 2025. In November 2025 a further extension was given for the filing of the Welfare Report, now to 17 November 2025.

agency in Orange County concerning the father's proposed relocation of the child to California. The reporter was directed to specifically consider the following:

- a. Whether the child should live with the father in California or remain in the Cayman Islands with the mother.
 - b. If the child should live with the father, what portion of the school holidays should the child spend with the mother.
 - c. If the child should live in the Cayman Islands and the father remains in Cayman, how much time the child should spend with each parent to include whether school holidays should be shared equally and how much time the child should spend in California.
 - d. If the father does not or cannot reside in the Cayman Islands and the child should remain here, what portion of the school holidays should the child spend with the father.
 - e. Whether it is in the child's best interests to be naturalized in the Cayman Islands and whether the child has any wishes in relation to that.
 - f. The concerns of each parent with regard to information being shared with (the child) and any allegation of influence.
 - g. How the child would be affected by any change to the current arrangements in relation to both relocation, shared care in the Cayman Islands and the proposal for shared holidays.
55. On 24 June 2025, in support of his relocation application, the father filed Affidavits from his father, his mother and his wife. On the same day he also filed an Affidavit sworn by him on 24 June 2025. On 29 July, the mother filed an Affidavit sworn by her husband and an Affidavit sworn by her on 28 July 2025. She also filed an additional Affidavit sworn by her on 28 July 2025 which she stated was an affidavit in reply to the father's Affidavit filed on 20 March 2025. On 11 September 2025 the father filed an Affidavit sworn by him on 10 September 2025. On 10 December 2025 he filed an Affidavit sworn by him on 10 December 2025.
56. On 6 November 2025 the Welfare Officer filed her welfare report. In her report she recommended that the child remain in Cayman and she indicated that detailed contact arrangements would need to be put in place should the father leave Cayman. She suggested that the Christmas, Easter and Summer holidays should be shared as well as all important dates such as birthdays. After reviewing her report, the father expressed strong views about the inadequacy of the assessment undertaken and the reasoning behind the recommendations that were set out therein. He was concerned that in

her report, the Welfare Officer appeared to usurp the function of the Court by making findings concerning disputed facts and then went on to make recommendations based on her own findings. The father heavily criticised the methodology used in the preparation of the November 2025 Report, as well as its contents in his Affidavit sworn on 10 December 2025. That Affidavit was filed in support of Summons filed by the father on 15 December 2025. In that Summons the father sought directions that the Welfare Officer file an addendum report and that she should speak with each party's spouse, the paternal grandmother and also see the child again. In the Summons a request was made for an opportunity to be provided for the child to meet with the Judge at the soonest convenient time to the Court.

57. In his December 2025 Affidavit the father expressed his concern that the November 2025 Report contained "*an exhaustive number of inaccurate and incomplete statements*" which must cast doubt on the merits of her recommendations. He rightly pleaded that the Welfare Officer wrongly relied upon her incorrect statement that he did not disclose the main reason for relocating to Cayman, which she says she later learned was because of marital issues. He said that the move was never intended to fix marital issues, and he never stated that to the Welfare Officer. In her later oral evidence, the Welfare Officer would concede that only the mother had told her about marital issues being the catalyst for a move to Cayman and that she had accepted the mother's statement as being accurate without asking the father about that. I recognise that to make the assessment a balanced one, the Welfare Officer would be expected not to stray into making her own findings, especially if based on a version of events provided by only one parent without affording the other parent an opportunity to address it. The father correctly pleaded that the Welfare Officer was wrong when she said that he said that they had discussed the idea of relocating to California when the divorce was finalised. The Divorce Petition was not filed until 2021. When questioned at the hearing about her statement, the Welfare Officer later said that she could not recall being told by the father that the idea of relocating to California had been an ongoing discussion well before the termination of the parties' marriage. The father's position is that such a conversation took place a few months after moving to Cayman in 2018, as evidenced by the mother's email to her former employer. In her oral evidence, the Welfare Officer eventually accepted that the relocation discussions had been going on for a long time, since at least November 2018, which was prior to the divorce. Therefore, she later conceded that factual error in the November 2025 Report.
58. The father also pleaded that the Welfare Officer incorrectly stated (i) that he took the child to visit the maternal parents in Colorado once they moved; and (ii) that he was engaged in therapy at 'On

Course Cayman'. The father contended that in the November 2025 Report the Welfare Officer was mistaken when she said that he told her that he did not have any concerns about the child being in the care of the mother. The father accepted that he had no concerns about the physical care but submitted that the Welfare Officer had ignored his expressed concern about the mother's ability to meet the child's emotional needs. The father said that he told her that the child has said that he could not speak to the mother without the stepfather's intervention and that he felt more comfortable expressing his emotions and concerns with the father than with the mother.

59. The father pleaded that the November 2025 Report incorrectly stated that both the father and the mother decided to seek therapy for the child. It was the mother who unilaterally took the child to the Department of Counselling Services and made him attend therapy without any discussion with the father.²⁷ It was only later, after meeting with the therapist, that the father agreed to the child attending therapy. The father noted that the Welfare Officer failed to make any mention in her report about the child expressing to the therapist that he did not want to remain in Cayman and wanted to move back to California. He noted that there was no mention of Ms. Baldwin's conclusion that she did not see a need for the child to attend therapy. I was surprised to hear the Welfare Officer later say in her oral evidence, in circumstances where there is: (i) a shared residence order; (ii) an equal contact arrangement; and (iii) shared parental responsibility, that:

"I (do) not really (have a) concern that a parent takes unilateral action for therapy."

From my experience, therapists have in the past informed this Court that it is usually a requirement, or at the very least, a clear expectation that both parents are to be included in the in-taking process and consent paperwork.

60. The father was concerned in the December 2025 Affidavit that the Welfare Officer simply accepted, without question, the comments made to her by the mother concerning "inappropriate" discussions between the father and child about crime rates.²⁸ The father says that "inexplicably" the Welfare Officer failed to state that the father was answering the child's question about the crime rate in Cayman after the child had told him that the mother and his stepfather frequently spoke about California in a demeaning manner, including talking about the large number of car accidents, guns and crime in California. The father highlighted that he told the Welfare Officer that his statement

²⁷ See paragraph 47-49 above.

²⁸ See paragraph 130 below.

to the child was “*taken out of context and viewed in a vacuum*”, but that detail was not mentioned in the balancing exercise in her report and the mother’s comments were taken as accurate by the Welfare Officer.

61. In his December 2025 Affidavit the father indicated that the Welfare Officer made factual mistakes about his employment history. He also rightly spoke to the Welfare Officer’s incorrect comments concerning his employment prospects in Cayman.²⁹ He correctly highlighted the Welfare Officer’s lack of understanding about why he is unable to apply for permanent residence. His unstable and insecure employment and immigration circumstances in the Cayman Islands are significant factors for him when advocating for a relocation with the child to California, and he was understandably concerned by the Welfare Officer’s lack of comprehension about this “*significant piece of the jigsaw*”. It is evident that in the November 2025 Report the Welfare Officer simply adopted the mother’s contentions concerning the father’s employment and immigration³⁰ without conducting a proper enquiry.
62. In his December 2025 Affidavit the father expressed his concern about the Welfare Officer’s analysis and minimisation of the child’s expressed wishes to relocate to California. The father noted that the Welfare Officer accepted that the child was intelligent, articulate and mature for his age and that he had expressed a clear wish to move to California. He noted that the Welfare Officer felt that it should be regarded as a criticism that the child has been advocating so strongly for the relocation because it is not appropriate for him to do that. The father takes an opposite view, contending that if the child is so mature and is able to express himself clearly, then that should be encouraged and the child should be listened to. The father rightly commented that the Welfare Officer, when forming her view that the child’s expressed wishes arose due to parental influence and therefore should be given limited weight, is not consistent with the expert findings of Ms. Baldwin who felt that the consistent views expressed by the child are genuinely those held by the child.
63. At the hearing held on 16 December 2025, I did not order the Welfare Officer to prepare an addendum welfare report. I stated that, if the father felt that there were the “*manifest deficiencies in the report*” outlined in his Position Statement prepared for that hearing, he could highlight and

²⁹ See paragraph 144 below.

³⁰ See paragraphs 14 and 15 above.

deal with those during his examination of the Welfare Officer at the substantive hearing. When I made that decision, I was conscious that adopting such an approach would not prejudice the father. I also felt that, having regard to the delay principles set out in the Children Act (2012 Revision) (“the Act”), any adjournment that might arise to enable an addendum report to be written would not be in the child’s best interest. In fact, the Welfare Officer gave her evidence for the full first day and during the first part of the morning of the second day of the hearing. Ms. Dowse, Counsel for the father, used her cross-examination as the opportunity to challenge the November 2025 R. That course led to me at the later final hearing being put into a position to make the findings set out in paragraphs 57-62 above as well as those set out in the below section headed “Court Welfare Officer”.³¹

The Child’s Meeting with the Judge

64. At the 16 December 2025 hearing, concerning the father’s request for the child to meet with me, I shared my view that it would be better if the Welfare Officer first met with the child and carried out the procedure set out at paragraph 60 in *C (child Ability to Instruct Solicitor)* 2023 EWCA Civ 889. I was conscious of the **Guidelines for Judges Meeting Children Who are Subject to Family Proceedings** (“the Guidelines”) drafted by the Family Justice Council and approved by the President of the Family Division in April 2010. Guideline 1 explains that if a child wishes to speak to the judge, the English equivalent of our welfare officer should explain from the child’s perspective the purpose of the meeting. The Guidelines also highlight that welfare officers should advise the court whether it accords with the welfare interests of the child for such a meeting to take place. With this in mind, I directed the Welfare Officer to file a brief Written Note by or on 19 December 2025 which should deal with the issue of the child meeting with the Judge and about the Welfare Officer’s meeting with a teacher at the child’s school concerning the issues raised in the father’s draft affidavit. The parties were then directed to provide any comments that they may have on the content of the Welfare Officer’s Note concerning the child possibly meeting the Judge by or on 31 December 2025. That would then give sufficient time for me to have the opportunity to meet with the child before the hearing if I deemed such a meeting to be appropriate.
65. The Welfare Officer’s Note was duly filed on 19 December 2025. In her Note she recorded that the child had told her that he wished to meet with me after she had asked him whether he would like to do that. She recorded that, when she asked him why he wanted to meet me, he stated that:

³¹ See from paragraph 111.

“He wants to give the Judge a sense of who he is and to demonstrate he is a mature individual.”

She added that:

“He further explained that it is important to him that the Judge understands that the words he shares are his own words and not influenced by anyone else. When asked whether this was important to him, (the child) confirmed that it was.”

The Welfare Officer also recorded that the child said that he would not be nervous to meet with the Judge and that:

“(the child) did indicate that he would feel happy if the Judge were to consider his feelings and described the experience as potentially being similar to speaking with (the welfare officer).”

The child told the Welfare Officer that he did not want either parent to be in the room when he was meeting the Judge:

“as he does not want to be influenced by them.”

When he was asked to share any other thoughts about meeting the judge the child said:

“he only wants the judge to know who (he) is, what he wants, and that he believes he is mature enough to make decisions.”

66. Following my review of the Welfare Officer’s Note, and after receiving written confirmation on 5 January 2026 from the mother’s Counsel confirming that her client consented to a meeting of the child with me, I informed the parties that I was still undecided about whether the child should meet with me. I set out some preliminary views in an email dated 5 January 2026 which I had my Personal Assistant send to both Counsel. On the same day I highlighted some of the relevant Guidelines³² to the attorneys and invited them to try to agree the practical factors set out at paragraph 5 in the Guidelines. The parties provided their comments and, as a consequence of that, I agreed to have the child meet with me in my Chambers.

³² See paragraph 64 above.

67. I met with the child in my Chambers on 13 January 2026. The Welfare Officer was present throughout the meeting. My Personal Assistant was also present throughout the meeting. Shortly after the meeting, I had my Personal Assistant email the following self-explanatory message from me to the attorneys:

“I had a very pleasant, relaxed and informal chat with (the child) this morning in the company of the Welfare Officer.

Our meeting went on a little longer than I had planned (maybe around 40 minutes) as (the child) is a rather chatty and very friendly chap. (the child) is a credit to both parents.

I have asked my PA to send out a recording of the meeting to you. It would be helpful if you (and the parents) listen to it before the hearing.

The very beginning of the meeting (about 1 minute) was not on the tape as I forgot to turn on the recording device. This was when I was showing and talking to (the child) about some of the figures which sit on the top of my bookshelves. Shortly after I turned on the recorder you will hear a crash as it fell off the desk!

You may share my above comments and the recording with the parents. (the child) was aware that the meeting was being recorded and that the recording might be shared.”

68. The meeting with the child lasted for approximately 40 minutes. I was careful to ensure that the meeting was not used to gather evidence. It was clear that the child strongly wanted to have the opportunity to meet with me and to be able to share his wishes and feelings with me. I explained to him the nature of my task. The child was aware that the meeting was being recorded and that the content of our chat would be shared with his parents. He said that he was “okay” with that.
69. This then almost 11-year-old boy was confident and articulate. The conversation between us at times was elevated to a much more maturer level than one would expect for a child of his age. For example, he raised the topic of human rights and the conversation smoothly developed into one touching on the rights of a child. I found that exchange to be an impressive one which highlighted a mental maturity beyond his age. It was evident that he had a firm view about his future living arrangements and he was very keen to share that with me. Therefore, I ensured that he was provided an opportunity to enable him to do so. When speaking with him, some of my vocabulary was tailored to an early teenager’s dialogue.

70. In the meeting the child told me about his hobbies and interests. He steered the conversation towards some artwork he had done with his paternal uncle who lives in California. He said that they were both “crafty” in an “artsy” sense. He told me how he goes to California or visits his paternal grandparents and uncles. He said he sees them about every one or two months. He said:

“I like visiting a lot, actually, obviously, I want to be there with them, but, yeah, I really enjoy visiting.”

He said that he did not mean that he wanted to live in their house and added:

“I’ll probably have a house there, and then maybe after school I can go to my grandparents’ house. Me and my grandpa actually ride bikes together. Okay? We go to the park across the street, okay, and then we ride our bikes.”

71. To try to introduce some balance into the conversation, I asked him about his maternal grandparents. He said that they live in Colorado and that he visits them less. He told me that he has cousins, uncles and aunties on his mother’s side of the family. He said that he was:

“just a bit closer with my dad’s side to my mom’s side” adding: “... I’ve never really visited Colorado or, like, visited them (until), like, a year or two ago. So, like, when I was, like eight or nine, I started visiting Colorado.”

When I suggested to him that that must have been fun he replied:

“Um, yeah, but I still, like, I’d still, like, prefer visiting California, because, like, yeah, I love doing this stuff. Yeah, what stuff like going on adventures, like we last time in December, me and my grandpa were on a bike ride and on our on our bikes, and we’re going, we’re driving to the park on our bikes. Then we made one lap around the park that started raining when we’re on the way back. So we were driving home. Then we got home, I was soaking wet, so I took a nice warm shower. It was so fun.”

He closed this part of the chat by saying “I do not have any family here”, when referring to Cayman. From the whole of this exchange, it became evident to me that the child wanted me to know about the importance to him of his family in the US and that he wanted to stress that he preferred his visits with his paternal family. When I note that, I am conscious that he has much more familiarity with his paternal family who he has visited more often than the maternal side.

72. The conversation then moved on to his schooling and what he might want to do thereafter. He clearly has an interest in computers, and he talked about Artificial Intelligence. In the meeting the child placed great emphasis on the support that his father gives to him in relation to his wide and impressive range of interests.

73. We chatted about what he had been told about this meeting by his mother and father. He said that the Welfare Officer had helped him prior to the meeting. He then developed the questions and answers he had with the Welfare Officer when he then had this exchange with me:

***The child:** ...Um, and so stuff like, do you think he knows that you play virtual reality? I said, doesn't know, because that's stuff personal that I'll talk to you about cool and then stuff related to our actual situation. You already know. I'd assume. I'd hope so like that.*

***JW:** What you want to what you hope I know?*

***The child:** Like where I want to live, stuff like that.*

***JW:** What you want to tell me, I'm not asking you, but do you want? Do you feel you want to tell me.*

***The child:** Yeah, I want to live in California. I wish...³³*

***JW:** Do you know why you want to do that?*

***The child:** So I can be with my family. Because, like, here I have no family, just like, just my mom, my dad, there's (the stepmother's) sister is here. So yeah, she's, um, my dad's wife, my dad's wife. So stepmom, my stepmom, um, her sister is here. So I step cousin here. I hang out with them sometimes, actually, um, they came for (the stepbrother's) birthday party. If you don't who that is, it's, it's my stepbrother.*

***JW:** Okay, that's, that's the question, what I know, what I don't know? Yeah, and what's he like?*

***The child:** Yeah, he lives with me, my dad, stepmom, and we some. He plays similar game, actually, same kind of games that I do. Okay, um, he plays Roblox, Minecraft, two of the games I play a lot."*

74. The conversation then went into some detail about Virtual Reality games and then moved on to his current child arrangement schedule with each parent. He told me about the days in the schedule and he noted that it meant that in "a two week span I'd see each of them for the same amount of time". He said that he was "kind of used to it now" and that "it's been happening for a while", adding that it was not "confusing". When I reminded him that he told me he wanted to move to live in California, I asked him how he would feel about such a move changing the child arrangement routine that he had just set out. He replied:

***The child:** Um, my ideal future would be living in California, and I'd have my whole family, including my mom, to be there. Yeah, cuz I'd still, I'd still make I'd still want to maintain my schedule. But if she wanted to be here, then I guess I'd have to visit, if it make*

³³ My emphasis by underlining.

it a lot easier to go to Colorado, if I was in California, see your grandma grand. So I could, like, if I wanted, if my mom was in California, I could spend some breaks in California and some breaks in Colorado with my mom, if she was in Colorado, or Yeah, like, no, like, um, I mean, like, if she lived there, we could go, yeah, in California. Oh, okay, we could go, because it's like, I think a one two hour flight. I think, um."

These exchanges confirmed my earlier observation about the importance of his wider family to him. It was also striking as he firmly stated that he wanted to live in California and the reason for that was because of his family there.

75. From the above exchange it initially appeared that he believed that his mother would also be living in California if he moved and said that he would want to keep the present child arrangement schedule. He then said that if she was not in California that she would be in Colorado and that he would then have to visit her there and that it was a one or two-hour flight. I highlighted to him that his mother may not move to the US if he left and the following exchange happened:

***JW:** What would happen if your mom couldn't go there, though?*

***The child:** Like, you mean, she'd have to stay here?*

***JW:** yeah.*

***The child:** Then I'd have to visit on the breaks.*

***JW:** Okay.*

***The child:** I'd visit her as much as I can, or she could come to California to visit with my current breaks. Here I have an October break, a December break, a February break and an April break. And then, obviously, Summer."*

I note that he still wanted to live in California if his mother did not move to the US and with some commendable insight, he provided some sensible detail of the type of arrangements that could be put in place so that they could still see each other regularly.

76. The conversation then turned to what he knew about California and what his school might be like there. It was clear that he had not toured a prospective school and his answers were what one might expect. He also talked about his stepfather and his stepmother, and it seems that he was saying that he is comfortable around them. However, I am aware of the child's view that he feels that his stepfather imposes himself, in what the child regards as being in an unwelcome manner, when the child is trying to have conversations with the mother, particularly during ones about California.
77. From what the child said to me and from his demeanor during the meeting, I could see that he was very much at ease and that he felt able, and was able, to speak freely with me. I am satisfied that

he had a clear understanding about why he was meeting with me and what my role was. I also found that he had an understanding about the family dynamic that he was in, as well as about what the disruptive consequences would be to that arrangement (particularly in relation to his time with his mother) if the Court agreed to grant his expressed wishes about the relocation. What the child expressed in the meeting with me was consistent with what he had shared with the Welfare Officer and Ms. Baldwin, especially in relation to his wishes and his reasons for having them. As commented upon elsewhere herein:

- (i) I have found that the father and some members of the paternal wider family have involved the child in their discussions about the father and child relocating, made clear to the child their wishes and views about him moving to California;
- (ii) I have found that the paternal grandmother inappropriately encouraged him to record conversations about relocation with his mother and asked him to delete online conversations that she was having with him; and
- (iii) I have found that the father and members of his family contributed to a letter written by the child about Cayman and relocation.

I have carefully considered whether such contributions have unduly influenced the child and have impacted on whether the child's wishes expressed consistently to the welfare officer and to Ms. Baldwin are genuine and freely given. I have also considered whether the child has overly concentrated on what may be viewed as being the fun interactions and activities that he has enjoyed when visiting California rather than understanding the more mundane and routine that comes when a child is actually living in a place and attending school there. Having considered the above as well as the other concerns raised by the mother resulting from her view of the conduct of the father and his family, I am satisfied that the views that the child expressed to me at the meeting (as well as to the Welfare Officer and to Ms. Baldwin) in the absence of any parent were genuinely held and well thought out by him.

Background - The hearing and written submissions

78. The four-day hearing, which was recorded, commenced on 15 January 2026 and concluded on 20 January 2026. The Court heard oral evidence from the parents and from their respective witnesses (family members). The Welfare Officer presented her evidence and was cross-examined at length by both parties.

79. On 20 January 2026, the matter was adjourned for me to provide this reserved judgment. The parties agreed that they would file the Written Submissions by or on 10 February 2026. On 3 February 2026 Counsel for the mother wrote seeking an extension for filing to 27 February 2026 partly due to issues concerning the provision to her of the recordings of the hearing. On 4 February 2026, I granted that extension. On 12 February 2026 the father's Counsel provided the Court with the Written Submissions prepared on his behalf and indicated that they would later be provided to the mother when there was mutual exchange. On 27 February 2026 the mother's Closing Written Submissions were filed. Having been put in the position to start writing this Judgment from 27 February 2026 (after the Written Submissions had been received), recognising that the parties would have to make arrangements for the next academic year for the child no matter what order was made, I had hoped to have been able to deliver this reserved judgment sooner. Regrettably that has not been possible. However, I note that at paragraph 56 in the father's Affidavit sworn on 10 December 2025 when asking for the Court to possibly adjourn the final hearing to enable an addendum welfare report to be prepared, he was at that time comfortable with the hearing being re-fixed to be heard in May/June 2026, which he then said would give sufficient time to enable the parties to consider plans for the summer and school if permission to relocate is granted. Although a little delayed,³⁴ the delivery of this reserved judgment is thankfully within the time frame he previously suggested for the actual hearing.

The Law – Relocation, Section 10 child arrangements

80. Pursuant to s.15(1)(b) of the Act, as there is a Shared Residence Order and no consent to a relocation in this matter, neither parent prior to this hearing was permitted to permanently remove the child from the jurisdiction. This is why the father has applied for a s.10 specific issue order to permit him to remove the child permanently to the US.
81. There is no application to vary the Shared Residence Order. If one had been made, and even if permission to relocate is granted, I would not be varying the Shared Residence Order as that order

³⁴The draft reserved judgment was submitted to my Personal Assistant for formatting on 22 June 2026, who unfortunately shortly thereafter took ill for a period of over two weeks. On 26 June 2026 Counsel for the father enquired about the timeline for the provision of the Judgment. On 29 June 2026 the Court, having regard to the father's stated urgency for the parties to be informed about the Court's decision, authorised provision of paragraphs 159-168 (the decision paragraphs) in the draft reserved judgment to the parties prior to the later circulation of the formatted full judgment for the attorneys' comments. On 14 July 2026 the Judge received a copy of, and directed circulation of, the now formatted draft reserved judgment for the attorneys to review and comment upon pursuant to Practice Direction No. 1/2004.

is in the best interests of the child. When I make that decision, I am conscious of the case **RE D (Leave to Remove: Shared Residence)** [2006] Fam Law 1006. In that case the children had been dividing their time between the parents under a shared care arrangement. The mother wished to move to the USA, and the intention was that the children would spend significant time with each parent. Hedley J concluded that there is no reason why a shared residence order could not be made despite the distance spanning the two countries. Hedley J stated at paragraph [44]:

“Neither Mr. Henry Setright QC, nor Mr Stephen Cobb QC could advance any argument as to why a joint residence order should not span more than one jurisdiction; nor did either wish to do so on the basis of their instructions. Although, perhaps a little surprising in concept, I am fortified in the view that I may make such an order if, as here, it is otherwise right to do so, by the judgments of the Court of Appeal in Re F (Shared Residence Order), especially at paras. 38 and 39 of the judgment. I acknowledge that, of course, this case is different in that leave to relocate is required if the children and the mother are to move, this being to the United States rather than Scotland. But whatever is decided the children will, over a year, spend significant amounts of time in the United Kingdom and the United States. I do not see that as effecting a jurisdictional or procedural bar to a shared residence order and for those reasons it is one that I propose to make.”

Shared residence orders are no longer regarded as being exceptional orders, even in circumstances where the quantum of care undertaken by each parent is decidedly unequal. I am conscious that such orders avoid the psychological baggage of rights, power and control that attaches to a sole residence order. I feel that a shared residence order would likely reinforce in a child’s mind that both parents are to be viewed as being equally important to his wellbeing. If a relocation order is made, the present child arrangement orders will have to be varied to ensure that the mother continues to play a highly meaningful role in the child’s life.

82. When considering the relocation application and what consequential orders are required, the Court’s decision is governed by s.3 of the Act. In relation to relocation cases in particular, Black LJ in **K v K (Relocation: Shared Care Arrangement)** [2011] EWCA Civ 793, [141] stated:

“...the principle – the only authentic principle – that runs through the entire line of relocation authorities is that the welfare of the child is the court’s paramount consideration. Everything that is considered by the court in reaching its determination is put into the balance with a view to measuring its impact on the child.”

This means that the child's welfare is the Court's paramount consideration. The Court's welfare assessment requires an application of the facts to the factors in what is often referred to as 'the welfare checklist' under s.3(3) of the Act 1989. As stated by Peter Jackson LJ in **Re L (Relocation: Second Appeal)** [2017] EWCA Civ 2121, [48]:

"The court's ultimate task is to identify the available options, and to select the one that best meets the child's welfare needs. The fact that one option would involve the child moving overseas does not lead to any difference of approach."

83. Voss LJ concisely summarised the approach to be adopted by the Court when applying the welfare checklist in relocation cases at paragraph 82 in **Re C (Internal Relocation)** [2015] EWCA Civ 1305:

"....in cases concerning either external or internal relocation the only test that the court applies is the paramount principle as to the welfare of the child. The application of that test involves a holistic balancing exercise undertaken with the assistance, by analogy, of the welfare checklist, even where it is not statutorily applicable. The exercise is not a linear one. It involves balancing all the relevant factors, which may vary hugely from case to case, weighing one against the other, with the objective of determining which of the available options best meets the requirement to afford paramount consideration to the welfare of the child. It is no part of this exercise to regard a decision in favour or against any particular available option as exceptional."

84. The parties in this case agree that the law to be applied in relocation cases in the Cayman Islands is uncontroversial and has been set out by this Court in a number of Judgments. For the sake of completeness, I repeat some details about the relevant case law herein. The relocation cases decided in the Cayman Islands have adopted and followed the relocation decisions made in England and Wales. This is illustrated by the Judgments in: (i) **B v B** [2013] (1) CILR 284 approved by the Court of Appeal in **B v B** [2014] (2) CILR 234; and (ii) **F v M** Fam 228 of 2020/Fam 158 of 2019 dated 20 August 2021. The Judgments highlight the departure from treating **Payne v Payne** [2011] EWCA Civ 166 as being the source of the principal guidance in international relocation cases. The cases make clear that, although the factors identified in **Payne** may still be relevant considerations in some cases, **Payne** is no longer to be treated as being the standout leading case. As stated by Black LJ at paragraph 142 in **K v K** the decided relocation cases provide "valuable guidance" to Courts approaching such cases, but they must be recognised as being "guidance not as rigid principle or so as to dictate a particular outcome" to the application. In a similar vein, Moore-Bick

LJ added at paragraph 86 of **K v K**, after he had noted the valuable guidance given in **Payne v Payne** that:

“The circumstances in which these difficult decisions have to be made vary infinitely and the judge in each case must be free to weigh up the individual factors and make whatever decision he or she considers to be in the best interests of the child.”

85. As highlighted by me at paragraphs 77-86 in **B v B** and paragraphs 98-99 in **F v M**, the most authoritative appellate decision on the approach to permanent overseas relocation cases is **Re F (A Child) (International Relocation Case)** [2015] EWCA Civ 882 [2017] 1 FLR 979. At paragraph 98 in **F v M** I stated:

“98. In Re F, clarity was given to the type of approach that should now be taken. At paragraphs 79 to 84 in B v B I quoted extensively from the judgment of Munby L.J. in Re F. Although I again have regard to that content, for the purposes of this Judgment, I restrict myself to reproducing the extract from Munby L.J.’s Ruling at paragraph 12 and my observations found at paragraph 13 of the Judgment of Chadwick, P in B v B where the President stated:

“12. The judge quoted extensively from the judgment of Munby, L.J. in Re F (Child: Permission to Relocate) (4) (a judgment with which the other members of the court, Pill and Toulson, L.J.J. had agreed). It is, I think, unnecessary for me to set out the whole of his quotation again in this judgment. It is enough to refer to the following paragraphs in the judgment in Re F:

‘[29] The starting point now must be K v. K (Relocation: Shared Care Arrangements)... Its central message is conveyed, succinctly and accurately, in the headnote in the Law Report:

‘That the only principle to be applied when determining an application to remove a child permanently from the jurisdiction was that the welfare of the child was paramount and overbore all other considerations however powerful and reasonable they might be; that guidance given by the Court of Appeal as to factors to be weighed in search of the welfare paramountcy and which directed the exercise of the welfare discretion was valuable in so far as it helped judges to identify which factors were likely to be the most important and the weight which should generally be attached to them and promoted consistency in decision-making; but that (per Moore-Bick and Black, L.J.J.), since the circumstances in which such decisions had to be made varied infinitely and the judge in each case had to be free to decide whatever was in the best interests of the child, such guidance should not be applied rigidly as if it contained principles from which no departure were permitted.’

I need quote only what Thorpe, L.J. said (at para. [39]):

‘...the only principle to be extracted from Payne v. Payne is the paramountcy principle. All the rest, whether in paras. [40] and [41] of my judgment or in paras. [85] and [86] of the President’s judgment is guidance as to factors to be weighed in search of the welfare paramountcy.’

[37] In K v. K (Relocation: Shared Care Arrangement) there was a shared residence order. The mother sought to relocate to her country of origin. The importance of K v. K (Relocation: Shared Care Arrangements) for present purposes is its emphasis that even where the applicant is a primary carer there is no presumption in favour of the applicant. That, after all, was hardly new. As was pointed out in K v. K (Relocation: Shared Care Arrangements) both Thorpe, L.J. and the President had made this clear in Payne v. Payne. As Black, L.J. said (para. [143]):

‘... the effect of the guidance must not be overstated. Even where the case concerns a true primary carer, there is no presumption that the reasonable relocation plans of that carer will be facilitated unless there is some compelling reason to the contrary, nor any similar presumption however it may be expressed. Thorpe, L.J. said so in terms in Payne and it is not appropriate, therefore, to isolate other sentences from his judgment, such as the final sentence of para. 26 (“Therefore her application to relocate will be granted unless the court concludes that it is incompatible with the welfare of the children”) for re-elevation to a status akin to that of a determinative presumption.’

There can be no presumptions in a case governed by s.1 of the Children Act 1989. From beginning to end the child’s welfare is paramount, and the evaluation of where the child’s best interests truly lie is to be determined having regard to the ‘welfare checklist’ in s.1(3).

...

[40] Following a careful analysis of the authorities, Black, L.J. continued in this important passage (paras. [141]-[142]):

‘[141] The first point that is quite clear is that. . .the principle-the only authentic principle-that runs through the entire line of relocation authorities is that the welfare of the child is the court’s paramount consideration. Everything that is considered by the court in reaching its determination is put into the balance with a view to measuring its impact on the child.

[142] Whilst this is the only truly inescapable principle in the jurisprudence, that does not mean that everything else-the valuable guidance-can be ignored. It must be heeded. . .but as guidance not as rigid principle or so as to dictate a particular outcome in a sphere of law where the facts of individual cases are so infinitely variable.’

[41] She continued (para. [144]):

‘Payne therefore identifies a number of factors which will or may be relevant in a relocation case, explains their importance to the welfare of the child, and suggests helpful disciplines to ensure that the proper matters are considered in reaching a decision but it does not dictate the outcome of a case. I do not see Hedley, J.’s decision in Re Y as representative of a different line of authority

from Payne, applicable where the child's care is shared between the parents as opposed to undertaken by one primary carer; I see it as a decision within the framework of which Payne is part. It exemplifies how the weight attached to the relevant factors alters depending upon the facts of the case.'

...

[43] As I read his judgment, Moore-Bick, L.J., with whom Black, L.J. explicitly agreed on this part of the case, was of the same view as her: see in particular para. [86] where he said:

'Guidance of the kind provided in Payne v. Payne is, of course, very valuable both in ensuring that judges identify what are likely to be the most important factors to be taken into account and the weight that should generally be attached to them. It also plays a valuable role in promoting consistency in decision-making. However, the circumstances in which these difficult decisions have to be made vary infinitely and the judge in each case must be free to weigh up the individual factors and make whatever decision he or she considers to be in the best interests of the child.'

[44] On this point, therefore, the correct approach is that of the majority, that is to say Moore-Bick, L.J. and Black, L.J.

...

[61] The focus from beginning to end must be on the child's best interests. The child's welfare is paramount. Every case must be determined having regard to the 'welfare checklist,' though of course also having regard, where relevant and helpful, to such guidance as may have been given by this court.'

13. After setting out those passages in the judgment of Munby, L.J. in *Re F (Child: Permission to Relocate)* (4) - which, themselves, contain extensive citation from the judgments of Moore-Bick and Black, L.J.J. in the earlier decision of the Court of Appeal in *K v K (Relocation: Shared Care Arrangements)* (5)-the judge said this (2013 (1) 271, at paras. 85 and 86):

"85. The clear message being sent out by Munby, L.J. is that the child's welfare is the paramount principle to be applied in applications for permanent relocation. To do this, the court should consider all the factors, whether they were or were not contained in the guidance in Payne v. Payne, in reaching a decision as to what is in the child's best interests. The decision appears to be advocating a single approach to all relocation cases, in which the Payne factors may apply to all cases, albeit with varying weight. Due to the very recent nature of this decision it may be too early, in the absence of what would be a most welcome ruling from the Supreme Court, to conclusively state that there exists in England and Wales an unquestionable single analytical framework for all relocation disputes. Munby, L.J. was rightly stressing that each case is different and that the court must not seek to categorize the case in the manner sought by Ms. Dowse [counsel for the mother].

86. I am satisfied that Munby, L.J.'s approach, in a judgment in which he summarized the entire jurisprudence, is timely and shows the right way forward."

86. At paragraph 99 in *F v M*, whilst recognising that each case depended on its particular facts, I again adopted the above guidance given by Munby L.J. as being the appropriate approach. I reiterated the principles that I had set out in *B v B* as having emerged from the developing relocation case law and the questions the Court should be considering. I see merit in again repeating the below extract from *F v M* herein:

“87. I have considered carefully the guidance given in Payne, K v K and Re F. From those cases one can derive a number of principles which should be applied by a court in considering whether to make an order granting leave to permanently relocate. A number of the following principles were stated by Mostyn J in Re AR.

*88. The first, and overarching principle, must be that the child welfare is paramount. It takes precedent over any other consideration.*³⁵

89. The next principle is that the Court should have regard to the guidance handed down in case law when considering what factors are to be weighed when determining what is in the child’s best interests. It is important to note that the guidance should no longer be confined by labels given to the category of care. This means that a judge may consider the Payne guidance, to an extent that he may determine to be relevant to the particular facts of the case, even in what might be termed a shared care case. Attorneys and judges should avoid detailed classification of relocation cases and hearings should not get bogged down in taxonomical arguments or preliminary skirmishes as to what characterisation should be applied to the case by virtue of the time spent with each parent or other aspects of the care arrangements.

90. When the Court considers the guidance the following questions, in a case such as this involving an application made by the mother, should ordinarily be raised and addressed:

- (i) Is the mother’s application genuine in the sense that it is not motivated by some selfish desire to exclude the father from the child’s life?*
- (ii) Is the father’s opposition motivated by genuine concern for the future of the child’s welfare or is it driven by some ulterior motive?*
- (iii) What would be the extent of the detriment to the father and his future relationship with the child were the application granted?*

³⁵ My emphasis.

(iv) *To what extent would the detriment to the father if the application were granted be offset by extension of the child's relationship with the maternal family and, if applicable, homeland?*

(v) *Is the mother's application realistic and founded on practical proposals both well researched and investigated?*

(vi) *What would be the impact on the mother of a refusal of her realistic proposal? The weight placed on this will increase if the child resides with the mother.*

91. *Another principle arises from the fact that the circumstances in each case vary infinitely and therefore the court should not be unduly fettered in its approach when deciding whatever is in the best interests of the child. The court should regard the guidance, which can promote consistency, as helpful in determining the best interests of the child, but not feel that it has to be applied rigidly.*

92. *Finally, there is no legal principle, or even legal or evidential presumption, in favour of an application to relocate by a primary carer."*

87. In ***Re C (A Child)*** [2019] EWHC 131 (Fam) Williams J provided a useful summary of the approach to be taken in considering an application for international relocation, at paragraph 15:

*"15. The most recent and authoritative appellate decision on the approach to permanent overseas relocation cases is *Re F (A Child) (International Relocation Case)* [2015] EWCA Civ 882 [2017] 1 FLR 979. The material paragraphs of the judgment are 3, 4, 30-35 (Ryder LJ) and 45-52 (McFarlane LJ). *Re F* together with the earlier authorities of '*Payne*, *Re F*, *K-v-K* and *Re C (Internal Relocation)* makes clear that that whether the applications are configured under s.8 or s.13 Children Act 1989 the following framework applies:*

(a) The only authentic principle is the paramount welfare of the child.

(b) The implementation of section 1(2A) Children Act 1989³⁶ makes clear the heightened scrutiny required of proposals which interfere with the relationship between child and parent.

(c) The welfare checklist is relevant whether the case is brought under s.8 or s.13 Children Act 1989.³⁷

³⁶ Section 3(2A) in our Act.

³⁷ Sections 10 and 15 in our Act.

(d) *The effect of previous guidance in cases such as 'Payne' may be misleading unless viewed in its proper context which is no more than that it may assist the judge to identify potentially relevant issues.*

(e) *In assessing paramount welfare in international relocation cases the court must carry out a holistic and non-linear comparative evaluation of the plans proposed by each parent. In complex international relocation cases this may need to be of some sophistication and complexity.*

(f) *In addition to Article 8 rights³⁸ – indeed probably as a component of the Art 8³⁹ ECHR rights and s.1(2A)⁴⁰ one must factor in the rights of the child to maintain personal relations and direct contact with both parents on a regular basis (unless that is contrary to her interests) in accordance with Article 9 of the United Nations Convention on the Rights of the Child (“UNCRC”).*

(g) *Furthermore, the court must also take into account the Article 8 rights of the parents. In the usual case the child's Art 8 right will take priority over the parents but that should not cause the court to overlook the Art 8 rights of others affected and the court should balance the competing Article 8 rights.⁴¹*

(h) *The effect of an international relocation is such that the Article 8⁴² rights of a child are likely to be infringed and the court must consider the issue of proportionality of the interference. There remains some degree of uncertainty as to how the proportionality evaluation is to be applied in relocation cases. In Re F it was said one should be undertaken, In Re Y [2015] 1 FLR 1350 it was said in private law cases it doesn't need to be, The Court of Appeal in Re C (Internal Relocation) expressed doubts about how it was to be undertaken. I consider that in most cases in practice the proportionality issue will be subsumed within the overall holistic evaluation in particular when considering effect of change and risk of harm. In reality in the judicial consideration of the welfare checklist it simply is likely to mean the judge will be that much more alert to the importance and thus weight to be afforded to the child's right to maintain contact with the left behind parent and their rights to a stable and secure family life with their primary carer, if there is one.”*

³⁸ In the Cayman Islands Right to Private and Family Life pursuant to The Cayman Islands Constitution Order 2009 Article 9 Bill of Rights (“BOR”).

³⁹ Article 9 BOR.

⁴⁰ Section 3(2A) in our Act.

⁴¹ All references to Article 8 in this subsection should be read as Article 9 BOR when applying to the Cayman Islands.

⁴² Article 9 BOR.

88. Having regard to the above, the Court must ensure that any relocation decision is compatible with the welfare mandate at s.3 in the Act as well as with Article 9 in the Bill of Rights. As stated in The European Court of Human Rights decision in *Kosmopoulou v Greece* [2004] 1 FCR 427:

“The mutual enjoyment by a parent and child of each other’s company constitutes a fundamental element of family life, even if the relationship between the parents have broken down, and domestic measures hindering such enjoyment amount to an interference with the right protected by Article 8 of the Convention.”

89. Voss LJ stated at paragraph 84 in *Re C (Internal Relocation)*:

“Another difficult aspect of the case concerned the way in which the parents’ rights under article 8 of the ECHR should be factored in to this exercise. In my judgment, parents who are staying behind will always be able, in some measure, to pray in aid their article 8 rights necessitating a consideration of the proportionality of any proposed interference with those rights. That consideration should be an essential part of the balancing exercise itself and should not be undertaken separately so as to disrupt a joined up decision-making process.”

90. Accordingly, I have regard to the Article 9 rights (and Article 7-Right to a Fair Trial) of the parents and of the child. Where, however, there is a tension between the Article 9 rights of a parent on the one hand and the Article 9 rights of the child, on the other, the rights of the children will prevail, per - *Yousef v Netherlands* [2003] 1 FLR 210.

Evidence - The Parties’ witnesses

91. Both parties called family members as supporting witnesses. Each witness had sworn affidavits which were then filed by the relevant party. Each witness confirmed the content of their affidavit and invited the Court to consider the same as the bulk of their evidence in chief. I have read those affidavits.

The father’s witnesses - JL

92. JL is the child’s paternal grandmother. She gave oral evidence remotely by Zoom link and she provided an affidavit which she swore on 24 June 2025. It was evident from her evidence that her family is a very closely knit and loving one to which the mother was warmly welcomed when the parents formed their relationship. She informed the Court that the child was named after the father’s

brother, who also became his godfather. The parents also nominated the father's aunt/godmother as the child's godmother.

93. The paternal grandmother outlined the involvement that she had with the child when he was a baby. It is evident that she and her husband were very much hands-on grandparents. They often cared for the child not only when the parents were out, but particularly when the mother went back to work. They carried out a number of parental functions, including taking him for doctors' appointments and caring for him when he was ill. She outlined how she, her husband, the parents and the child would spend time together as a family unit resulting in them and the child becoming "*extremely close*" to each other.
94. The paternal grandmother stated that she and the paternal grandfather were "*devastated*" when they were told the parents and child would be moving away to Cayman. Her evidence about the length of the move was consistent with the father's evidence. She stated that the parents had told them that the move to Cayman would be for one year only and that they would return to California in time for the child to start elementary school as a kindergarten. It is uncontroversial that she and her husband accompanied the parents to Cayman to help them settle in. She stated that after they returned to California, they would FaceTime the child nearly every day.
95. The paternal grandmother's evidence, again consistent with the father's evidence, stated that when the parents announced that they were getting a divorce the parents agreed to come back to California. She elaborated saying that the stumbling block with the mother returning to her old school to teach was that she was not able to obtain health insurance until the following school year. Again, it is uncontroversial that the paternal grandparents were happy to help the parents and the child with the cost of health insurance. The paternal grandmother stated that it later became apparent that the mother no longer wished to return to California, nor would she allow the child to return with the father to reside there. She said that they found the uncertainty of any return date to California to be "*unbearable*" and they assisted the father with the legal process of getting permission for him to remove the child back to California. They said that to maintain a relationship with the child they travelled to Cayman as much as they could. She said they also travelled to Cayman to meet in person with the social worker who had been assigned to the child's case when it was in the Summary Court. She highlighted the difficulties that occurred with them seeing the child due to the Covid-19 pandemic travel restrictions. She outlined that she now has a health

condition which makes it very difficult for her to travel and said that she simply could not do that anymore.

96. From her interactions with the child, the paternal grandmother says that in the last couple of years his desire to move back to California has become stronger. The paternal grandmother says that the child regularly tells them about his wishes and that a move back to California would be *“a dream come true”*. She said that the child told her that, when he tells his mother that he wants to return, the mother does not give him an answer which *“is hard for him”* and that he is *“struggling”* with the present situation. She said that the child had told her that there had been sit down discussions with his mother about California but that the mother’s husband would come into the room, join in and take over. He said this made him feel uncomfortable and he said that the child told her that the sit downs were *“intimidating”*. The paternal grandmother said that there have been times when the child would call her from the bathroom at his mother’s home with the shower running and door closed as he felt uncomfortable about talking to her when in that home. The paternal grandmother is concerned that the mother may be restricting the child’s communications with her in an attempt to lessen his desire to move back to California.
97. She refutes any suggestion made by the mother that the paternal family are emotionally manipulating the child and that any express wish to return is not the child’s view. She also forcefully denied the allegation put to her during cross examination that an impression was being given to the child that the mother is the *“enemy”*. She retorted saying:

“No, I never said (to the child) that (the mother) is the enemy. She is his God-given mother.”

When put to her, she said that they had *“absolutely not”* discussed a relocation plan with the child prior to the application being filed nor did she tell him to keep the plan secret until the application was filed. On the balance of probabilities, I accept the grandmother’s evidence about these suggestions made to her, which are not based on a solid evidential grounding. The paternal grandmother says that they have not exerted any pressure on the child or coerced him into holding the opinions and beliefs that he has shared. She accepted that she once told the child to delete her message to him because she did not want him to get into trouble. Although they may not have discussed the intricacies of the actual relocation plan with the child, on the evidence before me, I have no doubt that the child is acutely aware that the paternal family wish the father and him to return to California and that they have included the child in discussions about such a move and have encouraged the child to express views about it.

98. The paternal grandmother also spoke about the child recording a conversation with his mother on his Apple Watch. The father had mentioned to the Welfare Officer that he had purchased the child an Apple Watch because he wanted one. The father also told the Welfare Officer that he had collected the child from school and the child told him that he had a conversation with his mother about relocation which he had recorded on the watch. The father told the Welfare Officer that the child explained to him that he did that because he did not think that he would be believed when he said that the mother changes the subject of moving to California each time he brings it up. At paragraph 112 in his Affidavit sworn on 4 June 2025 the father wrote:

“(The child) became so frustrated with (the mother’s) refusal to engage with him that he recorded his conversation with her to prove that she would not talk to him. This was something (the child) did on his own and without my knowledge or consent. It is something that he did because he is at his wit’s (sic.) and desperate to leave.”

Interestingly, when examined about the recording by the mother’s counsel, the Welfare Officer said that:

“A bit concerned that (the child) record his mother, but he is 10 years old ... Would have been nice if it said to his mother, you know. I’d be concerned if his father told him to do it, but he is a child. Something that children do.”

The paternal grandmother said that she had been surprised to hear that the child had made that recording. She said that child had also told her that he recorded that conversation because he was frustrated that the mother would not listen to him about his desire to leave Cayman and would always change the subject when he brought it up. The paternal grandmother accepted that later she did tell the child to call the father or to record conversations if he felt that he had to. She said that she told the child to do this out of genuine concern because she was worried about him “being cornered”. She elaborated that she thought that the child and his mother were going to have one of their “sit downs” and that is what she told him to record. She accepted that “cornered” could be regarded as being a poor choice of word, but she then added that he may feel cornered. In her oral evidence she said that she did it because she wanted to help and not get him into trouble, but she recognised what could be seen as being the error in her ways when she said:

“I take complete responsibility for that and my fault and inappropriate on my part.”

She also accepted that when she referred to the mother as being a “*bad parent*” concerning the mother’s approach to the child’s wishes to talk about relocation that she had chosen her words poorly and she apologised.

99. On the balance of probabilities, I find that the father had not instructed the child to record his conversations with the other using the child’s watch or otherwise. However, I am satisfied that the paternal grandmother had later told the child that it was all right for him to make recordings. It is clear that the paternal grandmother is very keen to have her son and grandchild return to live in California and that this has resulted in her being over involved and vocal in regard to that. It is also evident that the paternal grandmother and the paternal family in California have actively discussed relocation in the presence of the child and made their wishes clear to him. However, I do not feel that they have pressured the child to the extent that his oft expressed wish to move to California is not one that he would not otherwise genuinely hold. Her wish, as well as her belief that the child is desperate to live in California has evidently, at times, clouded her mind as to what is appropriate for her to say to a child of this age. It was not appropriate for her to encourage the child to record conversations and she now readily accepts that. The Welfare Officer and the mother are both right to highlight their concerns about this. However, this encouragement from the paternal grandmother does not in my view materially detract from the weight to be given to the expressed wishes of the child and the genuineness of the same.
100. The paternal grandmother says that a move back to California would be “*very good*” for the child and that the family atmosphere there would be conducive to his development and support. She said that he would have a family support system that could not be matched in Cayman. The paternal grandmother gave some insight in relation to the education system that would be available to the child, which she characterised as being “*excellent*”. She highlighted Peters Canyon Elementary School, which is the school proposed by the father, and she says that it is one of the best schools in Orange County.
101. The paternal grandmother had sufficient insight to recognise in her affidavit evidence that, if the mother stayed in Cayman, it would be harder for the child than he realises. She said that she would do everything she could to make sure his relationship with her is prioritised and repeated that same sentiment when cross-examined. The paternal grandmother indicates that ideally the mother should also return to California but said that if she did not wish to do so she would ensure that the child

visited the mother as frequently as possible, including by providing financial assistance. She closed her Affidavit by saying:

"I still hope that she changes her mind and comes – she is always welcome."

In her oral evidence she said:

"If they relocate, (the mother) is always welcome to our home and to our family."

I am satisfied that, despite the cracks in the familial relationships caused by some of the things said during these proceedings, the conciliatory and family orientated sentiments expressed in the oral and written evidence are genuine. If the child relocates, I have no doubt that the paternal grandmother would support the mother's important role in the child's life.

The father's witnesses - AG

102. As already commented, I found the father's wife, AG, to be an impressive witness and a very child centric stepmother. In her written evidence she shared how well she and the child get on. She stated that the child had become a *"very important part"* of her life and a *"massive part"* of her child's life and *"a very key part of our family"*. She said that the child has been influential on her son because he has taught him *"confidence, patience, brotherly love and kindness"* and he is *"the best big brother anyone could ever ask for"*. The Welfare Officer in her written and oral evidence totally ignored the nature of and importance for the child of this developing relationship between the two young children in the paternal household.
103. She comments upon the child's deep-rooted love for his family that he misses in California, she noted that he was particularly close to his grandmother and that the way in which she speaks about his grandparents is *"monumental"*. In her Affidavit she talks about how the paternal grandparents love and interact with the child, as well as their warmth towards her own son. She comments upon the wider paternal family and their very positive relationship with the child.
104. In her Affidavit she indicated that she had lived in Cayman for her entire life with her parents and sister until the parents decided to move back to Canada due to the cost of living, permit difficulties and the lack of career opportunities. She stated that without her parents being here, she struggles with a feeling of being alone and that she views California as being a place where she has a sense of peace and family that she feels has been missing. She views the family support network in California to be *"immeasurable"* and *"very beneficial"* for the raising of the children. She stated

that, if they moved to California, she and the father agreed that she would not work as it would be better for her to stay at home and look after the children. Importantly, in her affidavit evidence, she said that she would do her best to support the child's relationship with the mother and that she and the mother are friendly in front of the child. She states that she is confident that she and the mother can continue to have an amicable relationship. When cross-examined, she had sufficient insight to recognise that it would be *"tough for the child to relocate from the other parent"* but added that he would have emotional support with a family that he is very close to. She did not agree with the suggestion made in cross-examination that it would be *"devastating"* for the child, and she commented upon the closeness of the support from the wider family in California. When it was put to her that it would be devastating for the mother, AG stated that she could not speak for the mother but added:

"I may be in her shoes one day and my son may say he wants to live with the father and I may have to take into account what (his views) are at the time."

She stated that she would make sure that he stayed in touch with his mother in whatever way possible, stressing that:

"She is his mother and that is very important to me and to (the father)."

Having seen her give her consistent oral evidence, I am satisfied that the sentiments expressed in her Affidavit are genuine.

105. AG says that the child always calls California home and his safe place and that he always wants to get there. From discussions she has had with the child, she had the impression that he would prefer to talk just to his mother, but his stepfather joins in and the discussion then becomes more of a *"sit down"* and not such a peaceful conversation. This evidence is similar to some of the evidence presented by the paternal grandmother and the father. In her oral evidence she commented upon the family therapy session which was attended by the child, the parents and the stepparents.⁴³ She said that she thought her role as a stepparent should be to sit and listen. She said that the child spoke his mind and was himself when expressing his wishes to move to live in California. She felt that the mother's husband *"definitely had a voice"* and *"roughly"* said to the child *"you know if you go to California your mum and I are never going there"*. AG felt that this overstepped the boundaries of a stepparent as there is a fine line.

⁴³ See paragraph 133 below.

The mother's witness – JW

106. JW, the mother's husband, provided written evidence in an Affidavit sworn on 28 July 2025 and also orally during the hearing. As already commented upon herein I found him to be a supportive husband and stepfather. He was never previously married, nor did he have any children of his own. He says that from early 2020 he became a consistent and supportive presence in the child's life. He says that they have built on that and that he and the child now "*share a deep bond*" and said:

"I love (the child) as my own son."

He sets out examples about their mutual interests, about how they interact, converse and about their play. He said that he helps with school pickups when the mother is delayed at work and that he is actively involved in the child's school life, attending events, performances and extracurriculars. I am satisfied that he has a good and healthy relationship with the child and takes on a fully supportive role in the child's life in his capacity as the stepfather. He said he takes pride in the child's "*intelligence, maturity, and energy*". He comments that the mother's approach to parenting "*fosters emotional maturity and resilience in the child*". When I consider what weight should be placed on the child's wishes and understanding, I note JW's above insightful comments concerning the child's mature character.

107. When talking about the mother, he said that she has always made clear that the child was her number one priority, and he noted that "*her dedication to motherhood is evident in every aspect of her life*". He highlighted that the mother keeps the child on a structured routine instilling in him a strong sense of responsibility and accountability. He indicated that the mother "*consistently fosters an environment of growth, joy and stability*" for the child. He said that she and the child "*share a remarkably close bond*" with a relationship "*marked by trust, consistency and warmth*". He said that the mother helps the child understand his feelings and choices, always treating him with respect and empathy. He believes that the child is:

"an incredible child in large part because of (the mother's) active, intentional and loving role in his life."

He believes that there would be a detrimental emotional and developmental impact if the child was to relocate, highlighting that it would fundamentally disrupt the daily bond that the mother and the child had built together. His view is that:

“The proposed relocation risks undermining everything that has supported (the child’s) development and happiness since his arrival in Cayman seven years ago.”

108. JW highlights that he has been able to secure Caymanian rights for the child which he states would provide access to local education, scholarships, residency and future career opportunities. He feels that these are essential to the child’s long-term success and would not be available to him if the family were to relocate.

109. When cross-examined he was asked whether he would support his wife if she felt the need to move to California. He replied:

“I support (the mother) in whatever capacity that is. I am here for my wife.”

He then elaborated on that saying that he had a 30-year-old business here and it would be difficult to re-establish that in California, but then added:

“If that is what I had to do, that is what I would do.”

However, it was evident from the mother’s evidence and from what JW said to the child during the therapy session⁴⁴ that if relocation was ordered, she and JW did not intend to move to California, even if that was temporary, to assist the child in settling into the place where he says he would like to live. It may be that a major factor for the mother saying this was a belief that she might have to commute between Cayman and California to see her husband if he stayed here.

110. He also talked about the therapy session which they all attended.⁴⁵ He recalled that 90% of the conversation was led by the child and that the child gave his reasons as to why he wanted to move to California. JW agreed that he said at the meeting that they would not move to California and added that he had contributed that comment because he thought that, due to family stability that they have, the child needed to hear that. It was put to him that it may have been better for the child to have heard that from his mother and he replied that:

“Me and the mother make decisions in the best interest for (the child). I do not know if it (is) better if (the child) heard that from his mother, it is a matter of opinion.”

⁴⁴ See paragraph 133 below.

⁴⁵ See paragraph 133 below.

111. During cross-examination it was put to JW that the child had commented to various people that there have been “*sit downs*” with the child when the child was trying to talk to the mother as JW comes in and takes over the conversation. JW said that he “*emphatically*” denies that ever happening. He said that they never talk about relocation with the child and that they never talk about the father and the paternal family with the child unless it is about child arrangements scheduling. He said:

“We as parents do not talk trash or anything about the other side and we certainly do not have sit downs with (the child).”

JW reiterated that it never happened when it was again put to him that when the child tries to talk to his mother about relocation that the conversation is shut down and that he comes in and takes over the conversation. He said that the child had never brought up the issue of relocation with him.

The Welfare Officer (Ms. Carol Robinson)

112. The previous Welfare Officer, Ms. Kernita-Rose Bailey, is the Social Worker who had prepared reports concerning this family when the child proceedings were before the Summary Court up until 2020. Ms. Robinson was assigned as the Welfare Officer for the family after I made a written referral for a court welfare report on 9 June 2025. The Referral Form set out the issues to be reported on, which were:

- (i) permanent relocation;
- (ii) variation of child arrangements (contact/residence); and
- (iii) naturalisation of the child.

The Welfare Officer was asked to specifically consider the following:

- (i) Whether the child should live with the father in California or remain in the Cayman Islands with the mother.
- (ii) If the child should live with the father, what portion of the school holidays should the child spend with the mother.
- (iii) If the child should live in the Cayman Islands and the father remains in Cayman, how much time the child should spend with each parent, to include whether school holidays should be shared equally and how much time the child should spend in California.
- (iv) If the father does not or cannot reside in the Cayman Islands and the child should remain here, what portion of the school holidays should the child spend with the father.

- (v) Whether it is in the child's best interests to be naturalised in the Cayman Islands and whether the child has any wishes in relation to that.
 - (vi) The concerns of each parent with regard to information being shared with the child and any allegation of influence.
 - (vii) How the child would be affected by any change to the current arrangements in relation to both relocation, shared care in the Cayman Islands and the proposal for shared holidays.
 - (viii) whether the DCFS should also request a report from their equivalent agency in Orange County, California in relation to the father's proposed relocation.⁴⁶
113. The Written Referral requested the Welfare Officer to meet with the child separately from the parents but also highlighted that there might be merit in the reporter seeing the child in the company of each parent to assess their interaction. The Welfare Officer was requested to meet with each parent's partner as a part of her assessment. As a therapist had been involved with the child, it was suggested that the Welfare Officer may also wish to speak to that person. The Referral Form informed the Welfare Officer that concern had been expressed that the child had been drawn into these proceedings and that the parents had influenced the representations about relocation being made by the child. The Welfare Officer was directed to seek to ascertain the wishes of the child and determine whether the child had sufficient understanding and maturity to express his wishes and whether those wishes were those genuinely held by the child or were him simply echoing the views being expressed by each parent. The Welfare Officer was informed that she would need to familiarise herself with the established factors which are to be considered in leave to remove a child from the jurisdiction cases. The Referral said that such factors include, and are not to be limited to, an enquiry into the proposed arrangements in the US.
114. In the November 2025 Report the Welfare Officer stated that the relocation application was "*not being supported*" and recommended that the child should remain in Grand Cayman. She added that if the father had to personally relocate leaving the child in Cayman, a detailed contact arrangement must then be put in place. The Welfare Officer recommended that holidays such as Christmas, Easter and Summer, as well as all important days such as birthdays, should be shared. It was

⁴⁶ In light of this request made in the Referral Form, I found the Welfare Officer's oral evidence rather surprising when she said concerning her assessment and her report: "*I not deal with whether I should get report about California. I think the onus is on (the father) to provide that information.*"

recommended that the child receive counselling support related to the issue of relocation, especially if the relocation application is denied. She felt that the outcome of the case should be communicated to the child by a qualified counsellor to ensure that the information was conveyed in an age appropriate and emotionally supportive manner. She felt that both parents should continue with counselling.

115. Counsel for the father helpfully reminded me that if I were to go against the Welfare Officer's recommendations and make the relocation order sought by her client that I should provide my reasons for doing so. In the case of *The Father v The Mother* [2023] EWHC 1454 at 26 Mrs. Justice Lieven dealt with that long-established requirement when she stated:

"...drew my attention to Re W (Residence) 1999 2 FLR390 and W v W [1988] 2 FLR 505 as to the need to give reasons if the Court is going to depart from a Cafcass recommendation. I do not read these cases, or subsequent cases, as suggesting that there is a presumption in favour of the Cafcass recommendations. Mr. Lill is an expert in his field and, as such, I should, and I do, give reasons for departing from his recommendations."

With this in mind, over and above my comments and the findings set out above, I see the need to below analyse and comment upon the Welfare Officer's oral and written evidence in much greater detail than I might ordinarily do.

116. In her report, the Welfare Officer stated that her assessment was based on: (i) an office interview with the father; (ii) an office interview with the child; (iii) a home assessment at each party's home; (iv) an observation home visit; and (v) contact with the school. In her oral evidence, she initially said that she interviewed the father three times but then said that she was sure it was at least two times. At the hearing, it was put to the Welfare Officer that she had not read the Affidavits and she replied that she had reviewed at least 90% of them and that the information that she had read was sufficient for her report.
117. The Welfare Officer reported that the father told her that he did not have any concern for the child being in the care of the mother, who he referred to as being "*a great mother*". She reported that the father told her that he had noticed that, in recent times, the child was slightly growing apart from the mother. She said that the father informed her that the child had expressed his views to the mother regarding returning to California and that, when he did so, the mother usually diverted the

conversation and refrained from providing an explanation to the child, thereby diminishing the child's opinion. The father told the Welfare Officer that he believed that the mother was actively trying to have the child remain in Grand Cayman. At the hearing, it was correctly put to the Welfare Officer that this case was different to a number that she deals with as it was a *"going home case"*. She conceded that the child had been born and raised in California where the parents were from and that it was not a case involving a Caymanian parent.

118. The Welfare Officer reported that she and the father discussed a letter headed: *"Why I should Live in California (opinion essay made by (child's name inserted))"* written by the child (*"the persuasive letter"*). The Welfare Officer said that the father told her that the child had written it as a persuasive essay on the topic on his laptop when they were returning to Cayman from California in the summer of 2024. The Welfare Officer reported that the father told her that it was the child who had written the persuasive letter and that all the father contributed was some editing made to the grammar. The Welfare Officer also reported that when she discussed the persuasive letter with the mother. She reported that the mother said that she believed the child had written *"under the guise"* that it was an assignment for school. The mother told the Welfare Officer that she felt that the persuasive letter was beyond the child's writing capabilities and that she believed that it may have been tampered with and was being used as leveraging in these proceedings. All of this led the mother to be concerned that the child was *"being primed"* to relocate to California.

119. The Welfare Officer clearly formed a negative view about the father and the paternal family's involvement in the writing of the persuasive letter, which she says the father acknowledged editing. She said that the extent of the changes made to the original letter cannot be determined but concluded that there is:

"a strong possibility that (the father) took the opportunity to capitalized (sic.) editing the letter given his personal interest in relocating back to California."

The Welfare Officer indicates her view that the child may be *"inadvertently drawn into and used to support"* the relocation application. In reaching this conclusion she relies upon her conclusions about the circumstances surrounding the persuasive letter. The Welfare Officer concluded that there has been *"a subtle and consistent effort"* to get the child to agree to leave Cayman. In her report, the Welfare Officer deemed it to be appropriate to caution the Court against placing significant weight on the persuasive letter because it was impossible to assess the degree to which the content of the persuasive letter may have been altered or influenced by the father and/or his family.

However, despite proffering that advice to the Court, the Welfare Officer has herself placed weight on the persuasive letter to support her finding that: (i) the child has been pressured by the paternal family into expressing his wishes about relocation; and (ii) minimal weight should be given to the child's consistent wishes which have been expressed to a number of persons including the Judge and the child's therapist.

120. In the Welfare Officer's Written Note/Addendum Report dated 19 December 2025, she included three paragraphs under the heading: "*Clarification regarding discussion about the letter written by (the Child)*". In the Note, the Welfare Officer highlighted the concern expressed by the father's attorney⁴⁷ that she had not spoken to the child about the persuasive letter. The Welfare Officer said that, upon reviewing her assessment notes, she could now recall having a discussion with the child on 16 September 2025 about the persuasive letter. She accepted in cross-examination that she had failed to state and address that in her Report. In her December 2025 Written Note and in her oral evidence, the Welfare Officer indicated that she had not intentionally left that information out of the Report and that she had no intention to withhold the information for any improper purpose. She stated that the omission of that detail in her Report did not change the recommendations that she had previously made therein. In her Note she recorded that the child reported to her that, at the time the persuasive letter was written, he was in Grade 3 and was learning persuasive writing at school. She reported that the child stated that he had decided to write the persuasive letter while travelling from California to Cayman. She said in the Note that the child told her that, after completing the persuasive letter, he showed it to his father and that he felt proud of his writing skills. The Welfare Officer stated in her December Note that the child:

"admitted that his father assisted him only with grammar and emphasised that his father did not write the letter" and that the child: *"confirmed that the contents of the letter were his own words."*

In her oral evidence, the Welfare Officer conceded it would have been appropriate for the father to help with grammar. It was suggested to her that, even though the child had explained to her what had happened concerning the persuasive letter, she totally ignored that (as illustrated by her failure to share that detail in her report) and instead simply accepted what the mother had said at face value. It was put to her that this was an improper approach, especially in circumstances where it was clear that she had not read the father's affidavit evidence and that she had failed to provide the

⁴⁷ Which was set out in an Affidavit sworn by him on 10 December 2025.

father with the opportunity to address with her the mother's allegations and the Welfare Officer's already acceptance of the same. It is, of course, a matter for the Court and not the Welfare Officer to make findings of fact concerning the persuasive letter. However, what is clear from the November 2025 Report, is that the procedure adopted by the Welfare Officer to reach her findings relating to the persuasive letter and concerning her conclusions about how that should influence the weight to be given to the child's wishes was not a balanced one. Although the Welfare Officer agreed during her cross-examination that "*the starting point is to treat people as honest*", she had actually formed an initial view based on the representations made to her by the mother without affording the father the opportunity to comment on the same and appears to have totally disregarded what the child had told her (as illustrated by the omission of that detail in her report). That said, having had the opportunity to review all of the evidence, in light of my comments set out paragraph 122 below, I find that the child did not, when talking about it to the Welfare Officer, accurately summarise the adult involvement in the preparation of the persuasive letter. I find that some of the concerns of the Welfare Officer were justified concerning the persuasive letter, albeit not to the degree that she relies upon them to make the findings that she made.

121. The Welfare Officer was examined at length about her views relating to the persuasive letter by the father's Counsel. It was put to her that it was entirely baseless for her to say that there was a strong possibility that the father capitalised editing in the persuasive letter. It was put to her that the father had informed her that he had assisted only with the grammar. It was suggested that the Welfare Officer had wrongly formed a view that the editing went beyond that and was done to give the father leverage in these proceedings without her putting that same conclusion to the father during the assessment to afford him the opportunity to comment.
122. Even putting to one side the amount of time spent asking the Welfare Officer to address the persuasive letter in her oral evidence, a disproportionate amount of time was occupied at the hearing dealing with the persuasive letter. The persuasive letter was produced by the father, prior to the date of the Court Referral for the Welfare Report, as an exhibit to his Affidavit sworn on 4 June 2025. The father contends that it was not written as one of the building blocks for his later application. The mother said that she first became aware of the document by Google link being shared from the child to the father on 20 May 2024. The mother's contention is that it was prepared as one step in a series of steps to inappropriately involve the child in the decision-making process about relocation. She contends that the nature of the amendments to the documents made by

members of the paternal family go far beyond grammatical edits and it is submitted on her behalf that “*the document cannot be attributed*” to the child.

123. A copy of the persuasive letter with tracked changes was provided to the Court. When one looks at it one can clearly see who has made the amendments and when. There are a number of uncontroversial grammatical corrections made by both the father and the paternal uncle. However, there are certain corrections to the narrative in the content and I find that the corrections/additions to the child’s initial draft go beyond merely grammatical. Although I accept that the child drafted the initial persuasive letter and that it was more likely than not created on a flight as an essay, the later hands-on input from other paternal family members is greater than the father seeks to portray. Although not condoning it, I recognise that when children show draft school essays to their parents, parents may make amendments to the content and grammar before it is handed in to the teacher. However, if a document is written on a topic which is such a core issue in these proceedings, then such amendments devalue the veracity and force of the content in the document. Although the father dates the preparation of the persuasive letter to around April 2024, I note that that was around the time that the mother maintains that maintenance was in arrears and that the father had taken the child to Disneyland and showed him schools in California telling him how fun life there would be. It was evident that at that time the father was reconsidering his relocation options, the child was aware of his and the paternal family’s views about that. The impression given to this Court is that, although it is primarily a document prepared by the child, it includes expressions made and language contributed by the adults. That said, although I do not rely upon the content of the persuasive letter as a possible erudite expression of the child’s wishes, I do not regard it as something that devalues the veracity and forcefulness of the child’s wishes later expressed to me in the meeting with the child and which the child has, consistently and over an extended period of time, expressed to other professionals involved with this family. I do not place, either way, the importance which both parties and the Welfare Officer seem to do on the content and circumstances surrounding the persuasive letter.

124. In her report, the Welfare Officer set out the detail which she said the father had provided to her about the arrangements that would be put in place for the child if he was permitted to relocate to California. I need not set out that detail herein as it is consistent with the father’s evidence provided to this Court. The Welfare Officer said that the father indicated that he was aware of the importance of children keeping in touch with their parents and that he made it clear that he would ensure that the child had regular face time contact with the mother. She reported that the father indicated that

he would allow the mother to have a greater portion of the school summer holidays. The Welfare Officer said the father was willing for the mother to have all the school breaks and Christmas and that they could alternate the child's birthdays. The father told the Welfare Officer that, as the schools in the US close in May for their Summer holidays, the child could visit with his mother in Cayman three weeks before the school vacation started at the Cayman school where she is employed. He told the Court that, as the mother would be at work for those three weeks and to allay childcare concerns for her, he would be willing to travel over to Cayman for his own holiday time from work and look after the child during the daytime if the mother wished. There was some uncertainty about the payment of the costs of contact flights. At paragraph 117 in the father's affidavit sworn on 4 June 2025, he says that the cost of the child's flight tickets should be shared between the parents. He added that if the mother needed financial support to purchase her airline tickets, the father and his family would gladly help. Later the father indicated that he would be willing to accompany the child to Grand Cayman as well as finance all his visits to see his mother and even pay for the mother's flights to travel to visit the child in the US. The clarity was given in the Closing Written Submission filed on behalf of the father which stated that the father:

"has agreed to fund the flights for (the child) and safely return him, staying locally in Cayman. He also offered to contribute to (the mother's) flights should finances not permit her to visit California on occasion."

She reported that the father told her that he was:

"prepared to do anything to ensure (the mother) has contact with (the child)."

The Welfare Officer noted that the father told her that he would ensure that the mother was kept up to date with information concerning the child's education and extracurricular activities.

125. The Welfare Officer reported on her meeting with the mother and provided detail about the mother's description of how the parents met and how their relationship progressed. She said that in the beginning she was close to the paternal family. She told the Welfare Officer that her college was close to the paternal parents' home and that, when she was at university, she would visit them often and the maternal grandmother would cook for her. The mother said that it was the father who had suggested that they move to Grand Cayman and that one of the factors in the decision was that the child:

"was still young and had not reach(ed) the age to attend formal school."

The Welfare Officer reported that the mother told her that the paternal family was not open to the move and that she recognised that the move would be difficult for his family because *“they are enmeshed”* and she:

“admitted that she was not used to this type of family dynamics since her family lived across the USA”.

She said that the paternal grandmother had taken the move worse than any other family member but conceded that she was:

“instrumental in assisting her with (the child) when he was a baby” and added that *“(the paternal grandmother) offered a lot of support and she allowed her to take the lead because she felt she was a good mother to her own children.”*

The mother did share a concern with the Welfare Officer that the paternal grandmother always wanted to take the motherly role when it came to the child and that she never had any boundaries. The mother confirmed that the paternal grandparents accompanied them to Cayman to help them settle in. However, the Welfare Officer recorded that the mother told her that she is concerned that the paternal grandparents:

“may be bashing her in the presence of the child” adding that: *“it has been six years and then speaking ill of her making her look like she is the villain... she does not believe that the (paternal family) willing to move forward.”*

126. The Welfare Officer recorded in her report the discussion she had with the mother relating to the parents' marital breakdown and the consequences of that. She reported that after the breakdown, she had a decision to make about whether to return to California after the school year started, which risked her getting a lower paid job with no health insurance. She accepted that the paternal grandparents had indicated that, if they returned to California, they would assist them with insurance payments until stable employment was found. The mother felt that she had a more stable environment in Cayman where she had a two-year contract at her employer school which provided her with medical insurance coverage and, therefore, she decided to remain in Cayman.
127. The Welfare Officer wrongly indicated that *“the family”* decided to seek guidance from a therapist when the child learned about the relocation believing that this support would help them adjust and cope together as a family. This is not accurate as it was the mother who made the initial referral unilaterally and then failed to inform the father about it in a timely manner.

128. The Welfare Officer reported that they had been receiving counselling at the Department of Counselling Services and that they had been working on strategies for effectively managing parental alienation of her son while maintaining healthy boundaries with co-parenting counselling dealt with coping strategies to manage co-parents manipulative behaviours. These are not findings of fact made by this Court, but it appears that the Welfare Officer wrongly views the expressed purposes of counselling to amount to evidence of defective parenting conduct by the father.
129. The Welfare Officer says that she specifically asked the mother to share any concerns she had about the level of care that the father provided to the child. She reported that the mother told her that the father loves the child “*unconditionally*” and that he has never wavered in the contact arrangements. The Welfare Officer noted the mother’s concern and representation that the father had moved home eleven times over the time that they lived in Cayman. The Welfare Officer noted that the mother felt that this spoke to the father’s inability to secure a stable home environment for the child. I do not accept that that is a fair assertion for the mother to make in the circumstances where she had been able to purchase a home because she always had secure immigration and employment in the Cayman Islands, whereas the father’s position has been completely opposite through no real fault of his own. The Welfare Officer noted the mother’s concerns about paternal grandmother’s “*secretive*” communications with the child and highlighted the paternal grandmother asking the child to delete text messages and telling the child to make recordings of conversations between the mother and the child. The mother expressed a view to the Welfare Officer that the paternal grandmother applies too much pressure for the child to remain in contact with her and that when the child does not meet expectations, she applies guilt. The mother is reported to have said to the Welfare Officer that the paternal family spoils the child and that this is a reason why it is difficult for him to leave them when he visits them.
130. The mother shared her view with the Welfare Officer that the father had involved the child in the relocation application, which included discussing inappropriate topics such as the relative crime rates between California and Cayman. The Welfare Officer said that the child had shared the information about that discussion with her and she felt that a child should be protected from discussions of that nature as they can foster unnecessary fear and a sense of insecurity. She added that:
- “making unfavourable comparisons between locations can also influence a child’s perceptions, potentially leading (the child) to view living in Cayman as undesirable. Such*

conversations may unintentionally shape his opinions and emotional responses toward his current environment in a negative way.”

It seems that the Welfare Officer is of the belief that this may be one of the reasons why the child is expressing a wish to relocate. The Welfare Officer said that the mother:

“believes this is part of the campaigned (sic.) (the father) has launched to convinced (sic.) (the child) to leave.”

The mother told the Welfare Officer that the Apple Watch was provided to the child by the father as a deliberate effort to record conversations that she was having with the child about relocation to California. She felt that the recording was part of the plan to coach the child into leaving Grand Cayman. The mother told the Welfare Officer that she felt that the above and the paternal family’s involvement in the persuasive letter formed a part of that *“campaign”*.

131. Although she chose not to speak to the paternal grandmother, the Welfare Officer found that she asked him to delete all correspondence between them and that this has encouraged secrecy. She believes that this damages the child’s emotional development and sends a message to the child that dishonesty or concealment is acceptable. The Welfare Officer said that if this conduct continued it would impact other areas of the child’s life such as his relationship with his peers and authority figures.
132. The Welfare Officer reported on her meeting with the child which took place in her office in the absence of the parents. She said that immediately upon entering the room the child began talking about wanting to relocate to California, so she redirected him to enable a rapport between them to be built. The Welfare Officer asked the child to describe his relationship with his mother. He replied that since the previous year he had been telling that mother that he was not happy living in Cayman and that his views were being overlooked. He told the Welfare Officer that the mother did not want to discuss the topic with him and that she tended to distract him when he brought it up by changing the topic to something else. The Welfare Officer found this comment from the child to be troubling as she concluded that the child was *“too deeply involved in this matter”* and opined that relocation decisions should not be child-led and that this was evidence of the child taking a leading role in advocating for the move. The Welfare Officer is also of the view that the mother may not be willing to engage in conversation with the child about the relocation because of a belief that such matters

are not appropriate to discuss with a child. I accept that may be a part of the reasoning behind the mother's clear reticence to respond when the child is so keen to engage her on the topic.

133. In her report, the Welfare Officer, when talking about the child taking a leading role in advocating for relocation, went on to add:

"It seems that no one has yet addressed this directly with him in a clear and developmentally appropriate manner."

However, such a comment totally disregards the content of the email sent by Judith Seymour on 24 January 2025 concerning the mother's complaint to the child's therapist's supervisor dated 10 January 2025 in relation to the handling of the child's case by his therapist and the Clinical Supervisor of the Counselling Centre. The Complaint came about because the outcome of therapy and the mother's MASH referral made in March 2024⁴⁸ did not fall in line with the finding of emotional abuse which the mother sought and in fact made clear that the child was freely expressing his wishes to relocate. It is evident from that email that the therapist had directly addressed and acknowledged the child expressing firm views about relocation and found that there appeared to be no need for counselling. The email was written after: (i) a full review of the child and the mother's files; (ii) discussions with MASH; and (iii) discussions with as well as seeking guidance from the head of the Strategic Planning Group responsible for child safeguarding to ascertain whether there are defined criteria that determine what behaviours and actions would meet a threshold of emotional abuse. Having conducted that review Ms. Seymour concluded that:

"(i) There is no established threshold for emotional abuse in Cayman Islands law. What does exist is a definition used in trainings conducted by the Department of Children and Family Services, and in their policy. As provided by Ms. Forsythe from MASH, emotional abuse is defined as a "Pattern of behaviour that damages a child's sense of self-worth and negatively impacts their emotional development." Examples provided included "withholding love and support; rejection and criticism; Threatening; berating and humiliating the child."

(ii) At the time of (the child's) intake on April 24, 2024, he was described by the intake officer as "well – adjusted with little concerns"⁴⁹." His treatment plan of 20 August 2024 identified two goals of therapy which are both centered on him managing his emotions

⁴⁸ See paragraph 135 below.

⁴⁹ My emphasis by underlining.

regarding staying in Cayman and his feelings when leaving family in California. His therapist conducted two one-on-one sessions with (the child) and offered four family sessions to (the child), three with both of his parents present.

(iii) In her final email correspondence with you, his therapist⁵⁰ indicated (the child's) expressed desire "that he wanted everyone to be on the same page." She further indicated that she did not think "(the child) is currently in need of counselling services. As his main goal for coming is to find a way for him to move back to California." She also indicated that (the child) "is not showing and expressing anything for me to work on."⁵¹

(iv) In the final family session held on October 3, 2024 in which both parents and his step-father were present, the focus was on (the child's) stated goals and in this session, the family made clear to him that he was not moving to California, and the session finished with (the child) and his family agreeing to work on not worrying about things that are outside of his control. A referral was made for both parents to attend coparenting to further support (the child)."

Ms. Seymour then added:

"Based on this information, it is difficult to determine that my staff had sufficient evidence of behaviours by (the child's) father that could be defined as above, and to warrant a referral to MASH for investigation into allegations of emotional abuse of a child. While it is clear that the engagement and communication between the family was conflictual and difficult, and that there may have been inappropriate conversations taking place with and in (the child's) presence, I could not find evidence of behaviour such as outlined in the definition of emotional abuse."⁵²

I am not fettered in any way by the views expressed by Ms. Seymour but having conducted an independent review of all the evidence placed before me, I reach the same conclusion that the child has not suffered emotional abuse by the father.

134. The Welfare Officer was reminded about and was cross-examined about what the child had said about still wanting to relocate during the above-mentioned therapy session after the stepfather informed him that he and the mother would not leave Cayman. Although the above email was

⁵⁰ His therapist was Ms. Baldwin

⁵¹ My emphasis by underlining.

⁵² My emphasis by underlining.

exhibited to the mother's Affidavit sworn on 28 July 2025, the Welfare Officer accepted in her oral evidence that she had not mentioned the family therapy sessions in her report. She then conceded that the child:

“is a bright child who can make up its own mind. He has made up his own mind to go and I believe that he wants to go.”

This comment conflicts somewhat with her earlier evidence when she was portraying a situation that the child was expressing the same wishes as a consequence of improper involvement of him by the paternal family in the relocation planning. The omission of any mention of therapy as well as of the professional views of the therapeutic experts is a further flaw in the Welfare Officer's assessment and undermines the reliance and weight that should be placed on her recommendations.

135. In her report, the Welfare Officer highlighted three MASH referrals. The first is one dated 17 March 2024 where the mother raised concerns regarding the child's mental health because she felt he was being *“exposed to emotional abuse by the father”* who was *“insisting”* on the child relocating to California. MASH concluded that the report did not meet the threshold for social worker assignment and the case was closed at the MASH desk. The second report was one dated 29 January 2025. I note that this was made only four days after the mother's disappointment at receiving the above email of Ms. Seymour. A referral was received from the Department of Counselling Services *“regarding concerns of emotional manipulation”*. However, again no action was taken in regard to the referral and the matter was closed. The third referral was made on 31 March 2025 when the MASH desk was informed that the paternal grandmother asked the child to record conversations with the mother. It is not clear why the mother felt this would merit a referral to MASH, but in any event all that they did was to provide the mother with *“relevant guidance”*. I note that this referral was made only 11 days after the date of the mother's present Summons. It is clear that the referrals to MASH were not matters of a nature that one would expect to be raised with that child protection body. The timings of the last two referrals are particularly noteworthy and appear to form part of a preparation of a case for court proceedings.

136. The child told the Welfare Officer that he appreciates his mother and said that she is a good mother who cares for him. The Welfare Officer reported that the child told her that going to live in California was solely his idea and that he visits his family there every couple of months. He told the Welfare Officer that his maternal grandparents were divorced and that he was not close to the maternal family in Colorado. She also reported that he told her that both he and his mother

previously did not have an interest in going to Colorado, but he felt that recently there had been a sudden interest from the mother in them visiting there. The child is reported to have shared that his relationship with his paternal grandparents was strong, but it was the opposite with his maternal grandparents.

137. The Welfare Officer reported that the child was given the opportunity to speak about his relationship with his father. She reported that the child told her that he felt more open to talk with his father and that when he brings up the conversation about relocating his father never judges him. The Welfare Officer seeks to minimise the weight to be placed on the child's expressed wishes concerning relocation with his father as she has formed a view that:

“having fun and participating in excursions is central to (the child's) experiences with his father and by extension, his paternal family.”

With reference to the content in the above-mentioned persuasive letter, the Welfare Officer has formed a view that:

“These enjoyable experiences may be influencing, or potentially being used to reinforce or bait (the child) into leaving.”

Although the child naturally enjoys such experiences, his emotional attachment to his paternal family, and the importance of it to the child, is much more significant than the Welfare Officer is willing to acknowledge. If one looks at the role that the wider paternal family played in his early years, which has been able to continue even over the years living away from California, it is evident that his interaction with them goes beyond one characterised purely by fun and excursions, it is a deeply loving and caring relationship. It is a more significant relationship for the child than one which the Welfare Officer characterises as simply being one where the child *“is well cared for and genuinely loved by his paternal family in California”*.

138. The Welfare Officer conducted a fairly brief review of the factors in the ‘welfare checklist’ in her report. She did not say at the start of paragraph 74 in her report that she was using the welfare checklist to determine what was in the best interests of the child but wrote that it was being *“utilized”* to *“assess the children”*. When commenting upon the child's wishes she said that he had *“made it clear that he does not want to remain in Cayman”* and that he would *“prefer”* to live with his father in California. The reason that she said the child had given for that was that he has exhausted Cayman and that there are more things to do in California. The Welfare Officer was

examined about that view, and she then accepted that the child also talked about family and other things he could do in California, including about technology. Interestingly, substantive and non-*“fun”* issues such as schooling were not discussed by her with the child because the Welfare Officer found that she need not talk to him about schools there as he had not visited one. In such circumstances, it is rather unfair for her to diminish the veracity of the child’s wishes on the basis that when the child spoke with her, the topic of their conversations had a concentration on fun and exciting activities. In the persuasive letter, the child made it clear that he was bored of Cayman. At this stage of the cross-examination, I wrote down a contemporaneous comment in my notebook that it appeared that the Welfare Officer had predetermined views that were consistent with those held by the mother and that she only placed emphasis on the evidence which matched that view. Having now had an opportunity to review all of the evidence, it is apparent to me that the Welfare Officer, especially in her written report, conducted this exercise with a view held by her at the early stages of her assessment that relocation should not occur and then has ‘cherry-picked’ the evidence that she feels would support or explain that conclusion. Unfortunately, it seems that she has without proper analysis adopted a large part of the mother’s contentions and not fairly balanced the same against the father’s position, failing to afford him a reasonable opportunity to address the allegations raised by the mother. Unfortunately, I do not regard her assessment to be an open-minded and balanced one. That said it is important to recognise that, although I do not place the weight often placed on welfare officer’s recommendations, I could still reach a decision that is the same as some or all of the recommendations. However, that decision would be based on an independent review of all of the evidence and this Court’s findings of fact causing the same outcome to be reached, albeit by a different route.

139. It was only after some of the flaws in her approach in her report were being pointed out to her in cross-examination that the Welfare Officer conceded that *“the boy will be devastated if he doesn’t go to California”*. Before making that statement, she remarked that:

“I already said his wishes and feelings are to go. He will be upset if his father is in California, sadness for him. Those are his ascertainable wishes and feelings.”

When asked by the mother’s counsel about the child’s understanding about what a move would entail, he said that his reaction to leaving the mother was:

“Flat. Matter of fact” and she said that: *“I not think he understand fully what means to separate from his mother. More of an adventure to get to California.”*

She then added:

“He would be devastated (to) be separated from his father. I not explore with him his comprehension if the father has to leave Cayman.”

140. The Welfare Officer had a concern about the child expressing such views because she said:

“(The child) has been advocating very strongly for relocation from Cayman, which is not an appropriate role for him to assume. As a child, he should not be placed in a position where he feels responsible for influencing or directing such significant family decisions.”

She states that the child’s:

“level of involvement suggest that appropriate boundaries between the child and adult roles may need to be reinforced to ensure that he is not burdened with responsibilities (that) properly belong to his parents.”

She added that it was clear that the child enjoyed California and the time that he spent there with his paternal family but felt that that should not determine residential arrangements. She was of the view in her report that an open age-appropriate discussion from both parents would enable the child to gain a clear understanding that his time in California is to be a part of regular visitation rather than a permanent move. She was concerned that the child indicated to her that, although he would want his mother to come with him to California, he still wanted to move there if she did not come. She is of the view that he displays a lack of emotion and disregard for his mother. The Welfare Officer thinks this may be because of what the mother told her about her being viewed by the child as the parent who holds the child accountable and ensures that he maintains structure, for example about completing class assignments and appropriate internet usage. What is clear is that, in the report, the Welfare Officer believes that little weight should be placed on the child’s wishes and in fact regards the child forcefully expressing views about wishing to relocate as being a negative factor in the balancing exercise to be carried out by the Court. In the report, it is evident that, despite the child’s maturity for his age and clarity of expression, she views the child’s current level of awareness and involvement to be such that one should not make an order consistent with his expressed views.

141. In her welfare checklist review the Welfare Officer highlighted that the child was in good physical health and had no emotional and behavioural concerns. She felt that he was comfortable in both homes and his needs were being met. When dealing with the likely effect of any change in his

circumstances, she said that ideally he would benefit from having both parents in his life and that any change could potentially have an impact on his emotional development. When dealing with that, the Welfare Officer failed to recognise that the father would likely have to leave the jurisdiction as the current visitor visa permit arrangement was an artificial one which has run its course. The Welfare Officer was of the view that the child was settled in Cayman and that there was no reported physical harm or risk at this time. She stated that whatever decision is made by the Court, the child would need emotional support. Later in the report she said that if the child did relocate, he may experience a level of emotional disruption due to the changes in contact arrangement, school and community. She said that the father would have to provide a continued caring and supportive home environment to which the child may adjust over time if a strong support system is in place to ease the transitionary period. The Welfare Officer expressed a concern that emotional support for the child did not appear to be part of the father's relocation plan.

142. When talking about the “*parents’ capacity*” when considering the Welfare Checklist factors, she said that both parents had the ability to provide for his physical care. She seemed to acknowledge that: (i) the father despite being “*a visitor in Grand Cayman*” has maintained a close relationship with the child; and (ii) at some point the father will have to decide whether to remain in Cayman or to relocate to California. The Welfare Officer felt that both parents ensured that the child had access to education and medical attention.
143. Having outlined the above information, the Welfare Officer set out a section in her report headed “*Social Workers Assessment*”. The Welfare Officer commented that if any changes are made to the current circumstances/arrangement, the entire family will be impacted significantly. It appears that she was only concentrating on the change being the father and the child relocating to California and not what the impact would be if the father had to leave. She is of the view that, as he is the applicant, the onus is on the father to demonstrate that the relocation is in the child's best interests and that he has made adequate preparations to make the transition overseas an easy one for the child. It is not clear what she means when she says that the father must also demonstrate what he has put in place in preparation for the transition overseas to be an easy one for the mother.
144. In her assessment, the Welfare Officer accepted that the father is a visitor to Cayman without long-term connections. She recognised that he initially relocated here without any intention of remaining for any extended period of time. She accepted that the only reason he is here at this time is because he wants to be near to his son. She also recognises that the process of having to remain in Cayman

was becoming exhausting and “possibly” financially draining for him. She stated that it did not appear that the father had considered full-time employment in Cayman which she felt, in my view wrongly, “remains a viable and realistic option”. She appears to wrongly criticise the father as she views that he has not fully explored opportunities for establishing permanence. She expresses an incorrect belief that the father is highly employable and a strong candidate within any competitive job market in Cayman because he is a qualified attorney. The Welfare Officer shows no comprehension about the requirements for admission to the Cayman Bar and how a legal qualification from the USA does not provide a route into the profession here. The Welfare Officer believes it to be noteworthy that the father has not taken steps to formalise his immigration status or secure long-term residency despite residing here for seven years. That comment shows a lack of understanding about the predicament that the father has been in concerning employment and fails to recognise his consistent desire to move back to California. Rather than criticising the father for what has happened over the last seven years during which he has put his life on hold to be close to the child, characterised by frequent trips having to be taken for immigration reasons to and from California, the Welfare Officer should have commended him for the efforts which have also included him having the unusual arrangement of practising as a US attorney whilst living outside of that jurisdiction. In light of the Welfare Officer’s representation made at the outset of her oral evidence that she had read the vast majority of the Affidavits, I was concerned by her later concession that she had not seen the content in the father’s Affidavit sworn on 4 June 2025 from paragraph 78 where he sets out in some detail his employment and immigration issues. She stated that the information in that part of his affidavit was “new” to her. She added:

“I not read everything. I agree it is important to read these parts on immigration and employment. Usually we do not need to read the affidavit. Usually we rely on the interviews. I not review my notes before I sign off on the report.”

The Welfare Officer also conceded that there was a “possibility” that the father may have actually provided her with some of the information in that section in the Affidavit. She also then conceded that it was “not so viable” for the father to find employment in Cayman. It was then put to her that the situation was that the father could not legally live here and that she conceded that that was “a strong possibility”. These concessions by her in her evidence mean that the recommendations made in her earlier report were wrongly based on a premise held by her that the father could remain and work in Cayman. However, the Welfare Officer still felt that her earlier recommendation should still stand, stating that even if the father could not reside here, the child should still remain with the mother in Cayman. She stated in her oral evidence:

“He is in school doing well, extra curricular activities he enjoys. The parents are able to provide adequate care financially. The fact that the mother is permanent here married and has a good home.... They have permanency here, they live here. (The child) has a fairly good social life with his friends, he is stable, presents as a happy child.”

145. The Welfare Officer found that the child is well-adjusted at his school and demonstrated signs of emotional and developmental stability. She said that he is socially integrated and believes that he has an established peer relationship and shows no indications of distress or behavioural issues. In the report she suggested that he is benefiting from a consistent routine and he has a secure attachment with his “primary caregivers” and that disrupting the arrangement would pose risks to the child’s sense of stability and identity. I note with interest in the report that the Welfare Officer does not indicate who the primary caregivers are, but it seems that she believes them to be the mother and her husband as this comment is made shortly after her analysis of that household. In reaching such a view it is evident that she did not analyse the father’s household. Despite being directed to do so in the referral, the Welfare Officer, for reasons which are still not clear, failed to interview the father’s spouse or explore the nature of the child’s ‘sibling’ relationship in her assessment undertaken in this report. She should have done that to make it a complete report and the failure to do so introduced imbalance into her report and her brief welfare checklist. In his affidavit evidence, the father expressed his concern that his wife had not been interviewed, indicating that she was a full-time caregiver who plays a direct and active role in the child’s care and well-being and therefore was someone who could have provided a valuable perspective regarding the child’s routines, stability and emotional state. He rightly states that the failure to include such an enquiry into the child’s life in the father’s household in the assessment means that there is a less balanced and accurate picture presented to the Court. He also was of the view that the failure to interview the mother’s spouse, in circumstances where the child has expressed certain views about him, is a significant omission. The Welfare Officer should have seen both spouses as directed in the referral form. In fact, when cross-examined she accepted:

“I should have interviewed both parties’ partners.”

Rather concerningly, from the Welfare Officer’s oral evidence, the impression is given that welfare officers do not always read the Referral Forms. When she was questioned about why she had not complied with all of the directions set out in the Referral Form she first indicated that she may have only received page one of the Form but then accepted that she had received the full Referral Form.

146. The father requested the Welfare Officer to not only meet with his wife but also to interview other family members. This would have included significant people in the paternal family, in particular the paternal grandmother, about whom the Welfare Officer has seemingly made negative findings primarily based on representations made to her by the mother. The paternal grandmother should have been afforded the opportunity to discuss, with the Welfare Officer, the accusations that were being made against her by the mother and which the Welfare Officer clearly relied upon in her reasoning for her recommendations. The paternal family are significant figures in the child's life, and they should have formed a part of the assessment prior to the making of observations at various parts of the report which seem to minimise the importance of that to the child. It appears that the Welfare Officer declined to meet the paternal family members because the mother did not consent to that. The Welfare Officer does not require the consent of a parent to interview significant wider family members as it is for the Welfare Officer to determine what information she requires for her assessment and not for a parent to dictate what that parent feels is required or not required. I note that the Welfare Officer, despite telling the Court that she had read 90% of the affidavits, conceded in her oral evidence that, although they had been sent to her, she could not confirm whether she had looked at affidavits sworn by the wider family members. Unfortunately, this approach is a further example of the imbalance in the manner in which the assessment in the report was conducted by the Welfare Officer.

The 'Welfare Checklist'

147. As highlighted earlier in this judgment, in exercising my broad discretion when I consider the above options and determine what orders are in the child's best interests, I must consider the factors contained in what has become known as "*the Welfare Checklist*" found at s.3(3) of the Act. As I highlighted in the Judgment back in 2024 at paragraph 40 *In re G (children) (FC)* [2006] UKHL 43 Baroness Hale stated in relation to the Welfare Checklist:

"...in any difficult or finely balanced case, as this undoubtedly was, it is a great help to address each of the factors in the list, along with any others which may be relevant, so as to ensure that no particular feature of the case is given more weight than it should properly bear. This is perhaps particularly important in any case where the real concern is that the children's primary carer is reluctant or unwilling to acknowledge the importance of another parent in the children's lives."

148. In relation to the **wishes and feelings of the child** - The child's wishes in this case are patently clear. He has for an extended period of time consistently stated that he wishes to return to live in

California with his father, to an area where his paternal family members live. The fact that he has shared this with his mother and stepfather in no uncertain terms, when he knew that they are opposed to that, which is not an easy thing for a child to do, shows the sincerity of his wish. The child has also reiterated the same view to the Welfare Officer and Ms. Baldwin. He has never wavered, including during a rather uncomfortable meeting with Ms. Baldwin also attended by the parents and stepparents. Unlike in most cases, I have also had the benefit of hearing from the child firsthand, due to the meeting he requested in my Chambers. I was struck by how certain he was about wishing to relocate to the US with his father. I also felt in the meeting that he understood what the consequences of any move would be on the nature of his relationship he currently enjoys with the mother.

149. As stated in the mother's Written Closing Submissions the child is "*extremely bright and mature for his age*". However, the mother contends that the child's wishes are not grounded on an understanding of what a move would entail. She says that his wishes are driven by the fun and activities that the child has enjoyed when visiting California and when he is away from the routine day-to-day things such as school and homework. I recognise that the child did stress and concentrate upon his enjoyable interactions with family members and the activities that they partake in in California. I would not expect a child to share details about the practicalities of a relocation which a parent needs to present to the Court. In fact, I noted that the Welfare Officer chose not to steer her conversation with the child away from the substantive practicalities such as schooling. As highlighted, the mother says that the child has been improperly drawn into the relocation proceedings and encouraged and emotionally manipulated by the father and his family members to get involved and to express the views that he has. Above in this ruling I have highlighted areas where I think the father and his family have interacted with the child concerning relocation to California in a manner that they should not have. The paternal grandmother acknowledges that and recognises that some of the communications that she has had with the child were not appropriate. However, despite that, having had the opportunity to meet the child and noting the content of Mrs. Seymour's email and the long-term consistency of the child's expressed wishes, I find that his wish to move to California goes deeper than superficial reasons. Ms. Seymour said that the child's "*main goal*" for attending therapy was "*to find a way for him to move back to California*".
150. The mother's accusations of emotional harm have not been accepted by MASH (three referrals made to MASH) nor by the therapist/counsellor. The child's intake records at counselling accurately describe him as being "*well-adjusted with little concerns*". There is no expert evidence

to show that the child is suffering emotionally, in fact the evidence is to the contrary. To the credit of both parents who love him dearly, he is a pleasant, well mannered, happy child who is doing well academically despite the uncertainty that he is currently enduring.

151. One factor I have very carefully considered is how much the child's wishes have been/are influenced by the fear of separation from his father if his father left Cayman. The *welfare officer conceded that she had not asked the child in her assessment for her report what he felt if his father could not live here but added that the child missed his father "desperately". The welfare officer accepted that she did not address this with (the child) or in the report what the impact on the child would be of the loss of the father and she accepted that that was inadequate.* It clearly is a major concern for the child. Although not specifically dealing with separation, the Welfare Officer on more than one occasion said that the child would be "*devastated*" if he and the father could not relocate. It is quite clear that the child would need considerable therapeutic input to address his inevitable great disappointment if he has to remain in Cayman, especially in the absence of his father. He would find it very hard to comprehend why he was not being able to move to California with the family unit comprising his father, stepmother and her child with whom it seems he has naturally formed a brotherly bond. He may well feel excluded and abandoned as the one being left out despite consistently making clear to all what he wants to happen. I do not believe that this would be required if the child's wishes were fulfilled as long as he had regular contact with his mother. I say that because from my meeting with the child and from what he said to Ms. Baldwin he is acutely aware that his mother and stepfather would very likely remain in Cayman and that did not in any way deter him from re-emphasising his wish to leave.
152. If this was a case where I felt the father should be expected to remain in Cayman or was choosing to leave Cayman out of a shallow preference that would likely influence how a court could approach the weight to be placed on a child's wishes. The wish then would simply be a relocation (albeit to an area where close paternal family members would be) one and not one coupled with a desire not to be separated from his father. Unlike the mother, I have found that the father's options for staying in Cayman have in reality expired and that for quite some time his visitor immigration status has been artificial and precarious. There are also concerns about his status with his employer who believe that he is based in the US and not Cayman. This is a case where the Court accepts that the time has come for the father to leave and there is no meaningful option for him remaining. He, like the mother, is also entitled to now progress his life and career and make a less transient base where

he has immigration security and I have found that his reasons for moving are genuine and not fanciful.

153. I must have regard to the child's wishes and understanding and the fact that at the time of his meeting with me and the hearing was only on the cusp of his 11th birthday. There is no sliding scale of ages for the amount of weight to be placed on a child's expressed wishes. Each child is different and must be treated so. From his confident verbal exchanges with me and the content of our 'chat', coupled with what all other individuals including both parents have said about his character, I found the child to be extremely mature for his age, to such an extent I place greater importance in the balancing exercise that I must conduct when determining what is in his best interests than what a Court might ordinarily do for an 11-year-old child. That said, I recognise he is still a pre-teen child and these vital decisions must be made by adults and not be solely driven by the child. I am conscious of the mother's submissions about that and the fact that the child's wishes are made without him ever having properly experienced a daily routine life without the considerable and valuable support of his mother and the wider supportive infrastructure that is currently around him in Cayman. That said, I am of the view that significant weight should be placed on this particular child's consistent and clearly expressed wishes and it is a significant factor in my decision to grant leave to the father to relocate with the child.
154. From speaking with the child, I do not feel that his desire to relocate with his father will lessen if the Court refuses permission at this stage. In fact, I am of the view that it will likely grow, especially as he tries to come to terms with the fact that his father, his stepmother and her child are all living in the place near to his parental family where he so clearly wants to move to. I am conscious that if that remains, there are likely to be later proceedings brought. Courts tend to not make decisions in relocation cases for older children, for example aged 15, that are inconsistent with that child's genuinely held and considered wishes. Therefore, one factor I have considered, albeit as only one of a number of factors and in no way determinative by itself, is whether a refusal to grant permission at this stage would simply be delaying a decision that the Court would likely be making in three to four years' time. The Court cannot of course predict with absolute certainty that it would make that order, but I do have to consider whether it would be in this child's best interests, in the circumstances of this case, for such a decision to be made now.
155. I have considered **the child's physical, educational and emotional needs** - The child has no unusual physical or educational needs. The child's physical educational needs are currently being

met in both parties' households in Cayman. If leave to relocate is not granted, even in the absence of the father, those needs will continue to be met by the mother. Although the father has been unable, for good reason prior to any decision being made by the Court, to provide the certainty and planning that would come with a signed lease or a firm confirmation from a school, I am satisfied that the child's physical and educational needs will also be met in the US. I have in mind that there is a very supportive paternal family network there who will play a fundamental role in settling in the father and child and then assisting the father with childcare arrangements when needed. Having regard to the paternal family's hands-on involvement. I note that the mother raises a concern that the father has not provided evidence as to the level of healthcare the child would enjoy in the US. However, there is no reason for the court to believe that the father on the salary that he has would not ensure that there was adequate coverage. I note that in the past the paternal grandparents made clear to the parties when they were considering the practicalities of returning to California approximately a year after their arrival in Cayman that they might provide some assistance with health insurance. The issue of health insurance was not something that was addressed in detail in the cross examination with the father or any of the other witnesses. In relation to education, I noted that the child would be relocating at an opportune time, namely at just prior to the commencement of the next academic year and joining the first grade for the Middle School like all his new peers at that time.

The parties are meeting the child's basic emotional needs at a time when they are both residing in the Cayman Islands. However, I am satisfied that it would be detrimental to the child's emotional welfare if he were not permitted to relocate to the US with his father. This is due to the strength of his unwavering expressed wish to relocate made over an extended period of time. Of course, children must learn that they cannot expect to have everything they wish or desire. It is for parents to make those decisions on their behalf, which includes saying "no." If the parents cannot agree about how to respond to the child's wishes for something as significant as relocation, then the responsibility for making that decision often transfers to the Courts. The child's depth of feeling is such that the Welfare Officer has readily stated at various stages of her evidence that the child would be "*devastated*" if he was unable to go to California to live with his father. There would be a considerable detrimental effect on his emotional state of mind, and this would require quite substantial therapeutic input to help him come to terms with what has happened and why his wishes and such an important matter for him have been overruled. As I have stated previously in this judgment, I do not share the Welfare Officer's opinion that therapeutic input would definitely be required to help with the separation from his mother if he were to relocate. One proviso to that is

that there would need to be regular and substantial contact with the mother and a continual re-emphasising by the father of the importance of the mother to the child.

156. When considering the **likely effect on the child of any change in their circumstances** - I am of the view that no matter what order the Court makes this child will experience a change of circumstances either way. Of course, a relocation order will result in a number of fundamental changes to the status quo and the child arrangements. These changes would have to be handled by the father without the benefit of the mother's guiding hands. However, in this case, it is highly likely that there would also be a significant change of circumstances if the child were to remain because his father, stepmother and stepbrother will in the near future have to relocate themselves to California as they can no longer exist on the current precarious immigration arrangement in Cayman under which the father has been labouring for quite considerable time. The change of circumstances of course would be their absence from the child's life in Cayman.

I have had to think carefully about whether there should be a disruption of the status quo in which the child, on the whole, is stable and doing well in Cayman with both parents here. As I said before, if the father could realistically remain in Cayman, the balancing exercise between changing the status quo or having things continue would be different to the circumstances which this Court is encountering.

I am satisfied that the child will be able to adjust to the change of circumstances which will occur with a relocation to a place which he is already very familiar with, a place that he also calls home. Although I remind myself that the mother's position in this child's life is more important than the paternal family's position, I also recognise that their presence in the US will have a beneficial impact in the child's transition to life in California. Having spoken to the child, the change of circumstances is something that he wants to happen, despite him being fully aware of the knock-on effect the move will have on the nature of his important relationship with his mother.

157. Taking into account the **child's age and sex** when reviewing this case, I note that he is very mature 11-year-old male. He is a US national and was born in Orange County where the father seeks to relocate to. He has travelled there frequently after the parents' relocation to Cayman, which was initially intended to be temporary. Throughout his life, he has had a very close relationship with his paternal grandparents and wider members of the paternal family in Orange County. There is no

need for me to additionally comment on the same or on their **religious persuasion**. There are no **other characteristics** of the child which I consider to be relevant.

158. Above, I have already touched upon matters relating to **how capable each parent, and any other person is of meeting the child's needs**. They are both very caring and able parents who are capable of meeting the child's day-to-day physical and educational needs.
159. I have considered any harm that the child has suffered or is at risk of suffering. As I have indicated herein, I do not agree with the mother's contention that the child has suffered emotional harm due to the father and paternal family's interaction with him concerning relocation. However, she is right to highlight areas where their behaviour needs to be corrected when it relates to the nature of some discussions that they have had with the child. I am satisfied that they recognise that and have acted upon it appropriately. I do not agree with the father that the mother has caused some harm to the child's emotional development by treating him in a more motherly and younger childlike manner. Parents have different parenting styles and the approach of each of these parents, albeit different in some aspects which is to be expected, neither of their approach is necessarily wrong or better. In fact, the fusion of the differing approaches may be beneficial to the child. However, the mother's tendency: (i) to seek therapeutic input when the Counsellor herself says that the child was settled in well; and (ii) to make groundless referrals to MASH are not in the child's best interest and introduce unnecessary professionals into the child's life which can be disruptive to the child.
- I note that the mother, almost as a passing statement when dealing with harm under the welfare checklist in the closing written submissions, seems to be alleging parental alienation on behalf of the father and his family. Unfortunately, such allegations seem in recent times to be introduced in cases without any grounding almost as a catchall submission. It appears that the mother relies upon the father's hitherto insistence on greater contact with the child during school vacations to enable him to travel to California. I do not accept that that amounts to parental alienation in circumstances where there is evidence that such an arrangement was introduced when it became clear that the temporary move to Cayman was to become a permanent one as a result of the mother's intentions.

Although the outcome of mediation may not have been an agreement of contact with the father of every holiday as he argues, as set out above herein the letter from the mediator clearly indicates an imbalance in favour of contact to the father during the holidays. It may be that the mother is relying upon the nature of conversations that the paternal grandmother had with the child which introduce

levels of secrecy and the deleting of messages between them, but again the circumstances of this case that is not evidence that would ground a finding of parental alienation.

If the relocation application is denied and the father as is highly likely will have to return to live permanently in California, that change of circumstances would be a devastating one for the child and one that would likely result in emotional harm for the child

The range of the powers available to the Court in these proceedings are wide. I have the jurisdiction to make a wide range of orders including but not limited to a relocation order. When making my determination I have considered whether any orders would be in the best interest of the child.

Conclusions and orders

160. Having carefully considered all the evidence and applied the welfare checklist I have come to the conclusion that the welfare of the child is better met by leave being given for the child to permanently relocate with the father to California. I recognise that this decision will be devastating for this good mother who is and must remain a significant figure in the child's life. It is a difficult decision that I have had to make in a case where there are two commendable and caring parents, but it is one grounded on the specific circumstances of this case. My determination has been a testing one to make when balancing the welfare pros and cons of the two options, especially as there are some that weigh against permitting a relocation.
161. For the avoidance of doubt, for the reasons already stated above herein, the Shared Residence Order that was approved by the Court on 25 July 2022 will remain in place. The parties of course both share parental responsibility and the Court's expectation is that the parties' interaction and cooperation in that regard should continue in the same manner that it would if the parents were both residing in the same jurisdiction.
162. For the avoidance of doubt, paragraph 1 of the July 2022 Consent Order in which the parties agreed that the issues of residence and contact should be addressed solely in the Cayman Islands is discharged. As the child will be moving to California, the expectation would be that the Courts in California would become seized of jurisdiction to deal with such matters if required.
163. The present child Maintenance Order will be discharged from the date of the child's actual physical relocation to California but will remain in place until that date.

164. Unless otherwise agreed by the parents, I direct that the child is to remain in Cayman until at least three weeks prior to the start of the new term at his new school. For the rest of this school term and during the upcoming summer holidays, the current term time shared care arrangement will remain in place. The only variation will be that for the three-week period prior to the child's relocation date the child will reside exclusively with the mother. However, any of the above arrangements may be varied with the consent of both parents.
165. I have had to carefully consider the contact arrangements. This is not something which the parties dealt with in great detail during the hearing. With that in mind I will put in place a basic infrastructure, with an acknowledgement that the parties may change that by consent. It is impossible for this Court to make orders containing precise dates without the knowledge of the child's and the mother's differing school dates.
166. The father's narrative at paragraph 116 in his Affidavit sworn on 4 June 2025 seems a fair approach. It is vital that any order and/or the parties ensure that the child retains a close relationship with the mother. Although it is right that the father should have a small amount of holiday time with the child, he is right to accept that most of the holidays should be spent with the mother. The mother must be entitled to travel to California to visit with the child and the expectation would be that, if the request is reasonable, the father will accommodate and facilitate that even if that falls outside of a school holiday schedule contact time. There should be very frequent and flexible indirect contact.
167. Prior to a final Order being settled in this matter, I wish to afford the parties an opportunity to have discussions and see if they can agree a contact schedule that best suits their dates. If they can agree these days/dates, then if they submit them, I can incorporate them into the court order. If they cannot agree dates, then they may submit brief written submissions setting out the actual dates that they would wish to be inserted in the order or, if that is not feasible, at the very least the proportional division of each holiday and I will then impose an order upon them. I would much prefer to make an order that they agree on which will inevitably far better meet their commitments. If it helps, I can indicate that the Court would expect the child to spend at least two thirds of his substantial school holidays with the mother and, in addition to that, attempts should be made to maximise the time that the child also spends with the mother during periods when the mother's school breaks do not coincide with the child's breaks. I note that the father says that he would be willing to travel to

Cayman with the child during these periods of time. I am also of the view that, at this time, the father should be responsible for all of the child's airfares for the major school holidays and any mid-term breaks. I hope that these general suggestions, which are only provisional thoughts, will assist the parties to put together a contact schedule which is acceptable to both of them.

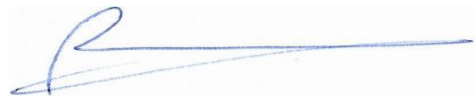
168. I have not made orders in relation to naturalisation as I believe that there may be a residency requirement for any applicant. However, if I am wrong in, a party may ask me to rule on that. I can indicate that ordinarily the Court would regard such a grant to be in the best interest of the child due to the resultant widening of options for a child. If there are no immigration regulations preventing the child being naturalised following the Relocation Order, I would be expecting both parents to execute the required documentation to enable that to happen. I do not make orders for co-parenting counselling sessions, but of course that does not preclude the parents arranging the same even though they will be in separate jurisdictions.

Use of the pleadings, Judgments and expert reports post this Judgment

169. The parties have leave to share the pleadings filed, Orders made and Judgments made from the commencement of these Summary Court and Grand Court child proceedings with any new legal representatives and with any other Court (whether in this jurisdiction or not) dealing with child arrangement matters in relation to the child.

Costs

170. This Relocation Order has been made in finely balanced removal proceedings. My provisional view is that, in such child law proceedings, no order for costs would be the appropriate order. However, if a party believes there to be merit in making an application for costs, then they should apply by Summons within 14 days of the circulation of the sealed version of this Judgment.



.....
The Honourable Mr. Justice Richard Williams
JUDGE OF THE GRAND COURT