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Neutral Citation Number: [2026] CIGC (Fam) 6

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

CAUSE NO. FAM 29 OF 2021

BETWEEN: T APPLICANT

AND R RESPONDENT

Appearances: The Applicant represented by Ms. Cherry Bridges of Ritch & Connolly LLP
 The Respondent in Person
 Ms. Laura Clemens (Guardian ad Litem) instructed by Ms. Lynne McDonagh of KSG to represent the children

Before: Hon. Justice Richard Williams

Heard: 9-12 December 2025, 15 December 2025, 17 December 2025, 6-8 January 2026

Written submissions filed: R - 2 February 2026; T - 3 February 2026; GAL - 3 February 2026;
 T - Supplemental Response - 6 February 2026

Mention Hearing: 2 March 2026

T & R further affidavits: 9 March 2026

Guardian further affidavit: 12 March 2026

Sealed further affidavits: 12 March 2026

Draft Judgment circulated: 12 May 2026

Handed Down: 25 May 2026

Single sex female divorced couple - Application by one parent for (i) a relocation order to New York, US (ii) discharge of shared residence orders and replace with sole residence orders in her favour (iii) Orders varying/restricting parental responsibility from the other parent - Variation of contact orders - Acquisition and status of parental responsibility following intracervical insemination (ICI) at home where there is a female single sex marriage - s.5(a) in the Children (Amendment) Act, 2024 amendment to s.3 in the Children Act (2012 Revision) by inserting s.3(3A) - Consideration of the Human Fertilisation and Embryology Act 2008 - Interaction of human rights considerations and s.10 Children Law applications - Parental alienation/alienation behaviours.

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JUDGMENT

Introduction

1. This is a difficult and sad relocation case concerning two children, RI (aged 12) and RA (aged 7). The Applicant, T seeks permission to permanently relocate with the children to New York, USA. The Respondent, R, opposes the application. As in all such cases, the Court's paramount task is to determine which outcome best serves the children's welfare.
2. *"Solomon, the eleventh century King of Israel, was credited with great wisdom and sense. He was asked to decide which of two women was the mother of a child. Obviously in those days medical tests were not available to decide the issue. Solomon declared that the only solution would be to divide the child in two. The true mother, realising the awful consequences of this decision, came forward and declared that the other woman should take the child. Solomon knew immediately that she was the true mother and accordingly the child was given to her."*¹ *The decision of a court with regard to relocation is reminiscent of the decision which faced Solomon. It is one of the most difficult areas of family law where decisions are never straightforward."*²
3. Speaking before a committee at the House of Representatives in Australia, the Honourable Diana Bryant AO KC stated:
*"Relocation cases are the hardest cases that the court does... If you read the judgments in almost every judgement... you will see the comment that these cases are heart-wrenching, they are difficult and they do not allow for an easy answer. Internationally, they pose exactly the same problems as they pose in Australia. I have heard them described as cases which pose a dilemma rather than a problem. A problem can be solved: a dilemma is insoluble..."*³
4. After recounting the Hon. Bryant's words, Judith Bray aptly added:

¹ See the Old Testament 1 Kings 3:16-28.

² Extract from an article written by Judith Bray, Barrister, Reader in Law, the University of Buckingham entitled: *"The Wisdom of Solomon: Relocation on Relationship Breakdown"* published in the Denning Law Journal 2012 Vol 24 pp 177-189.

³ The Hon Diana Bryant speaking before the House of Representatives Standing Committee (Australia) on Legal and Constitutional Affairs Report on the Exposure Draft of the Family Law Amendment (Shared Parental Responsibility) Bill 2005 in August 2005 p22.

“Where a parent who has a residence order for a child requests leave from the court to relocate to another country the implications on contact with that child for the other parent are manifold. If both parents have a shared residence order then the issue of relocation becomes even more complex and difficult to decide. Even the wisdom of Solomon would be sorely tested in such cases. There are a whole host of issues for the court to unravel, not least to examine carefully the reasons why relocation is sought.”⁴

5. When considering the above factors which made Solomon’s task of reaching the right decision for nearly impossible, for the present case, one might add: (i) the immigration status and employment predicament that T (the children’s primary carer) and her spouse now find themselves in; (ii) the fractured relationship that R has with the children which has been significantly contributed to by R’s long absence from the Cayman Islands; and (iii) the jointly instructed psychologist’s recommendation that any reestablishment of a meaningful relationship and contact schedule will require considerable therapeutic input for both the parents and for the children, as well as a structured contact arrangement. I note that in the concluding paragraphs of the Guardian’s Written Submissions, which I do not think was intended to unhelpfully add to the pressure that this Court is under in this high conflict case, she shared her accurate view that:

“The magnitude of potential impact of the court’s decision at this juncture cannot be underestimated.”

The parties and the children

6. This judgment (“the reserved judgment”) must be read with two of my previous judgments in this matter of 12 June 2024 (“the Judgment”) and 24 October 2024 (“the Appeal Judgment”). Although I have not set it out again herein, the analysis of the troubled background in this family set out in the Judgment is highly relevant to the present applications. I drafted the order emanating from the Judgment which is also dated 12 June 2024 (“the Order”).
7. This case concerns two children. The eldest child (“RI”) is a 12-year-old female. RI was conceived by the Applicant (“T”), at her home, by intracervical insemination (ICI) using sperm from a third-party donor. She was born 18 months prior to the parties commencing their relationship. The

⁴ Extract from an article written by Judith Bray, Barrister, Reader in Law, the University of Buckingham entitled: *“The Wisdom of Solomon: Relocation on Relationship Breakdown”* published in the Denning Law Journal 2012 Vol 24, pp177-189.

youngest child (“RA”) is a 7-year-old male. RA was conceived by T using the same male sperm donor who donated for RI. T is RA’s mother⁵ and at the time of the birth she was married to the Respondent (“R”); therefore, both T and R shall each have parental responsibility for RA. ⁶ Both T and R have parental responsibility for RI (and also for RA) as a Shared Residence provision in relation to both children was made in the comprehensive Final Consent Order (Children) dated 4 February 2022 (“the 2022 Order”) and confirmed by the Court in 2024 in the Order.

8. Both parties are female. R is aged 47 and T is aged 46. They and the children are United Kingdom (“UK”) nationals. They moved to Grand Cayman when RI was aged 5 and RA was aged 9 months. The parties were married in April 2016 and were divorced in February 2022. In her Divorce Petition, T pleaded that RA was a child of the marriage and that RI was not.
9. In February 2024, the Applicant married her partner (“D”) in New York. D has taken on a stepparent role in relation to both children. D is a United States (“US”) national and, by the time of the hearing, T had started the process to apply for Green Cards for herself and for the children.
10. At the hearing R declined T’s request to sign the relevant US visa application forms for the children which are a part of the Green Card application process. By an email dated 5 February 2026 T’s attorney notified the Court that T and the children had been informed by the US Consular Agency that the children’s IR-2 immigrant visas had been approved.⁷ On 17 February 2026 T’s attorney informed the Court by email that T had received confirmation that US visas for the children had been issued by the US Embassy.
11. At a mention hearing held on 6 March 2026, T informed the Court that she and the children must enter the US on or before 30 June 2026, which is the expiry date of the US visas. If the visas expire before they arrive in the US, they will have to make fresh applications. T highlights that the present

⁵ Section 4 (3A) Children Act as amended by s.7 Children (Amendment) Act 2024 defined “the mother” as the woman who gives birth to the child.

⁶ In relation to the comment made in June 2024 in the Judgment about R having parental responsibility in relation to RA due to the fact he was born during the marriage and as R’s name is registered on the birth certificate, it is important to note that, at that time, the Children (Amendment) Act 2024 had not been enacted. See paragraphs 39-72 below.

⁷ T and the children attended their immigrant visa appointment at the US Embassy in Kingston, Jamaica on 3 February 2026.

visa process had taken two years from the initial filing to the receipt of the IR-1 and IR-2 visa through consular processing.

12. T's intention is that she and the children will become US citizens in about three years' time and then hold dual nationality. It appears that T has cut her ties with the UK and sees her and the children's futures to be in the US. I accept that if T was able to relocate she and the children would be in compliance with US immigration regulations.
13. R opposes T's relocation plans and stresses that there is a need for "*jurisdictional proximity*" which preserves the recommended dyadic support for the children and better enables her in person contact with RA and possibly RI, which should run in tandem with the therapy.

The applications

14. The primary application before me is one made by T for the children to permanently relocate with her from the Cayman Islands to New York, US. The application was first made by a Form C3 application dated 21 December 2023. That application was filed after the 16th day of the 31-day hearing which resulted in the Judgment. Due to the timing of the filing of the application, the parties were informed in December 2023 that it could not possibly have been dealt with at that stage. Therefore, at paragraph 3 in the Judgment, I stated that directions relating to that application would not be given until after the Judgment had been delivered. As T obtained a stay from the Court of Appeal of the Order, no such directions were then sought by T.
15. The relocation application was restored by T when she filed a further C3 Form on 10 October 2024 in which she said that she "*seeks the urgent listing of a previously filed relocation Application in December 2023*" ("the Form C3"). In the Form C3, T also sought to vary the Order and requested: (i) a sole residence order; (ii) sole parental responsibility; and (iii) suspension of contact between R and the children or, in the alternative, safeguards to be put in place to ensure the wellbeing of the children if there was contact. In the Form C3, T also applied for an order that I recuse myself from the proceedings on the:

"grounds listed in the appeal document filed with the Court of Appeal, June 2024."

In the Form C3, T also sought an:

"urgent directions hearing for permanent relocation request sealed on 22 December 2023."

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16. R and the Guardian oppose the relocation application. R submits that if the Court is minded to consider relocation in principle, then it should be deferred “*pending satisfaction of strict, welfare-protective prerequisites*”. The Guardian says about the relocation application:

“My hesitation in recommending relocation stems from the real risk of detriment to the relationship between the children and (R). I agree with Dr. Basson that the nature of the parent-child relationship that exists between (RI) and (R) is different than that between (RA) and (R). As such, the effect will also be different. Both, however, will be negatively impacted.”

R and the Guardian oppose the discharge of the Shared Residence Order. R, and it appears the Guardian also, oppose the discharge and/or restrictions being placed on R’s parental responsibility for the children.

17. That is not the only application that has been made by T after I had adjourned in early 2024 to prepare the reserved judgment or after the Judgment was delivered. On 5 June 2024 (two months after the last day of the hearing and eight days prior to the Judgment being delivered), T applied by a further Form C3 for an “*immediate and urgent sole residency order and urgent lifting of the prohibited steps order against removal from Jurisdiction by (T)*”. In a further Form C3 filed on 18 November 2025, T also sought an “*urgent directions hearing for permanent relocation request sealed on 22 December 2023*”.
18. R has filed a number of Summonses after the delivery of the Judgment. The first was filed on 3 March 2025. In that Summons R sought various orders including: an order (i) in relation to RA’s passport; (ii) in relation to a parental responsibility and the school providing her with documentation; (iii) for contempt of court for alleged breach of undertakings given by T concerning travel arrangements, provision of school related information and provision of medical information in the 2022 Order; (iv) for contempt of court for T allegedly withholding material evidence prior to the June 2024 judgment; and (vi) varying the travel provisions back to those contained in the June 2024 judgment so that a party seeking to travel would now need to file a Summons.
19. R filed a further Summons on 23 April 2025 seeking: an order (i) in relation to RA’s passport; and (ii) to compel T to release email correspondence with her former employer.

20. R filed a further Summons on 12 October 2025 seeking various orders including: an order (i) for the immediate reinstatement of direct contact between her and the children; (ii) that any contact be facilitated and/or supervised by the Guardian ad Litem or Dr. Basson; (iii) for Dr. Basson to provide a written explanation concerning interim contact and the reintroduction of contact; and (iv) inviting the Guardian to provide further feedback to the Court on the children's response to renewed contact and to make recommendations.
21. R seeks substantial contact orders in relation to RA. In relation to RI her primary concern is that RI is given the opportunity to engage in independent therapeutic support with a suitably qualified external clinician before any therapy directed towards rebuilding their parent-child relationship. She states that the limited references that she makes within her affidavit evidence should not be misinterpreted as being a lack of care or concern from her and she thoughtfully adds that her:
- “emotional position remains that (RI's) emotional wellbeing should be supported in a manner that allows her to access appropriate therapeutic support in her own time and without pressure.”*

Law – relocation, residence and contact

22. Pursuant to s.15(1)(b) Children Act (2012 Revision) (“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 either child from the jurisdiction. Therefore, T has applied for a s.10 specific issue order to permit her to remove the children permanently to the US. This case, as is common with most relocation applications, also involves applications for orders relating to child arrangements, including a variation of the current residence and contact orders. When considering all the above applications, the Court's decision is governed by s.3 of the Act. In relation to relocation cases in particular, Black LJ stated in *K v K (Relocation: Shared Care Arrangement)* [2011] EWCA Civ 793, [141]:

“...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 children's welfare is the Court's paramount consideration. The Court's welfare assessment must be informed by an analysis of the factors in what has been termed as being ‘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.”

23. At paragraphs 305-314 in the Judgment, I analysed the approach to be adopted in child disputes involving same sex couples. Baroness Hale in the House of Lords decision in **Re G (children) Residence: Same-Sex Partner** 1 WLR 2305 made it clear that issues arising in such cases are just the same as those that may arise between heterosexual couples and importantly added that *“the legal principles are the same”* and are of *“universal application”*.⁸ After conducting that analysis, I stated the following in the Judgment:

*“311. Therefore, the principles to be applied in this case are the same as they would in a case involving a male father and a female mother. I accept that I must have regard to the fact that T is the biological mother of the two children and who, for a variety of reasons, is now viewed by them as being her primary carer. I must also have some regard to the fact that R has been their psychological parent. Accordingly, when I consider the detailed background spreading over a number of years and the orders to be made, I recognise that, pursuant to s.3(1) of the Act, the children’s welfare is my paramount consideration. As Lord Fraser said in **Gillick v West Norfolk and Wisbech Area Health Authority and Department of Health and Social Security** [1986] AC 112 at 170:*

“...parental rights to control a child do not exist for the benefit of the parent. They exist for the benefit of the child and they are justified only in so far as they enable the parent to perform his duties towards the child.”

*312. In **Re B (A Child)** [2009] UKSC 5 Lord Kerr gave a reminder of the approach to be adopted by the court when dealing with private law disputes. He began by referring to observations made by Baroness Hale in **In re G (Children) (Residence: Same-sex Partner)** at paragraph 30, where she had said that:*

*“...The statutory position is plain: the welfare of the child is the paramount consideration. As Lord MacDermott explained in **J v C** [1970] AC 668, 711, this means that it “rules upon or determines the course to be followed”. There is no question of a parental right.”*

313. Lord Kerr then added that:

⁸ Paragraph 44.

“37. This passage captures the central point of in Re the G case and of this case. It is a message which should not require reaffirmation but, if and so far as it does, we would wish to provide it in this judgment. All consideration of the importance of parenthood in private law disputes about residence must be firmly rooted in an examination of what is in the child's best interests. This is the paramount consideration.”

24. Therefore, in this judgment I take into account the factors set out in the Welfare Checklist, insofar as they are relevant to the circumstances of this case. I must consider the welfare factors as they are now when determining what orders are in the best interests of the children at this time. The circumstances surrounding this family, including the children's now further extended detachment from R, are presently different to those that prevailed in 2023/2024 and that is why the evidence arising from the comprehensive assessment of the children and the parents conducted by Dr. Basson, the jointly instructed child psychologist, is so valuable.
25. Section 5(a) in the Children (Amendment) Act, 2024 amended s.3 in the Act by inserting after subsection 3, s.3(3A), which provides a presumption in favour of both parents being involved in a child's life unless that is proved to be contrary to the child's welfare. That involvement need not be equal and may be direct or indirect.⁹
26. I note that the amendment mirrored the one that had been made to the Children Act 1989 England and Wales by the Children and Families Act 2014.¹⁰ As the October 2025 Ministry of Justice Introduction in the Review of the Presumption of Parental Involvement Final Report, (“the MOJ Report”) which was produced by and is relied upon by T, highlights that the historical caselaw reinforced the importance of children having a relationship with both parents. The MOJ Report notes on page 3 that the case law, including from the European Court of Human Rights, has:

“placed a ‘positive duty’ on judges to promote involvement between a child and their parent, requiring the court to consider all alternatives before ordering no involvement.”

The review came about due to concerns raised about highlighted detrimental effects of the presumption, arising in, but not limited to, cases involving allegations of domestic abuse. Concerns were raised in the Report about whether courts have sufficiently considered the risk of harm to

⁹ It is inserted as subsection 3(6) after subsection 5 in the Act by s.5(b) Children (Amendment) Act, 2024.

¹⁰ Sections 1(2A) and 1(2B).

which children may be exposed when they consider the presumption and make order. The Report stated that:

“Where a parent posed a risk of harm, ..., the evidence was clear that child welfare was not always supported by parental involvement” and that “ongoing involvement with a parent who posed a risk of harm could lead to a range of negative consequences over the child’s life course.”

The MOJ Report went on to state:

“The impacts on child welfare was found to be affected by a range of different situations and factors. The impact of harm on children could be mitigated by characteristics such as support networks (for example, familial bonds beyond parents), and the impacts of certain arrangements could be worsened by increased vulnerabilities. This highlighted the importance of decisions that are tailored to the individual needs of a child, as opposed to a ‘one-size-fits-all’ approach. Evidence further pointed to a systematic approach of ‘selective listening’ to children, where their voices were amplified if they aligned with the court’s view (usually when they wanted contact with a parent), but were dismissed or minimised when their views differed (usually when they did not want contact with a parent). This appeared to be based on a general assumption that children need involvement with both parents and are likely to change their minds as they get older.”¹¹

27. The conclusion in the MOJ Report noted:

“The Review found evidence that courts took a ‘no stone unturned’ approach and were intrinsically geared towards fostering involvement for a child with both parents after separation. Most cases resolved with an order for some form of involvement between a child and both of their parents, most often direct unsupervised contact. Significant effort was made across proceedings to encourage this, and many cases appeared to resolve, at least partially, by agreement of the parties. The statutory presumption appeared to play a role in this ‘no-stone unturned’ approach but was not the only relevant factor here. Rather, court practice, culture, case law and legislation have come together to create an approach focused on facilitating the involvement of both parents in a child’s life. The evidence identified on child welfare suggested that, for a lot of children, such decisions could further

¹¹ Pages 36-37 in the MOJ Report.

their welfare. However, where a parent posed a risk, or had caused harm to a child, children's welfare was not always supported by parental involvement. The apparent high incidence of orders where there were indicators of risk, alongside qualitative evidence that cases with indicators of high risk still ended with orders for direct involvement, suggested that courts were ordering direct contact between children and parents who caused or posed a risk of harm..... the Review's evidence suggested that decision-making in the family court was driven by assumptions about child welfare being furthered by the involvement of a parent, meaning that an individualised focus on the specific child's welfare could be lost. Whilst the Review made clear that many children benefitted from contact with both of their parents, this stance was not appropriate when a child was at risk. Moreover, children at risk of harm from one or both parents were significantly over-represented in the family court. Decisions about their welfare must be made on the basis of the individual circumstances of the child, including an understanding of the potential harm to their physical and emotional wellbeing. The evidence of the Review suggested that practice in the family justice system and the decisions made by courts could leave children at ongoing risk of harm."

28. I have set out the details from the MOJ Report as this may be the first case in which the Grand Court has analysed the amendment to the Act inserted by s.5 of the Children (Amendment) Act 2024. Although English case law can be highly persuasive in our Courts it is not binding. Reviews similar to the above one conducted in England are not binding and are, of course, based on the cultural and wider considerations that prevail in that jurisdiction. I note that, as a result of the above review which had first been recommended in 2020, the Deputy Prime Minister in England announced an intention to amend the Children Act 1989 to remove the presumption of parental involvement which had been inserted into the English Act, about 12 years ago, in 2014. Our Legislature has taken a different approach to the presumption as they only recently amended our Act to insert it in 2024. This means that in the Cayman Islands the fairly recently introduced presumption is in place now and for the foreseeable future. Therefore, in proceedings relating to s.10 orders, which includes specific issue orders, the Court presumes that the involvement of a parent in a child's life will further the child's welfare, unless there is evidence to the contrary. However, when I consider that presumption in the context of this case, recognising that each case is different, I am conscious of the concerns highlighted in the report. I must consider carefully whether the statutory presumption applies having particular regard to any allegation or admission

of emotional or physical harm to the child or parent or any evidence indicating such harm or risk of harm.

29. In relation to the relocation application the 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. Both 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.”

30. 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.JJ.), 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.JJ. 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."

31. At paragraph 99 in **F v M**, whilst recognising that each case depended on the facts in that case, 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 **B v B** which I set out in **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.¹²

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

¹² My emphasis.

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?*
- (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."

32. 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 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 1989¹³ 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 1989¹⁴*
- (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 rights¹⁵ – indeed probably as a component of the Art 8¹⁶ ECHR rights and s.1(2A)¹⁷ 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 rights¹⁸.*
- (h) The effect of an international relocation is such that the Article 8¹⁹ 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*

¹³ Section 3(2A) in our Act.

¹⁴ Sections 10 and 15 in our Act.

¹⁵ In the Cayman Islands Right to Private and Family Life pursuant to The Cayman Islands Constitution Order 2009 Article 9 Bill of Rights ("BOR").

¹⁶ Article 9 BOR.

¹⁷ Section 3(2A) in our Act.

¹⁸ All references to Article 8 in this subsection should be read as Article 9 BOR when applying to the Cayman Islands.

¹⁹ Article 9 BOR.

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."

33. Having regard to the above, the Court must ensure that any relocation decision is compatible without 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 ("ECHR") 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."

34. Voss LJ stated at paragraph 84 in ***Re C (Internal Relocation)*** [2015] EWCA Civ 1305:

"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."

35. Accordingly, I have regard to the Article 9 rights (and Article 7-Right to a Fair Trial) of the parents and of the children. 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 children, on the other, the rights of the children will prevail: ***Yousef v Netherlands*** [2003] 1 FLR 210.

36. The Guardian has produced the interesting Court of Appeal ruling ***In the Matter of C (A Minor) A v R*** [2008 CILR 400]. In that pre-Children Act case, the father had applied to the Grand Court for orders relating to custody of a six-year-old son and an order restraining the mother from removing the child from the jurisdiction. The mother was a Canadian national and when their relationship came to an end she returned to Canada with the child without the father's knowledge or consent.

The father persuaded her to return to the Cayman Islands. In the Grand Court, the parties were awarded joint custody with care and control to the mother and access to the father. A non-removal from jurisdiction order akin to a prohibited steps order was made. Approximately two years later, the mother had to leave the Cayman Islands due to the expiration of her work permit. That position is similar to the one that T finds herself in as her contract of employment was not renewed. What is different is that the father was willing to apply to the authorities to extend the mother's permit on the basis that she was a key employee and his company. In the present case, T does not have that employment opportunity nor the resultant immigration security. R, and it appears the Guardian, suggest that T is able to remain on renewable visitor permits. That is not something that I find gives security to T and the children, in fact it gives the opposite and it extends uncertainty. Unlike the mother in that case, I find that T's only realistic option is to leave Cayman.

37. ***In the Matter of C***, the mother applied for leave to relocate with the child to Canada. Foster J found, agreeing with the evidence of the instructed child psychiatrist, that the mother had strong hostility towards the father and that the mother intended to permanently sever her and the child's relationship with the father. That has been an expressed concern in the present case where T's actions over time have shown a desire to have nothing to do with R and, until the receipt of Dr. Basson's report, a belief that it is in the children's best interest for them to have no contact with R. Accordingly, Foster J denied the mother's application and awarded her regular access when she was in the Cayman Islands. The mother appealed that decision. The Court of Appeal refused to interfere with the Grand Court decision. Forte JA rightly stated that:

"8. The Court recognizes the difficult task a trial judge has in exercising his or her discretion one way or another in cases such as this. A finding in favour of one side inevitably results in unhappiness and hurt for the other, and naturally some adverse effect on the child. The exercise of the discretion must, therefore, have one main purpose, i.e. to come to a decision which is in the best interests of the child."

38. Apart from the fundamentally different immigration and employment position compared to those in the matter before me, it is clear that the father had played a substantial role in caring for the child throughout his life. The father proposed that the child would live with him in his home, the property in which the child had lived with the parents when they were together and where the child had enjoyed contact. The father would have the support of his family in the care of his son. That is not the position in the matter before me. No matter what the reason for it may be, T has cared for these

children for three years to the exclusion of R. It cannot in any way be argued that a transfer of residence to R if T was unable to remain in Cayman would be in the best interests of the children. The facts of the case, although decided on the now non-binding *Payne v Payne* factors, could have been very instructive if the Court was dealing with a situation where T had an option to work and had a secure immigration status in the jurisdiction and/or if it could be argued that a transfer of residence would be in the best interests of one or both of the children.

39. In the present case, like the majority of international relocation cases, if a relocation order is made the Court must address the practical viability of ongoing meaningful contact between the children. In this case, I also have to consider whether there should be any variation to the current shared residence order. As already highlighted above, as with the relocation application, the children's welfare is paramount for the other s.10 applications. When I state the above, I am conscious of what Voss LJ stated at paragraph 82 in *Re C (Internal Relocation)*:

".... 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."

40. 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. So, when I fully consider all the options available for the children’s future, I may address the relocation option first as it is the most fundamental one. Of course, all the time considering what the effect of relocation or non-relocation would have on s.10 orders that govern the children’s arrangements.

41. My powers are broad when I consider what arrangements are best for the children. In relation to the application to vary the shared residence order into a sole residence order in favour of T, I am conscious that in the past there had been a view that shared care should not be ordered in any case where the parental relationship is bad. There will of course be some cases, based on the facts in those cases, where a court may conclude that. I recognise that a failure to be able to communicate effectively is not in itself a bar to shared care arrangements/shared residence order as there is no longer a principle to this effect²⁰ I also acknowledge that a shared residence order can greatly reduce any opportunity for one parent to seek to exert greater rights than the other.
42. If making a relocation order, the Court not only has to consider the practical arrangements but also the legal safeguards that can be put in place to ensure that any contact or other type of ‘child arrangement order’ made takes place. As the US is a signatory to the Hague Convention 1996, court orders about child arrangements made prior to relocation will be recognised and enforced automatically. I recognise that once a relocation order has been made, the Courts in Grand Cayman cease to have any ongoing jurisdiction in relation to the children. However, for the reasons stated later in this judgment, I am satisfied that any order this Court makes may be registered and then potentially enforced in the relevant New York Court. When I consider the relocation application and the wider child arrangement applications, I have regard to the above case law and guidance.

²⁰ *A v A (Shared Residence)* [2004] EWHC 142; *Re R (Shared Residence Order)* [2005] EWCA Civ 542; *Re W (Shared Residence Order)* [2009] EWCA Civ 370.

2026 CIGC (Fam) 6 T v R Judgment

Background – Generally

43. I have set out the complex background history to this matter up to 2024 comprehensively in the Judgment. I have considered the review of the facts and findings made in the Judgment and do not intend to rehearse that information in any great detail herein. This reserved judgment should be read in conjunction with the Judgment.
44. The parties have yet again placed before the Court a substantial amount of written and oral evidence. Some of which is helpful, some of which is not. They have also indicated a number of areas in which they seek findings of fact. 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. An added factor in this case is that the Court has been put in a position due to T's circumstances to try to very promptly deliver a judgment in this complex and wide-ranging case.
45. Accordingly, when considering what orders would be in the best interests of the children at this time, I am not required to set out an analysis of all the evidence presented by the parties or to make findings on every area or issue that has been presented to me or which have become apparent during the hearing. I must determine the factual issues that have implications for the decisions that I have to take in relation to the children. Therefore, although cognisant of all the evidence that has been given, when considering the welfare of the children and what orders should be made, there are parts of the very detailed evidence given that I need not and do not review herein.

Background – The orders

46. The 2022 Order was reached following protracted mediation. The 2022 Order was a comprehensive one and was intended to be a final order confirming the importance of the involvement of both T and R in the children's lives and which made that clear by ensuring that they both had parental responsibility for both children. The 2022 Order dealt with the child arrangements, and it contained the parents' expectations about how each of them should conduct themselves in relation to the children. The 2022 Order was more detailed than one might ordinarily expect, presumably because each party had concerns about how they would be able to co-parent. The relevant provisions and undertakings contained in the 2022 Order were:

“....UPON the parties hereto having participated in mediation and the parties hereto consenting to an order in the following terms and so indicating by their signatures hereto;

AND UPON the parties agreeing that while living in the Cayman Islands it is the parties' intention that (RI) and (RA) shall continue to attend .. School and....nursery respectively and once (RA) has graduated from.. Nursery, he shall also attend... School. In the event of a change of circumstances either party is at liberty to apply to the Court in respect of the same;

UNDERTAKINGS

- (i) All interactions between the parties shall be cordial and business like.*
- (ii) Neither party shall question either child as to the personal activities of the other parent and shall pro-actively encourage their relationship with that parent.*
- (iii) Neither party shall disparage or otherwise speak ill of the other, or allow a third party to do so, when the children are present.*
- (iv) Both parties shall continue to be called mother or mum, or any derivative thereof, with respect to the children. Neither party shall impede this designation. No third party, other than the parties themselves, shall be referred to as "mum" or any derivative thereof.*
- (v) Both parties shall limit communication to issues relating to the children only and each party shall confirm to the other their preferred method of timing and mode of communication and both parties shall adhere in this regard, save for emergency situations.*

IT IS HEREBY ORDERED BY CONSENT THAT:

Children living arrangements

*1. There shall be a shared residence order in favour of the Petitioner and the Respondent in respect of the children.*²¹ *The children shall live with the Respondent as follows under this arrangement:*

- (i) Weeks 1 and 3 - overnight Wednesday and Thursday (pick up from nursery/school on Wednesday and Thursday) and drop-off at nursery/school on Friday morning, recognizing that pick up of (RI) will occur at the Petitioner's work office (at 5:30 p.m. or any other time mutually agreed between the parties in advance), with (RI) escorted to the door and (RI) walking independently to the Respondent's car, until the Respondent can arrange for midweek pick up directly from school which shall occur on or before 15 February.*
- (ii) Weeks 2 and 4 - overnight from Friday (pick-up from nursery/school) and drop off on Monday morning at nursery/school.*
- (iii) If there is no nursery/school on any day where there is a pickup or drop off scheduled, pick up shall be at 5:30 p.m. and drop off shall be at 8:15 a.m. and the location of those handovers will be determined in accordance with Paragraph 10 of the order.*

For the avoidance of doubt, the children shall live with the Petitioner all other times.

Holidays

Christmas

²¹ As a result of the shared residence order agreed by the parties they both have parental responsibility for both children.

2. *The parties shall share the Christmas / New year holidays as follows below:*
- (i) *The parties agree to divide the Christmas holiday period with the first half commencing Christmas Eve at 2:00 p.m., overnight until 2:00 p.m. on Christmas Day and the second half commencing 2:00 p.m. on Christmas Day, overnight until 5:30 pm on Boxing Day. This period will be alternated each year, with the first half of the holiday in 2022, and future even years, belonging to the Petitioner and the pattern reversing in odd years so that the Respondent cares for the children the first half of the holiday in 2023 and future odd years.*

In the event the party who has the children for the first half of the Christmas holiday wishes to travel off Island with the children then, in the absence of the other party's prior written agreement, the party seeking to travel is at liberty to file a summons with the Court requesting permission to travel with the children for a two-week holiday period.

- (ii) *In 2022 and in future even years the Respondent shall care for the children from 4:00 p.m. on New Year's Eve until 8:15 a.m. on 2nd January and thereafter the normal schedule shall resume. In odd years, the Petitioner shall care for the children as per the above time schedule. In the event, however, that a party travels to the UK for Christmas (either with the other party's prior written agreement or Court order), it is recognized New Year's contact may be waived due to the children being off Island.*

The remaining Christmas school holidays shall be divided according to the normal schedule set forth in paragraph 1 or the parties' prior agreement.

Easter

3. *Easter school holidays shall be divided according to the normal schedule set forth in paragraph 1 or the parties' prior agreement.*

Off Island holiday

4. *The parties shall each spend a two-week block of time with the children, whether during the Christmas holiday (if that party has the first half of the Christmas holiday and the parties agree or the court has granted permission for travel} or during the summer school break or at any other time which the parties may agree or the Court orders, with the parties providing their proposed travel dates to each other at least fifty-six days in advance of the date of travel.*

5. *Unless a party is traveling with the children for two weeks off Island in accordance with paragraph 4 above, or a party herself is off Island for up to two weeks of holiday such that the other party would care for the children for that off Island time, the normal schedule set forth in paragraph 1 shall continue unless the parties agree alternative arrangements. Notice of travel shall be given at least fifty-six days in advance of the date of travel.*

Other occasions

6. *All other holidays shall be divided as per the schedule set out at Paragraph 1 (including half-term breaks and bank holidays).*
7. *On the party's respective birthday, the party who is not caring for the children shall have the opportunity to have a call on an agreed medium with the children.*
8. *The parties agree the Petitioner shall have the children on UK Mother's Day from 9:00 a.m. overnight until Monday morning.*
9. *The parties shall share the children's birthdays with the parties having determined the arrangements for (RI), and herein agreeing that if (RA's) birthday falls on a weekend, the party who does not have (RA) for that day shall collect the children at 2:00 p.m. and care*

for the children overnight. If (RA) birthday falls on a weekday, the normal schedule shall remain in effect for his birthday save that the party not caring for (RA) shall have the opportunity to have telephone contact on an agreed medium.

In the event one party travels off Island at Christmas with the children, contact would be waived on (RI's) birthday save that the other party shall have the opportunity to have telephone contact on an agreed medium.

Handovers

10. Exchanges of the Children when pick up and drop off cannot occur through nursey/school shall occur at a mutually agreed location set forth in writing that is between the parties' two homes. If a third party is making the exchange rather than the two parties, notice shall be provided in advance.

Telephone/ Face time contact

11. When the Children are in the care of either parent, they shall be at liberty to have telephone/face time contact with the other parent, however, such contact should not disrupt the time with the caring party and such telephone contact will take place via a recorded medium.

General conditions to the children order

12. The Petitioner shall hold the passports for the children, and upon a request by the Respondent for the purpose of agreed travel, in the event of an emergency need for medical treatment off Island or for any official business (for example immigration purposes to obtain visas), she shall promptly provide the same to the Respondent. Upon return to the jurisdiction or upon completion of the relevant official business the passports shall be returned to the Petitioner. The Petitioner shall ensure the passports remain active and shall renew them prior to expiry.

13. The party responsible for the children will be responsible for arranging school/nursery pick up/collection and drop off. This shall include arranging care for a child or the children if a child or the children is/are ill, or the nursery or school is closed. It is not the responsibility of the other party unless by prior agreement on occasion.

14. When the children spend time with the parties, contact includes both children, and both parties commit to assuring the children feel equally appreciated, valued and loved in both households.

15. The parties shall be at liberty to agree modifications to the specific arrangements in writing between them.

16. In the event, one party is unable to care for the children overnight then they shall firstly ask the other party to care for the children either via email or text message and in the absence of agreement they shall arrange their own care for the children and be responsible for the costs of the same.

17. In the event one party tests positive for Covid-19 when the children should be in their care then the other party shall care for the children (unless the children also have COVID). Upon a written request by the other party, the party testing positive will provide proof of their test result within 48 hours of such a request. The party with COVID, if unable to care for the children, will be responsible for the children's reasonable care costs if the assistance of a fee-charging third party is required by the other party. The party seeking reimbursement of such costs shall produce an invoice setting out the relevant costs within 48 hours of such a request. If the children test positive Covid-19, childcare responsibility will be shared as per the normal schedule whereby the party responsible for the child or

children that day would be responsible for care of the children or to arrange and pay for childcare costs.

18. Both parties shall be listed as parents for the children's school or activities.

19. Both parties may attend any activities in which the children participate (and be notified of such activities in the event of an extra-curricular club or event). As a courtesy, if either party is going to include a third party, the other party shall be notified in advance.

20. Both parties shall be involved in decisions surrounding medical treatment (save in an emergency) and choice of schooling.

21. Neither party shall remove the Children from the jurisdiction permanently without the prior written agreement of the other or Court order.

22. Except in the case of medical emergency or scheduled medical treatment, if either party wishes to travel overseas with the Children during their allocated time, the party with whom the Children will be travelling shall provide the other party with a minimum of 56 days; notice of the proposed travel along with the proposed travel itinerary and contact information. If the party objects to the travel, the Court shall adjudicate whether the travel should occur, and under what terms. The Children's travelling expenses and costs of accommodation shall be borne by the party with whom the children are travelling. Medical emergencies should involve both parents being able to travel, if needed, with the Child.

23. If either party takes the Children abroad on holiday, all costs related to the travel (including medical expenses if not covered by insurance when traveling abroad) shall be the responsibility of the party that takes the children off Island.

24. In the event both parties attend an activity for the Children, each shall retain proper distance from the other and neither shall engage in conversation or otherwise interact with one another unless necessary.

25. In the event of a medical need for either Child, the party caring for the Child shall notify the other party immediately or as soon as possible. For the avoidance of doubt, both parties are entitled to medical information, to be listed as a parent I caregiver on the medical notes and to be present if they so wish.

26. Liberty to apply."

47. T's Counsel's comments on the 2022 Order in her Legal Research Note²² submitted after the present hearing in relation to parental responsibility issue. Ms. Bridges contends that, when T agreed to the 2022 Order, while unrepresented she did not understand that a shared residence order made in relation to both children meant that both parents would also have parental responsibility for both children. Counsel says that there was a misconception at the time that R had parental responsibility for RA due to her name being on the birth certificate. It seems to be argued that, if T had been aware that R did not already have parental responsibility in relation to RA (if that actually is a correct assertion) and that the granting of a shared residence order would for the first time grant

²² See paragraph 54 onwards below.

parental responsibility in relation to both children, she would not have agreed to a shared residence order.

48. There are cases such as *Barton v Wright Hassell* (2018) 1 WLR 1119 that make clear that lack of legal representation will not usually justify applying to litigants in person a lower standard of compliance with rules or orders of the Court. The fact that someone says that they do not know the rules does not exclude them from compliance. Whether or not one applies a similar standard to a Children Act s.10 order is not an issue that needs to be determined in this case. Even if T was able to succeed in an argument that the Court should disregard the 2022 Order, the fact of the matter is that two years later, in the Order, the Court found, with a recognition of the resultant parental responsibility implications, that it was in the children's best interests for there to be a shared residence order in place and it refused T's application to discharge it.²³ That fact seems to be disregarded by T who focuses solely on the 2022 Order in the submissions made on her behalf. If T had wished to challenge the Shared Residence Order imposed by the Court in 2024, she could have attempted to do that if she had not abandoned her application for leave to appeal.²⁴ Therefore, even if T is successful in arguing that R does not have parental responsibility for RA as consequence of the circumstances surrounding and the parties' marital status and actions at the time of his conception and at his birth, R presently still has parental responsibility for both children as a consequence of the Court ordering the continuation of the Shared Residence Order. It matters not what "errors/assumption" T now says were "inadvertently" made in 2022. If the Shared Residence Order is not discharged in these proceedings, then that parental responsibility for both children will continue.

49. Parts of the 2022 Order, in particular relating to contact, were varied in 2024 by the Order. As highlighted in bold below, importantly, the orders were made on the fundamental premise that R would be imminently returning to reside in the Cayman Islands. The Shared Residence and resulting Parental Responsibility provisions set out in the 2022 Order remained unchanged. The relevant provisions and undertakings contained in the Order are:

"....UPON the Court indicating in the Judgment that (ii) the living arrangements orders made at paragraphs 1-12 below are premised on R's evidence that she will shortly be returning to again reside and work in the Cayman Islands; and (ii) if R fails to return to the Cayman Islands, the Court was not in a position to make any informed orders in the

²³ See paragraph 49 below.

²⁴ See paragraph 109 below.

Judgment for other child arrangements governing the children living with R out of the Cayman Islands;

IT IS ORDERED that:

1. The Shared Residence Order for both children is not discharged and remains in place. Therefore, there is no discharge of R's parental responsibility and the requirement for both T and R to have input into major decisions relating to the children remains.

2. The following provision will come into effect a week after the date of this Judgment or a week after R's return to reside and work in the Cayman Islands (whichever is the later) for a one-off eight-week cycle:

(a) For weeks 1, 3, 5 and 7, the children will live with R from 5:00 p.m. on Tuesday to 5:00 p.m. on Wednesday.

(b) For weeks 2, 4, 6 and 8, the children will live with R from 5:00 p.m. on Friday to 9:00 a.m. on Monday.

For the avoidance of doubt, at all other times the children will reside with T. The parties may agree arrangements for collection and return as per paragraph 11 below.

3. Thereafter the following repeated four-week cycle arrangement will immediately be put in place for the school terms and the Christmas holidays (subject to the Christmas schedule set out below):

(a) Weeks 1 and 3 - The children will live with R overnight Wednesday and Thursday with pick up from school on Wednesday and drop-off at school on Friday morning.

(b) Weeks 2 and 4 - The children will live with R overnight from Friday with pick-up from school and drop off on Monday morning at school.

(c) If there is no school on any day where there is a pick-up or drop off scheduled, pick-up shall be at 5:00 p.m. and drop off shall be at 9:00 a.m. and the location of those handovers will be determined in accordance with Paragraph 11 below.

Again, for the avoidance of doubt and subject to the below provisions, the children shall live with T at all other times.

4. The parties shall share the Christmas/New Year holidays as follows:

(a) For the Christmas holiday period will be divided with the first half commencing Christmas Eve at 2:00 p.m., overnight until 2:00 p.m. on Christmas Day and the second half commencing 2:00 p.m. on Christmas Day, overnight until 5:30 p.m. on Boxing Day. This period will be alternated each year, with the first half of the holiday in 2024, and future even years, belonging to R and the pattern reversing in odd years so that T cares for the children the first half of the holiday in 2025 and future odd years.

(b) For December 2024 and in future even years, T shall care for the children from 4:00 p.m. on New Year's Eve until 8:15 a.m. on 2 January and thereafter the normal schedule set out at 289 (iii) above shall resume. In odd years, R shall care for the children as per the above time schedule. In the event, however, that a party travels to the United Kingdom for Christmas (either with the other party's prior written agreement or by a court order), New Year's contact may be waived due to the children being off Island.

(c) The remaining days in the Christmas school holidays shall be divided according to the normal schedule set forth in paragraph 3 above or as the parties may agree.

5. *Easter school holidays shall be divided equally between T and R, with R to have the first half in odd numbered years (2025, 2026, etc) and T to have the first half in the even numbered years (2026, 2028 etc).*
6. *From the Summer of 2025, the children will live with T and R for an equal number of days during the summer school holidays. This may include extended periods of time out of the jurisdiction. The parties are to provide each other with a schedule of their proposed dates with the children at least four months before the last day of the relevant academic school year to enable them to agree the schedule.*
7. *Half-term school holidays shall be divided equally between T and R, with R to have the first half in odd numbered years (2025, 2026, etc) and T to have the first half in the even numbered years (2026, 2028 etc).*
8. *Commencing from the new school academic year 2024-2025, the Bank Holidays will alternate between T and R. The first bank holiday will be Remembrance Day on 11 November 2024 and the children will be with R.*
9. *Arrangements should be made for the children to spend time with each parent on each parent's respective birthdays.*
10. *The parties shall share RA's birthday. If RA's birthday falls on a weekend, the party who does not have RA for that day shall collect the children at 2:00 p.m. and care for the children overnight. If RA's birthday falls on a weekday, the normal schedule shall remain in effect for his birthday save that the party not caring for RA shall have the opportunity to have telephone contact on an agreed medium. Due to RI's birthday falling over the Christmas holiday period, the parties should make arrangements dividing the day to enable each of them spend time with both children on that day. In the event that one party travels off-Island at Christmas with the children, contact would be waived on RI's birthday save that the other party shall have the opportunity to have telephone contact on an agreed medium.*
11. *Exchanges of the children when pick up and drop off cannot occur through school shall occur at a mutually agreed location set forth in writing that is between the parties' two homes.*
12. *When the children are in the care of either parent, there shall be indirect phone/social media contact with the other parent every evening for at least 15 minutes between the hours of 7:00 p.m. and 8:00 p.m. or at any other time agreed by the parties.*
13. *The Prohibited Steps Order in relation to leaving the jurisdiction is no longer required and that order is discharged. However, this does not mean that each parent should not still notify the other parent, well in advance, of any overseas trips for the children and providing the requisite travel and contact details. Therefore, except in the case of medical emergency or scheduled medical treatment, if either party wishes to travel overseas with the children during their allocated time, the party with whom the children will be travelling shall provide the other party with a minimum of 56 days' notice of the travel along with a short summary of the proposed dates of travel and proposed flight schedules. Firm details of flights and accommodation should be provided to the other parent as soon as booked or arranged and, in any event, this should be no later than one week prior to departure.*
14. *At this time, T shall hold the passports for the children, and upon a request by R for the purpose of agreed travel, in the event of an emergency need for medical treatment off Island or for any official business (for example immigration purposes to obtain visas), T shall promptly provide the same to R. Upon return to the jurisdiction or upon completion of the relevant official business the passports shall be returned to T. T shall ensure the*

passports remain active and shall renew them prior to expiry. Both parties, if required, shall promptly sign the passport renewal application forms prior to the expiry of a passport.

15. The parties shall be at liberty to agree modifications to the above specific arrangements in this order in writing between them.”

50. Over and above the terms in the Order which emanated from my decisions made in the Judgment, I remind myself that in the Judgment I stated:

“346. This is a truly upsetting case where both parents should take a good long hard look at themselves and how their actions have impacted upon the welfare of the children. It may be that they both genuinely feel that they are without blame and that they always act with their children’s best interests at the forefront of their minds. The evidence shows otherwise and, if they do hold such a view, that is illustrative of their lack of insight in relation to the consequences of their actions. There is evidence that, if the current state of affairs is not addressed, the children will be emotionally harmed. No matter what s.10 orders are made, the current situation cannot persist and, for the children’s sake, the children and, I stress, the parents must engage in the recommended wide-ranging therapy or counselling highlighted by the professionals who have been involved with this family.

347. As already stated, it would not be in the children’s best interests for there to be a no contact order and thereby remove one parent from their lives. That might be a convenient outcome for T and D and their life plans, but it would not be in the children’s best interests. There is a need to concentrate on reintroducing contact. I do not feel that equal contact is the level of contact that would be appropriate at this time. I agree with the Guardian that there should be a phased reintroduction to any care schedule. There will be a period of adjustment for both children while a contact routine is being reestablished.

348. The transition and reestablishment of regular contact for RI to R will require more sensitivity. This means that the parents must start to act as effective parents and themselves seek out and engage the assistance they themselves require. A failure by T in that regard will not bolster any application she may make to vary my orders.”

Unfortunately, at least up until the release of Dr. Basson’s report, the parties have not taken heed of the above. The comments made about therapeutic intervention at paragraph 346 in the Judgment as well as the orders for the phased reintroduction of contact were made on the basis that R had ensured the Court that she would be imminently returning to reside and work in the Cayman Islands.

Very little, if any, of that recommended therapeutic intervention has taken place for the children or for T and R in the intervening two-year plus period.

The Law – child born in a single sex marriage – parental responsibility of married woman spouse

51. At paragraph 36 above, I mentioned the issues raised by T concerning the acquiring and removal of parental responsibility for R in relation to both children. I see merit in dealing with those issues at this stage and before I embark on an analysis of the evidence relating to the relocation and other child arrangement orders. As already highlighted, both parents currently have parental responsibility due to the shared residence order set out at paragraph 1 in the Order, an order made by this Court and not by consent. T submits that if R's parental responsibility derives solely from the shared residence order, then that is a relevant consideration in any application to vary or discharge that order. It is submitted that if R is not a "*legal parent*" the weight given to her opposition to relocation "*may be affected*". The additional issue that T is now seeking the Court to determine is whether R's parental responsibility for RA derives solely from the residence order or by virtue of the birth certificate registration. T accepts that it does derive from the residence order but contends that it does not derive from the birth certificate.

52. Although the relevant Form C3 application dated 10 October 2024 seeks a termination of R's parental responsibility for both children. However, that appears inconsistent with what is said in the Written Closing Submissions of T. At paragraph 134 the following is stated:

"Having advised the Applicant accordingly, the Applicant's instructed position remains that, looking solely at (RA's) welfare at this stage, the most proportionate course is not the wholesale termination of the Respondent's parental responsibility for (RA), but a targeted limitation of decision-making in defined domains necessary to safeguard (RA's) day-to-day welfare and reduce avoidable harm, while preserving a framework in which contact can continue and progress at (RA's) pace. This approach aligns with the clinical objective that (RA) requires properly scaffolded contact to support the self-resolution of his relationship with the Respondent; and, insofar as the Respondent maintains that ongoing parental responsibility is a condition of maintaining contact, the Applicant's position is that a limited, welfare-based restriction on parental responsibility represents the most reasonable and child-focused balance, particularly in the context of the relocation application."

53. In the submissions set out in the Legal Research Note, T rightly contends that registration of the birth certificate may be viewed as evidence of parentage, but that presumption may be rebutted. I need not set out the cases referred to in relation to that submission as they are uncontroversial. The type of situation that they deal with is where the mother and a male have to put the male's name on the certificate as being the biological parent, and there is evidence to show that he is in fact not the biological father. There is no issue in this case as to whether R is RA's biological parent as she has no genetic connection to RA. If RA had not been conceived by ICI then arguably there would be no need to delve further into the facts, as the presumption of parenthood may be rebutted and the registration on the birth certificate would have no legal effect and there would be no parental responsibility.
54. However, T and R were a married couple when RA was conceived and born using T's egg but with a sperm donation from a third party with insemination being at home and not at a licensed clinic.²⁵ In the Legal Note Ms. Bridges may be right in contending that Human Fertilisation and Embryology Act 2008 (England and Wales) ("HFEA") does not directly apply in the Cayman Islands when considering the issue of parental responsibility of the second female spouse. However, she went on to carry out a full review of the HFEA, and I will turn to that later herein. R states that the HFEA does apply to this case and contends that this is the legal basis for her parental responsibility for RA.
55. What Ms. Bridges does not refer to is the Children (Amendment) Act 2024. In fact, no party to these proceedings refers to it. This Act amends paragraph 4 of the Act which is headed "*Parental Responsibility for Children*". Section 7(c) in the 2024 Act inserts the following new section after subsection 3:
- "(3A) Where a woman gives birth to a child ("the mother"), and at the time of the birth the mother is in a civil partnership with another woman, the child's mother and the woman with whom the mother is in a civil partnership at the time of the birth of the child shall each have parental responsibility for the child.*
- (3B)....."*

Section 7 also amends the principal Act as follows:

²⁵ In her Divorce Petition T pleaded that RA was a child of the marriage.

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“(d) in subsection (7), by deleting the word “him” and substituting the words “the person”;

(e) in subsection (8) as follows -

(i) by deleting the word “his” and substituting the words “the person’s”; and

(ii) by deleting the word “himself”; and

(a) in subsection (9), by deleting the word “his” and substituting the words “the person’s”.”

56. Section 2 of the Civil Partnership Act, 2020 (“the CPA”) defines a civil partnership as follows:

““civil partnership” means a union between two persons -

(a) recognised; or

(b) formalised and registered, in accordance with this Law.”

57. Section 38 CPA has the heading “Meaning of “overseas relationships”” and it appears under the main heading: “PART 12 - OVERSEAS RELATIONSHIPS TREATED AS CIVIL PARTNERSHIPS”. Section 28 provides:

“38. For the purposes of this Law, “overseas relationship” means a relationship which is -

*(a) either **a specified relationship** or a relationship which meets the general conditions in section 39(4); and*

(b) registered (whether before or after the commencement date) with a responsible authority in a country or territory outside the Islands in accordance with the relevant law, by two persons neither of whom is already in a civil partnership or lawfully married,

but does not include marriage contracted between parties who are respectively male and female.”

58. Section 39 CPA has the heading “Specified relationships and the general conditions”. Section 39(1) provides:

“Specified relationship” means one of the relationships listed by reference to the respective overseas jurisdictions listed in Schedule 2.”

59. Schedule 2 CPA contains a “List of specified relationships for purposes of section 39”. The Schedule states that a marriage in England & Wales is considered as being a specified relationship. This means that the parties’ marriage in Florida, USA is to be treated as a civil partnership for the purposes of the CPA. This means that s.4(3A) of the Act²⁶ which refers to the mother being in civil partnership with another woman applies.

²⁶ As amended by s.8 Children (Amendment) Act, 2024.

60. Therefore, in the present proceedings brought under the Act as amended which relate to a child residing in the Cayman Islands, I find that s.4 (3A applies).

61. I note that Section 2 of the Revised Children Act in England and Wales (1989) contains the following section:

“(1A) Where a child -

(a) has a parent by virtue of section 42 of the Human Fertilisation and Embryology Act 2008; or

(b) has a parent by virtue of section 43 of that Act and is a person to whom section 1(3) of the Family Law Reform Act 1987 applies,

the child's mother and the other parent shall each have parental responsibility for the child.”

The relevant section in the Cayman legislation is very differently worded to the English legislation, and it makes no mention of the HFEA or any fertility related legislation. Therefore, none of the requirements set out in the HFEA, such as consent of the “other woman”, apply. **Accordingly, as the parties were married at the time of RA’s birth (in a “civil partnership”), both T (birth mother is defined as being “the mother”) and R (the other woman who is married to the mother) each have parental responsibility for RA.** There is also no need to have both the mother and the other woman’s name to be registered on the birth certificate to acquire parental responsibility, as s.4(2) of the Act does not apply.

62. However, mindful that this is the first time that these novel issues have arisen in the Cayman Islands, for completeness’ sake, I will now go on to consider the approach to be taken under the HFEA and how it might be applied to the facts and submissions made before me. I do so just in case there is an argument later raised that because the parties were residing in England when RA was conceived and born in England, and because T and R’s names were registered on the birth certificate in England and Wales, I am wrong in applying s.4(3A) the Act²⁷ in Cayman Islands proceedings. I do this recognising that Ms. Bridges’ submitted primary position is that the HFEA does not apply in the Cayman Islands and that the Cayman Islands has not enacted any equivalent legislation.²⁸ R argues that the HFEA framework applies to this case.

²⁷ As amended by s.8 Children (Amendment) Act, 2024.

²⁸ See paragraph 35 of the Legal Research Note.

63. The HFEA sets out the legal framework for registering the birth of a child conceived artificially. Part 2 of the HFEA (ss.33-58) is entitled: “Parenthood in Cases Involving Assisted Reproduction”. Section 33(1) provides as follows:

“The woman who is carrying or has carried a child as a result of the placing in her of an embryo or of sperm and eggs, and no other woman, is to be treated as the mother of the child.”

Therefore, in this case, if the HFEA applies, as similar to the position under s.4(3A) of the Act, T would also be treated as being the legal mother. At times during the hearing, R bristled at the Court when it referred to T as being RA’s mother.

64. Section 34(1) HFEA provides that:

“Sections 35 to 47 apply, in the case of a child who is being or has been carried by a woman (referred to in those sections as “W”) as a result of the placing in her of an embryo or of sperm and eggs or her artificial insemination, to determine who is to be treated as the other parent of the child.”

65. Sections 35-47 distinguish between four different cases: s.35, as amended by the Marriage (Same Sex Couples) Act 2013, applies where W was married to a man at the time of treatment; s.42, as amended by the 2013 Act, applies where W was in a civil partnership or marriage with another woman; ²⁹ s.36 applies where the “agreed fatherhood conditions” apply; and s.43 applies where W agrees that a second woman is to be a parent.

66. Sections 35 and 42 provide in very similar terms that the other party to the marriage or civil partnership, as the case may be:

“is to be treated as [in the case of section 35, “the father”; in the case of section 42, “a parent”] of the child unless it is shown that [section 35 “he”; section 42 “she”] did not consent to the placing in W of the embryo or the sperm and eggs or to her artificial insemination (as the case may be).”

²⁹ My emphasis by underlining – s.42(2) HFEA.

67. Therefore, if a same-sex female couple were married at the time of the woman's insemination by donated sperm, the HFEA allows the spouse of a woman who carries a child to also be recognised as the child's parent. Section 42 HFEA 2008 means that where a female spouse/partner like T gives birth to a child conceived as a result of sperm donor insemination (anywhere in the world), she is the mother of the child and a person in R's position could be named as the second parent at birth registration and obtain automatic parental responsibility, unless R did not consent to the mother's treatment.
68. T contends that R did not consent to T's treatment. T seeks to show that R did not consent to T conceiving by means of the donated sperm. In relation to the issue of consent reference was made by Ms. Bridges to a number of cases. The first is *Mrs U v Centre for Reproductive Medicine* [2002] EWCA Civ 565 which Counsel calls the leading case in the context of fertility treatment. However, this is not a case about consent being given by a spouse or parent to their spouse or partner seeking to conceive by using the sperm from a third-party donor. This case, which predates the substantial reforms brought about in relation to birth registration and parental responsibility in 2008, was one in which the issue was whether the Court should permit a widow to use the sperm of her deceased husband who had withdrawn his written consent to his sperm being stored. The husband changed his instructions in the official form to now allow his sperm to perish after his death or capacity and he ticked a no box in relation to his sperm continuing in storage. The case stressed important ethical issues of storage and disposal of sperm. The widow argued that the husband had changed the form reluctantly and under the impression that if he did not do so, her part of the treatment would not go ahead, or be delayed. That case, unlike the present matter where T is arguing that R did not give consent, was about whether a withdrawal of consent might be vitiated by undue influence. The burden of proving that undue influence was with the widow. The Court was having to decide whether the Centre for Reproductive Medicine at Bristol University had received effective consent for the continued storage and later use of the husband's sperm because if they did not, it would be unlawful for them to continue to store and later use it. The case is about not doing something that would be inconsistent with what the husband consented to, to protect his right as a donor to prevent something happening with his sperm which he did not want to happen. That case is about whether when changing his consent to remove that consent he did so under duress or undue influence. That is very different to the present case, where the conceiving parent is seeking to argue that her former non-donor spouse whose name was added to a child of the marriage's birth certificate and who has sought for years thereafter to be able to exercise parental rights, and who does not agree with a

connection that they did not consent. The argument is not being brought to ensure that there is protection for the person whose consent is required in circumstances where that person feels that their consent was not given, or if it was, it was only expressed under duress or as a consequence of undue pressure.

69. The next case relied upon is *AB v CD and The Z Fertility Clinic* [2013] EWHC 1418 (Fam). That case highlighted that the directions given by the HFEA, from time to time, have required that any consent required under ss.37(1) and 44(1) “must” be recorded in a specified form prior to the treatment. Those sections apply to agreed fatherhood and agreed parenthood arrangement and do not apply to a s.42 HFEA situation. *AB v CD* contained extended discussions about that requirement and the forms. Pauffley J was concerned with a couple who conceived a child as a result of fertility treatment at a licensed clinic. The dispute arose as to whether written consent from both parties was provided prior to treatment as the clinic had no record of a consent form. The mother applied for a declaration under s 55A of the Family Law Act 1986 that F was not the child's father. F also applied for a declaration that he was the father. During the proceedings the mother conceded there should be a declaration in favour of the father, the judge emphasised that such a declaration could not be granted by consent or default but only after a proper examination of the facts assessed in light of the applicable law. On the totality of the evidence the court found that they had completed the forms prior to treatment but that they had since been misplaced. The conduct of the clinic was greatly criticised by the Judge. The case of *AB v CD* and the quoted section extract from paragraph 35 in the Judgment stating that it is a momentous matter for both an unmarried non-biological father and the relevant child for him to become the legal father of the child is not helpful to the issue of consent in this case.
70. No case is produced that deals with consent in a factual matrix similar the one involved in the case before me. Counsel for T makes reference to an article of Stewart C and Lynch published in the Journal of the Royal Society of Medicine in 2003. It is submitted that this article is a “*helpful overview*” of the law on undue influence in medical treatment. The article predates the HFEA. The article was not in the Bundle of Authorities provided to the Court, but I searched for and read it using the link set out in the Legal Note. The tenor of the article deals with circumstances that are very different to the situation in the present matter. As the authors rightly highlight:

“The primary philosophical basis for this doctrine of ‘undue influence’ is respect for individual autonomy and the need to ensure that people have freely chosen a course of action, before the law will make that course of action binding upon them.”

In the present matter it is T, and not the giver of the prior consent, who is seeking to prevent the course of action taken by R from being binding on R when R is not seeking that. The article is written to address medical treatment where a patient refuses treatment because of influence of family members. The article reviewed the *Mrs U* judgment³⁰ from the angle of consent and the doctor-patient relationship stating that it is a case in which the undue influence came from a health professional directly and to a third party. The authors suggest that when the Court of Appeal upheld the President’s approach in the case that the test for undue inference that emanate is that:

“The weaker party’s will must have been so overborne as to prevent its independent exercise.”

71. Counsel for T submits that, if the HFEA applies, the evidence before the Court enables T to discharge the burden of proving that R did not “*validly consent*” to T’s insemination because her “*will was overborn*”. She contends that R felt that she:

“had no choice, felt psychologically manipulated, felt psychologically tortured, and knew the (T) would proceed regardless of the (R’s) wishes.”

It is important to note that it is not the giver of the purported consent submitting that her consent was not given.

72. The specific evidence relied on by T commences with paragraph 17 of Dr. Basson’s report:

“(T) then also made an attempt to get pregnant with the same sperm donor and was successful. It is unclear³¹ whether this was ultimately agreed together or not. However, (T’s) pregnancy, according to (R), put an enormous strain on their relationship, with a great deal of resentment harboured from (R) towards (T).”

I note that the following part of paragraph 17 which is immediately before the above extract is missed out and it is that part that puts the above quoted section into context.

³⁰ See paragraph 68 above.

³¹ My emphasis by underlining.

“(R) was desperate to have a child of her own and tried for approximately nine months, to conceive with the same sperm donor used for (RI). Unfortunately, despite several attempts, (R) was not successful and took a break.”

73. Reliance is placed by T in paragraph 246 in the Judgment where I stated:

“R’s] upset was heightened at the time when T informed R that she would try and get pregnant using sperm from the same donor. R felt angry at the time, as she felt that T was going to do that regardless of how she felt. T’s insemination was soon thereafter successful.”

74. I note that the following part of paragraph 246, which is immediately before the above extract from the Judgment, is not quoted and it is that part that puts what I wrote in the Judgment into context:

“T said that she always made it clear to R that she wanted to have a second child to be conceived using the same sperm as the one used for RI. However, R later stated that, as she was older than T, she wanted to have a child. T said that she reluctantly agreed that R would try to get pregnant using the same donor. For almost a year R tried using sperm from the same donor but was unsuccessful. This situation caused great distress to R, and it is apparent that she still carries the mental scars from the experience.”

Then immediately after the extract in the legal note taken from paragraph 246 in the Judgment I wrote:

“Although happy that there would be an addition to the family, this also caused distress to R as she realised that the parties wanted to have only a two-child family and that, coupled with her age, would mean that she would likely never give birth to a child. In her own words, when T informed her that she is pregnant, she was: “shocked and grieving the loss of a chance to have a child.”

It is evident that the deep scars from this experience detrimentally affected their relationship, with T stating that the marriage was: “already on the rocks” and that after she became pregnant, “the marriage deteriorated rapidly because of jealousy and resentment.

R said that she found trying unsuccessfully to conceive herself to be: “very emotionally distressing, affecting our sex life and we became more distant.”

75. Reliance is also placed by T in relation to evidence given by R at the relocation hearing. The first deals with evidence given on Day 6 of the trial and is set out as follows in the Legal Note:

“(a) At 07:04-07:25, (R) gave the following evidence under cross-examination:

Mrs. Cherry Bridges: So you're saying you agreed because you were pressured or you were put under duress?

(R): I agreed because I, I didn't feel like I had any other option. I, I, I can, I, it's so difficult if you've not lived with a person like that. That level of Pressure and control...

Mrs. Cherry Bridges:...are you saying that you agreed because she pressured you or put you under duress? Is that what you're saying?

(R): She, she's psychologically manipulated me. If you feel like you are gonna be responsible when she says, I'm not gonna be able to have my second child. And but your fault, I'm thinking, well that's not gonna work out very well, is it? If this never happens and then she can't get pregnant. So I did it under duress. It wasn't that I didn't want a child with her, but I, I just literally just wanted a month or two off doing this whole thing. So I did it and reluctantly agreed not expecting her to fall pregnant second time...”

(b) At 09:32, the Respondent stated: “Well, I, I think the words I used to Dr. Basson was I felt psychologically tortured.”

76. As with the previous extracts, the full extract should have been given to put the relied upon extract into context. In fact in that section (at 06:31), R actually disagrees when it is put to her that she did not consent and significantly she says that she was the person who actually performed the insemination and that, all though she was conflicted by the knowledge that she would not now be able to conceive a child herself as T was pregnant, she was thrilled that they were having a baby to complete their family. Below is the extract from transcript which is immediately before the above:

“Mrs Bridges (02:18): I see. Okay. So I, I know from the evidence it's from your evidence and I, Dr. Basson mentions it as well. I think you had said, um, that you'd been, uh, trying Well, you, well you say this in your, your evidence. See, I'd remind the court that prior to (T) falling pregnant with (RA) in February, 2018, I had been trying with the same donor via home insemination, which was unsuccessful despite normal fertility tests. Um, and then you go on to say, I also remind the court in these very delicate proceedings, donor would not donate via clinic as (T) pressured me, uh, via insinuating it was in fact going to be my fault if she missed out on a second child due to both our agents to instead try.

R (03:02): Yeah.

Mrs Bridges (03:02): So what do you mean by she pressured you?

R (03:06): As in, when I got to a stage about sort of nine or nine, between 9 and 12 months of trying unsuccessfully it, it was just a horrible experience. You know, this was a person I didn't know we were doing it by home insemination. I'm not gonna go into the gory details, but it just was not very pleasant. It was quite psychologically difficult. It was emotionally difficult. I needed a break for a couple

of months from doing it. And I mean, it distanced our relationship 'cause of the way that we were going about it. I didn't want (T) anywhere near me, quite frankly, after we'd tried each month and I just, um, I wanted a break, but that didn't mean I wanted a forever break. I just needed an emotional break from the process. And that was when I was accused of, you know, potentially ruining her opportunity. And she wanted to start herself. And I said that we, we'd already said we don't, we only wanted two children. We didn't want three children. So two was gonna be the limit. So what if she fell pregnant? Then what? Where would that leave us? And then you'd

Ms Bridges (04:16): Both be pregnant, you mean?

R (04:18): No, no, no. So, so I was gonna have a break and she was insisting on then just taking over and trying. And I said, but what if you fall pregnant quite quickly and we've agreed, we, we just, we we can't manage with more than two. And then she said, well, if I don't, we can both try. And I said, what? Like a race? But, and then I said, well, what if we then both fall pregnant? We, we don't, we, we can't manage with three children. Two is our limit. That, that was what we discussed. So I felt pressured into saying, go on, then you try. And I was thinking, well, if it's been this difficult for me given ages and things, she'll probably find it difficult. And she fell pregnant second time. So as soon as she fell pregnant, I'm then conflicted. 'cause I'm absolutely thrilled that we're having a baby and we've, you know, completing a family. But I've, I've also lost an opportunity to have a biological child.³²

Ms Bridges (05:08): But you going so far as to say that, um, that that (T) just went and had a, a child against your wishes?

R (05:17): She, she was going to do it regardless of what my wishes were. My wishes stood for nothing. It, it didn't matter what I, what I said in that household. Ultimately, I was either then pressured, pressured, pressured until I backed down. And for the sake of peace, I would back down. More often than not, I'd be subject to silent treatments. (T) would take (RI) and say, we are not speaking to her. And then I'd get (RI) going, you've been a bad beck because I hadn't agreed to something. So for the sake of peace. But more often than not, I would just say, oh, just do it. Just do it. So I'm not saying she did it without agreement, but I agreed because I just felt like I had no other, what what else was I gonna do? She would've done it anyway.

Ms Bridges (05:59): Because you say in your affidavit at Power of 20, I had hoped to be able to restart trying in a few months. Exactly.

R (06:04): I wanted, I wanted an emotional and psychological break. I didn't want a permanent break.

Ms Bridges (06:22): **So are you saying that she, she effectively went ahead and had the baby without your consent? Is that what you're saying?**

R (06:31): **No, I inseminated her. I was involved in the process.**³³ But what I'm saying, so you.

Ms Bridges (06:35): Didn't agree then?

³² My emphasis by underlining.

³³ My emphasis by underlining and putting in bold.

*R (06:35): **So what I'm saying is I agreed because I had no other option. We weren't going to separate, we weren't at a point of where we were definitively going to separate. I did want a child with her. That was, that was the view for the family. We were gonna have two children and then we were gonna be, you know, complete family unit. That's why we'd got the house, the size of the house that we'd got at the time. And I felt badgered and part of me thought she won't get pregnant that quickly.***

Ms Bridges (07:01): I. So you're saying you agreed because you were pressured or you were put under duress?

I agreed."

77. The next part of the evidence relied upon evidence was given on Day 7 of the hearing and is set out as follows in the Legal Note:

"At 02:12:07-02:15:21, the following exchange took place:

Mrs. Cherry Bridges: And then in her evidence, she actually says I was pressured into this. So the inference one could draw from that was that, um, if she was pressured, she, she was under duress, um, to agree to the procedure for the artificial insemination.

R: Procedure. It was done at home.

Mrs. Cherry Bridges: Yes. I understand that.

R: It's not artificial insemination.

Mrs. Cherry Bridges: She went further than saying it was under pressure. She said, uh, that she actually said that she only agreed to, um, the procedure taking place under duress.

R: It's not a procedure. It is done at home. It isn't, it doesn't, it isn't called a procedure if it's done at home.

.....

R: I mean, honestly, are you, are you trying to insinuate that because of that I shouldn't have parental responsibility for (RA)? 'cause that's where I think you're going on that front.

Mrs. Cherry Bridges: You went further because I drew your attention to Dr. Basson's um, uh, statement in her report where she said it's unclear whether or not you consented to (T) being artificially inseminated.

R: I injected her.

Mrs. Cherry Bridges: So you're saying you did consent.

R: I right. I dunno how, I dunno how much more simple I can, I can word this. I was not happy with the decision that she made to go ahead with the pregnancy, but ultimately I still wanted a child. I still respected her wishes and we went through that together. I was the person that used the syringe at home and injected the necessary...

Mrs. Cherry Bridges: For you to say you consented. So now you're saying you've consented.

*R: No, I, I I wasn't happy. **It's not about consent. I wasn't happy with the scenario and with what was being agreed, I felt pressured into going forward with it in that manner.***³⁴

Mrs. Cherry Bridges: The evidence you gave was you were pressured, you said That's right. You, you did this under duress.

R: It was under, yeah, it was under duress. I I didn't want to go.

Mrs. Cherry Bridges: And then you actually said, when I drew Dr. Basson's attention to you, uh, to what, when she said it was unclear whether you consented, you said, well actually you said it was psychological torture.

R: No, I said the whole process of trying to discuss and negotiate anything with (T) and have her actually listen to it, the whole thing is like psychological torture, the whole thing of trying to get pregnant. Then being told that you are depriving somebody else of their, their ability to have their child. That they want them to them to override your wishes and, and say, right, well I'm gonna go ahead. And I knew she'd do it anyway. So I thought, well, I may as well involve myself in the process. And she fell pregnant second time.

Mrs. Cherry Bridges: ...you were pressure and you said you did it under duress. That's what you told us.

R: That's what I wasn't happy about.

Mrs. Cherry Bridges: Is that still your position?

R: Yeah. I was not happy about it, but nevertheless I..."

78. At that stage of the cross-examination, I felt it appropriate and fair to remind the parties about the findings that I had made in the Judgment about the circumstances surrounding T conceiving RA. I felt that it was important that when I was considering the present questioning and answers that I place them in the wider context having regard to my findings. Both parties had been made aware at a number of the previous hearings and again at the relocation hearing that the findings remained in place and would only be further reviewed if good cause was shown as to why I should consider departing from them. The transcript records what I said to the parties immediately after the above extract relied upon by T:

"Williams J (02:15:26): So judgment says this. T said that she had always made it clear to a, that she had wanted to have a second child to be conceived using the same sperm donor as the one used by (R). However, (R) later stated that as she was older than T she wanted to have a child. T said that she reluctantly agreed that a would try to get pregnant using the same donor for almost a year. R tried using sperm from the same donor, but was unsuccessful. The situation caused great distress to R and it is apparent that she still carries the mental scars from the experience. Her upset was heightened at the time when T informed R that she would try and get pregnant using sperm from the same donor. R felt angry at the

³⁴ Emphasis and underlining by me.

time as she felt that t was going to do that regardless of how she felt T'S insemination was soon thereafter successful.

Williams J (02:16:06): Although happy that there had be an addition to the family. This also caused distress to R as she realized that the parties wanted to have only a two child family. And that coupled with her age would mean that she would ne would likely never give birth to her child. In her own words, when T informed her that she was pregnant, she was shocked and grieving the loss of a chance to have a child. It is evident that deep scars from this experience detrimentally affected their relationship with T stating that the marriage was already on the rocks, and that after she became pregnant, the marriage deteriorated rapidly because of jealousy and resentment. R said that she found trying unsuccessfully to conceive, to be quote, very emotionally distressing, affecting our sex life and we became more distant. Uh, and then, um, and then it goes on. So that, that's the findings that I made at the hearing about..”

Mrs Bridges (02:16:53): <crosstalk>. Those where where we go from reluctantly agreed to her evidence, um, where she says she was pressured into doing this and her evidence in December where she says it was done under duress and then, um, explaining to Dr. Basan that this was a psychological torture. So anyway, that's all right.”

79. At paragraph 5 of her Affidavit sworn on 22 February 2021, T informed the Court that she was the spouse of R and said: *“We have one child together, RA...”* At paragraph 11 in her Affidavit sworn on 24 February 2021, R said:

“After our marriage, (T) and I had another child using a sperm donor by artificial home insemination, (RA), who is now aged two. (T) and I are both named on (RA’s birth certificate). I was present at the birth and we both registered the birth.”

80. In her post-hearing Affidavit sworn on 9 March 2026, R states that she did consent to RA’s conception and highlights that the issue of non-consent has never been previously raised. It is quite clear that the parties always intended that they would conceive a child together. R confirms that:

“Any suggestion that I did not consent to the insemination is inconsistent with the contemporaneous evidence and the reality of our family life at the time” adding that: *“The breakdown of the marriage does not retrospectively negate the fact that I agreed to and participated in (RA’s) conception and was present at his birth.”*

81. In the Court Welfare Report prepared by Renetta Toolsiram dated 26 August 2021, the reporter stated that said in relation to RA’s birth that:

“They had decided to use the same donor as her older daughter (RI), so the children of four biological siblings.”

The reporter said that R had told her that:

“They conceived (RA) via home insemination and use the same donor as (RI). She said that she tried getting pregnant but it did not work, so they decided for (T) to carry the child.”

82. Having reviewed all the evidence submitted in these protracted proceedings, the issue of whether or not there was valid consent from R appears to have belatedly first arisen during the relocation hearing. It is not something that was raised by R, the provider of the purported consent, but instead by T. It is extremely important to place the remarks made by R into the factual context of the indisputable emotional trauma that she suffered as a consequence of not being able to have a child herself despite trying for many months. It is also important to consider R’s actions at the time of conception to see whether they are consistent or inconsistent with a person consenting, not consenting, or under such duress that they should be viewed as consenting. When considering where there was consent, I have carefully considered the following phrases used by R when she was being cross-examined at length by T, at different stages of the cross examination, with the aim of getting T to say that she did not consent to the procedure. Those phrases include undue duress, reluctantly agreed, feeling that she had no other option, psychologically manipulated and tortured, not being happy with scenario, feeling pressured to go forward with the insemination as well as expressing a view that T would likely have done it anyway.
83. R was clearly conflicted and had mixed emotions at the time. On one hand she was mourning the lost opportunity to have a child herself. She was resentful and remains so, that T was able to have another child as this meant that the opportunity for her to do so had passed because it was to be a two-child family and because of her age. On the other hand, as shown by her evidence, she was joyful that there would be another child coming to “complete” their family. I note that R in a very hands-on manner took on the primary role in the insemination. That conduct is not consistent with someone who had not given their consent, even if they had felt under pressure to comply. As I have already mentioned, this is not a case in which the Court is being asked to decide whether there was consent to protect the position of a person who it is said to have given the consent. That person, R, is not saying that she did not consent and is not seeking to persuade the Court that she did not, despite her evident upset at the state of affairs. Following the birth, the conduct of both parties is consistent with them both believing there was “valid” consent, as both of their names were placed on the birth certificate.

84. Therefore, in light of the above, in relation to the questions which Ms. Bridges submits at paragraph 87 in her Legal Note that the Court must determine, I comment as follows:
- (i) The HFEA does not apply to RA. It is s.4(3A) of the Act³⁵ that applies and that section means that T and R “*shall each have parental responsibility*” for RA as the parties were married (a civil partnership) at the time of RA’s birth.
 - (ii) If the HFEA did apply to his case, then s.42 HFEA does apply to home insemination as well as conception at a licensed clinic. In an at-home arrangement, the distinction would have been that if a child is conceived by sperm by sexual intercourse rather than artificial insemination, then the sperm donor will be considered the second legal parent regardless of whether the mother is married or in a civil partnership. That is not the circumstances in this case.
 - (iii) R consented to T’s insemination.
 - (iv) In these Cayman Islands proceedings, R’s parental responsibility derives automatically due to s.4 (3A) Children Act (2012 Revision) as amended. If that section does not apply. then it derives from the fact that R is registered as the second parent on RA’s birth certificate.
 - (v) If R’s parental responsibility for RA does not derive from either s.4(3A) or from the HFEA, it would derive from the ordered confirmation of the shared residence order made, not made by consent, by me in 2024 in the Order.

The Law – Removal/discharge of parental responsibility

85. Having discussed the acquisition of parental responsibility, I now turn to the issue of T’s application to discharge it. Both R and the Guardian oppose T’s application to discharge R’s parental responsibility. The Guardian states:

“Even though the relationships between (R) and (RI) and between (R) and (RA) are fractured at the moment, for a variety of reasons, for which both parties bear responsibility, (R) is one of their parents. I have not observed or been informed of any facts that would provide me with a basis to recommend the termination of parental responsibility.”

86. Section 5(1) of the Act defines parental responsibility as:

³⁵ As amended by s.7 Children (Amendment) Act, 2024.

“..all the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child and his property.”

Under section 4(7) of the Act:

“The fact that a person has parental responsibility for a child shall not entitle him to act in any way which would be incompatible with any order made in respect to the child under this Act.”

87. Due to the Shared Residence Order, T and R have parental responsibility for RI and RA. If that Order was varied to a sole residence order in favor of T, then R's parental responsibility in relation to RI would come to an end, unless the Court continued it by making a new freestanding parental responsibility order. Such an order has not specifically been applied for, understandably as R has concentrated on retaining parental responsibility by preserving the Shared Residence Order for RI. In relation to RA, I stated at paragraph 4 in the Judgment that, as RA was born during the marriage and as R's name appears on RA's birth certificate, R has parental responsibility from that avenue also. Having regard to my analysis and findings set out at paragraphs 51-84 above, I am of the view that R primarily retains parental responsibility for RA as he was born during the parties' marriage (as well as being registered on the birth certificate). Therefore, even if the Shared Residence Order is varied, R would still retain that parental responsibility for RA. As mentioned above, T seeks not only a variation of the Shared Residence Order but also an order removing parental responsibility from R in relation to both children. I remind myself, not only in relation to the parental responsibility application but also the relocation and other s.10 applications before me, that I must consider each child's welfare separately and that if an order is made in relation to one child that does not mean that the same order must be made in relation to the other child.
88. In relation to RA, who was born during T and R's marriage, the position is clear. Where parents are married or in a civil partnership, there is no power to revoke the parental responsibility of a father or second female parent, except by an adoption order. That position contrasts with that of unmarried fathers where, by s.6(3) of the Act, the Court has power to bring their parental responsibility to an end.
89. The position arises due to the difference between s.4 and s.6 of the Act. Section 4(1) provides that where a child's father and mother were married (or in a civil partnership) with each other at the

time of the child's birth, they shall each have parental responsibility for that child. Therefore, they acquire parental responsibility automatically. There is no provision in s.4 of the Act to remove parental responsibility confirmed by s.4(1). By contrast, unmarried fathers can only acquire parental responsibility under s.6(1) of the Act in one of the three ways set out there (i.e. name and birth certificate, formal parental responsibility agreement or court order). Unlike with the automatic parental responsibility required under s.4, s.6(3) states that:

“Subject to section 14(4),³⁶ an order under section (1)(a), or parental responsibility agreement, the only be brought to an end by an order of the court made on the application (a) of any person has parental responsibility for the child; or(b) leave of the court, or the child himself.”

So, this means that parental responsibility can be removed from unmarried fathers by court order. For the purpose of this judgment, I need not explore why such a difference exists even if on the face of it discriminates between married and unmarried fathers, between mothers and some fathers on grounds of sex and marital status. The Court of Appeal in ***Re R (Parental Responsibility)*** [2023] EWCA Civ 689 refused to issue a declaration of incompatibility with Articles 8 and 14 of the ECHR when a married mother was arguing that she was being discriminated against by virtue of being married because she could not apply to terminate the father's parental responsibility, whereas she could have done so had she been unmarried.

90. This position for R is similar to that of a father in England and Wales who was married to the mother at the time of the relevant child's birth. Cobb J, when considering the discharge of parental responsibility in such circumstances said in ***Re B and C (change of Names; Parental Responsibility: Evidence)*** [2017] EWHC 3250:

“Even if revocation or withdrawal of his parental responsibility were justified on the facts, it is not permissible to revoke or withdraw a father's parental responsibility in these circumstances, save in the vanishingly rare circumstances where a mother may apply for a sole adoption order in respect of her own children; see Re B (Adoption: Natural Parent) [2001] UKHL 70).”

³⁶ Section 14(4) of the Act provides that where the court makes an order under s.6 of the Act in respect of father of a child, the court shall not bring that order to an end at any time while the residence order concerned remains in force.

91. Therefore, if T was actually pursuing the application set out in her 10 October 2024 C3 Form and not taking the approach set out at paragraph 134 in her written closing submissions³⁷, I could not order a termination of R's parental responsibility in relation to RA, whether it be granted pursuant to s.4(3A) of the Act as amended, or pursuant to the English Children Act (1989) Revision as amended.
92. In relation to RI, per the Act the parental responsibility would be terminated if the Shared Residence Order was discharged and replaced with a sole residence order in favour of T. In fact, the termination of the Shared Residence Order would automatically bring the existing parental responsibility that comes with that in order to an end.
93. I am conscious that, if the Court was being asked to bring a parental responsibility order or a parental responsibility agreement to an end, such a course would only be taken in serious cases. Examples of those cases where there has been very serious misconduct including murder, manslaughter serious violence, rape or serious sexual abuse. In ***Re P (Terminating Parental Responsibility)*** [1995] 1 FLR 1048, Singer J said:
- "I start from the proposition that parental responsibility - both wanting to have it and its exercise - is a laudable desire which is to be encouraged rather than rebuffed. So that I think one can postulate as a first principle that parental responsibility once obtained should not be terminated in the case of a non-marital father on less than solid ground, with a presumption for continuance rather than for termination.*
- The ability of a mother to make such an application therefore should not be allowed to become a weapon in the hands of the dissatisfied mother of the non-marital child: it should be used by the court as an appropriate step in the regulation of the child's life where the circumstances really do warrant it and not otherwise."*
94. At paragraph 44 in ***In Re B and C***, Cobb J helpfully highlighted the factors to be taken into account when looking at a removal of parental responsibility when he stated:
- "In the case of ***Re D (Withdrawal of Parental Responsibility)*** [2014] EWCA Civ 315, [2015] 1 FLR 166, the Court of Appeal considered the circumstances in which parental*

³⁷ See paragraph 52 above.

responsibility would be circumscribed. The following principles can usefully be drawn from the judgment:

- i) *Parental responsibility “is an important status which is an incident of the family and private lives of the adults and child concerned and which is reflected in the way in which parents should exercise their responsibilities for their child. It should be rare for a father not to be afforded this status” (citing **Re M (Parental Responsibility Order) [2013] EWCA Civ 969**, [2014] 1 FLR, at para [14]);*
- ii) *Parental responsibility describes an adult’s responsibility to secure the welfare of their child which is to be exercised for the benefit of the child not the adult (at [2015] 1 FLR 166 [11]);*
- iii) *When considering whether to limit or restrict parental responsibility, the court is considering a question with respect to the upbringing of a child, and the paramouncy principle in section 1 CA 1989 applies (see [12]);*
- iv) *By section 1(4), there is no requirement upon the court to consider the factors set out in section 1(3) (the ‘welfare checklist’) but the court is not prevented from doing so and may find it helpful to use an analytical framework not least because welfare has to be considered and reasoned (see [12]); (note [41] below: in this case the mother applies for a prohibited steps order, so the section 1(3) checklist will apply);*
- v) *The ‘no order’ principle in section 1(5) of the CA 1989 applies;*
- vi) *The factors relevant to the court’s consideration of the grant of parental responsibility (the degree of commitment which the father has shown to the child, the degree of attachment which exists between the father and the child and the reasons of the father for applying for the order) may be relevant at the point of considering whether to revoke or limit the exercise of parental responsibility (see [13]);*
- vii) *A child will ordinarily benefit from a relationship with both parents; the significance of parenthood of a married or an unmarried father should not be under estimated (see [14]);*
- viii) *The parental responsibility which attaches to parenthood may bring added commitment to the child which would be likely to be to the child’s benefit (adapting the point made in **Re G (Children) (Residence: Same-sex Partner) [2006] UKHL 43**, [2006] 1 WLR 2305, [2006] 2 FLR 629, at paras [30] and [31], and discussed at [15] of Re D);*
*“[A] significant matter of status as between parent and child and, just as important, as between each of the parents. By stressing the “responsibility” which is so clearly given prominence in the Children Act 1989, section 3 and the likely circumstance that that responsibility is shared with the other parent, it is hoped that some parents may be encouraged more readily to engage with the difficulties that undoubtedly arise when contemplating post separation contact than may hitherto been the case” (McFarlane LJ in **Re W (Direct Contact) [2012] EWCA Civ 999**, [2013] 1 FLR 49).”*
- ix) *Article 8 of the European Convention is engaged here in respect of all of the family members, and interference with these rights needs to be justified (see [21]);*

- x) *The order is draconian (see [30]);*
- xi) *It is vitally important to encourage the exercise of parental responsibility by fathers. Children have a right to that benefit (see [33]).*

95. When I consider the applications related to parental responsibility and, where relevant, to the consequences concerning parental responsibility that would flow from a discharge of the shared residence order in particular in relation to RI, I have regard to the above case law and guidance.

Restricting the exercise of parental responsibility by prohibited steps order or regulating the exercise of parental responsibility by specific issue orders – The law and decision made

96. Even though the Court may not be able to terminate parental responsibility in relation to RA, in certain circumstances its exercise can be restricted. The Court has power to restrict the exercise of parental responsibility by making a prohibited steps order, defined in s.10(1) of the Act as:

“an order that no step which could be taken by a parent in meeting his parental responsibility for a child, and which is of a kind specified in the order, shall be taken by any person without the consent of the court.”

Similarly, an order could be made to regulate the exercise of parental responsibility by making a specific issue order, defined at s.10(1) of the Act as:

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

Sir Andrew MacFarlane when President said in ***In Re A (Parental Responsibility)*** [2023] EWCA Civ 689:

“Irrespective of whether or not there is a statutory power to bring parental responsibility to an end, in every case the court may control and limit a parent's ability to exercise parental responsibility through the making of prohibited steps orders, and may enhance the ability of the other parent to exercise parental responsibility with respect to specific issues...

Whilst a prohibited steps order and/or a specific issue order may normally be made to regulate one or more aspects of the exercise of parental responsibility, it is accepted that, where the facts of the case justify it, the court may make a combination of orders which

have the effect of prohibiting a parent from taking any step in the exercise of his or her parental responsibility and clothing the other parent with the exclusive right to exercise parental responsibility without reference to any other person who holds parental responsibility.”

97. However, restricting parental responsibility, especially if by doing so the parent is left with only responsibility in name and little ability to exercise, should be the exception, reserved for serious cases. When determining an application to restrict the exercise of parental responsibility, the Welfare Checklist will apply because a specific issue or a prohibited steps order, being s.10 orders, require consideration of the Welfare Checklist factors. Among the Welfare Checklist factors is “*the range of powers available to the court under the Act in the proceedings in question*”: sub-section 3(3)(g). Sub-section 3(5) provides that the Court shall only make an order if it would be better for the child than making no order. Section 13(7) provides that a s.10 order may contain directions about how it is to be carried into effect, and that the Court impose conditions on the person in whose favour it is made, or on anyone who is a parent of the child, or who has parental responsibility or with whom a child is living. The Court may also make orders for specified periods or containing provisions which are to have effect for a specified period, and it may make such incidental, supplemental or consequential provision as it thinks fit.
98. Although vaguely put in the submissions, it appears T seeks to restrict R’s exercising of parental responsibility in relation to all aspects of schooling, as well as all medical and therapeutic decisions. T also seeks to restrict the exercise of R’s parental responsibility as it relates to T’s travel. In relation to travel that concern should fall away if the Shared Residence Order is discharged and replaced with a sole residence order in favour of T. If T has a sole residence order she is able to take a child abroad for up to 28 days without the consent of any other person with parental responsibility. However, it is still appropriate to notify the other person with parental responsibility about travel plans in advance of the travel.
99. In relation to educational decisions, T contends that R’s approach has been inconsistent and obstructive³⁸. Although not spelt out, it appears that T is seeking a wide-ranging order enabling T to override R’s views and make all decisions in relation to schooling without consultation. T

³⁸ Paragraph 135 of the Written Closing Submissions filed on behalf of T.

highlights that there were issues with R paying the deposit for RA's place at the same school that RI attended in Cayman as R had changed her mind about the placement. In the end T said she paid the deposit to save the place, but R refused to sign off the placement until the Court and the DCFS intervened. T also says that R applied and paid for registration at a different school for RA without T's knowledge or consent. That said, it is evident that T placed the children in a school in New York, something that in principle I do not have an issue with, but in doing so failed to consult in anyway or pre-inform R about the chosen school, despite the fact that R had parental responsibility for both children. I recognise that although there have been arrears of school fees at different junctures, R has been willing to pay school fees despite the fact that she was not having any meaningful contact with the children. I also note that she has always taken a keen interest in the children's school activities and studies. R has also been subject to the school's failure, at various times, to recognise that they need to share the same school information with R as they share with T, as they both have parental responsibility. It is not surprising that at times that that R has felt frustrated and angered about how the schools have treated her. Although I note that T has presented her case on the basis that she will not be seeking child maintenance or any education expenses contribution from R upon a relocation, this does not mean that the other parent with parental responsibility should not be involved with education decisions.

100. As a consequence of the decisions I make about residence in this judgment, the above specific issue/parental responsibility issues relate solely to RA. ***In Re T-D (Children: Specific Issue Order)*** [2024] EWCA Civ 793 Jackson LJ set out the statutory framework surrounding parental responsibility and section 8³⁹ orders and stated:

"41. By its clear terms, the Act provides the court with the broadest and most flexible powers to make welfare decisions. The powers, which are themselves a welfare checklist factor, can be used individually or in combination. No two cases are the same and, where orders are needed, judges should use the powers that Parliament has given them in the way that they think best meets the needs of the case.

42. At the same time, court orders represent an interference with the freedom of parents to make their own decisions and must be used in a way that is proportionate to the presenting problem. The interference must be no more than is necessary to achieve the desired outcome for the child."

³⁹ Section 10 Orders in the Cayman Children Act.

He added that an order to deprive a parent of decision-making powers should only be made in extreme cases and stated:

“It is one thing to interfere with a parent’s ability to make an individual decision, and another to deprive them of decision-making power more generally. Where a conventional order can be made, it may be disproportionate to go further. In other cases, nothing less will be adequate to protect the welfare of the child.”

101. ***In Re T-D***, unlike in the present matter, the Court was considering making a specific issue order whilst at the same time making an equal shared care order for the parents. The appealed order granted the father overriding parental responsibility in three key areas: (i) all questions relating to schooling; (ii) all questions relating to future therapy; and (iii) all questions relating to interactions with social workers and medical professionals. In that case there was a pressing need to resolve a disagreement about what school the youngest child should go to. The Court of Appeal found the order to be overly broad and lacking in specificity, thereby undermining its effectiveness. Consequently, the appeal was allowed to remit the issue of schooling for urgent determination and to refine the specific issue order to ensure clarity and enforceability.
102. There is no such pressing educational issue in the present matter, T has already enrolled the children in school in New York. The issues surrounding historic disputes about school selection which are relied upon by T in her closing submissions occurred around October 2022 and March 2023. There is no need to make any specific order about the children’s schooling at this time. For me to make a wide-ranging and open-ended order in relation to education decisions would be to be overly broad and lacking in specificity and clarity. I have extensive direction under the Act, but I must exercise them judiciously to avoid undue interference with parental autonomy. I must balance parental rights with child welfare, remembering that RA’s best interests remain paramount. **Accordingly, I make no order limiting the scope of R’s parental responsibility when it comes to decisions about RA’s education. However, I do make Specific Issue Orders requiring: (i) T to provide R with full details about RA’s New York School; (ii) T to provide RA’s New York school with R’s contact details; and (iii) T to inform RA’s New York school that R has parental responsibility and that they should provide her with all the normal parental communications that emanate from the school to parents.**

103. *In Re T-D* there was a need for the older child to have therapy and there was a “strong scepticism” about the mother’s willingness to co-operate with that. T, in the Written Closing Submissions relies upon points out the historical issues highlighted in the Judgment delivered in 2024. Of course, as highlighted in the Judgment, T, R and D all conducted themselves in an inappropriate manner which led to the Wellness Centre withdrawing its services from the family. The now required therapy has been clearly set out by Dr. Basson. It is wide ranging and there may be some overlap with the therapy that both parents and children have been recommended to undertake. In such circumstances, all the relevant adults must be involved in the decision making and it is not appropriate to make orders that grant T the authority to unilaterally make decisions about RA’s therapy. **Accordingly, subject to my clear expectation that the parties will work together to set up the required therapy, I do not make any order which would: (i) place a restriction on R’s exercise of parental responsibility; or (ii) give T the ability to make unilateral decisions in regard to the setting up and operation of RA’s therapy.** As RA’s therapy will likely be taking place in the US, it is important that R promptly receives all communications and updates from T and the therapist(s).
104. T seeks restrictions to be placed on R’s parental responsibility when it comes to the RA’s medical matters. She contends that R has on related occasions made direct practitioner complaints or sought to improperly disrupt the children’s access to appropriate medical support. T states that some medical providers have been reluctant to engage with the children as a consequence. Due to her professional knowledge R has been well placed to express informed views about the children’s medical care and to question what she views as being inappropriate treatment. However, I am of the view that it would be in the children’s best interests for them to have the stability that would come from them promptly having a designated pediatrician practice identified. The children are now with T, their primary day-to-day carer in the US. **I am satisfied that RA’s immediate needs and interest would be met by making a Specific Issue Order that T be the parent who makes the decision about which pediatrician practice RA is to be registered with and treated by. The order is made on the basis that R is promptly provided with the details of the practice and that the practice are made aware that R has parental responsibility for RA and that they may communicate with her concerning RA’s medical issues and records and they should reply to R’s reasonable communications made to them.** It is not appropriate, nor in RA’s best interests when considering the Welfare Checklist, to make orders apparently sought to enable T to make all decisions relating to RA’s medical matters. As set out by Wall J in his: “*Schedule of items in*

relation to the exercise of parental responsibility” found in A v A (Shared Residence) [2004] 1 FLR 1195 at 1224, T may independently and without any consultation or notification to R continue giving RA medication prescribed by a general practitioner or pediatrician. T should inform R of emergency medical treatment and planned visits to a general practitioner/pediatrician and the reason for it although she need not consult or take R’s view into account. T would need to inform and consult with R prior to making a decision about: (i) planned medical and dental treatment; and (ii) stopping medication prescribed for RA.

Background – Proceedings post the Judgment and the Order

105. On 3 May 2024, about one month before the Judgment was delivered, T made a formal 5-page written complaint “*regarding the actions and reports*” of the Guardian ad Litem to the then Court Administrator. T alleged that:

“There exists a pattern of behaviour that substantially deviates from the expected standards of impartiality and accuracy essential for the guardian’s duties.”

She sought the Guardian’s removal from having any further involvement in the proceedings. On 20 June 2024, the Court Administrator wrote to the T to inform her that her complaint had been considered but not upheld. This is a further illustration of difficulties arising in the relationship of one of these parents with a professional if that parent takes exception with what that professional reports about them. This character trait of both parties is something that I commented on in the Judgment back in 2024.

106. On 13 June 2024, the day after the Judgment was circulated, T emailed my Personal Assistant seeking her:

“... guidance on the procedural steps necessary to formally file an urgent stay and further procedural steps to thereafter to request and file an appeal.”

On the same day my Personal Assistant promptly responded and indicated that she was copying the Clerk of Courts and the Deputy Clerk of Courts Civ. and Fam. into the email request, as she believed that they were ‘covering’ for the Registrar of the Court of Appeal. The Registrar’s Office, if it felt it appropriate to do so, would be best placed to give any guidance to T. In T’s email dated 25 September to the Assistant Registrar Court of Appeal she wrote:

“... I sought procedural advice from the Honourable Judge’s Personal Assistant, the Civil Registry, and the Family Court, who directed me to the Court of Appeal. I had procedural correspondence with them on the following dates: 13 June 2024, 17 June 2024, 25 June 2024, 26 June 2024, 27 June 2024. The Court’s (sic.) of Appeal advised that within 14 days of the judgement, I should file the following documents: notice of appeal, draft Grounds of appeal, application for stay (which they later asked me to refund as a summons for stay), affidavit in support of stay. I had a number of verbal and email communications with the staff (dates listed above) who assisted procedure to follow due process. In compliance with these instructions, I successfully filed all the required documents on 26 June 2024, and all corresponding fees are paid on that date. This was confirmed as complete by the Court of Appeal.”

107. The next that I heard anything about an appeal was on 30 September 2024 when the Court of Appeal Clerk informed me that appeal documents had been filed in June 2024 and that on 16 September 2024, the President had granted a stay of execution of the Order pending further consideration by him. In an email on 1 October 2024,⁴⁰ which had been sent by Ms. McBean to my Personal Assistant on 30 September 2024. Ms. McBean attached a number of documents to her email. Attached to the email was:
- (i) A Summons for a stay dated 26 June 2024 and filed on 27 June 2024⁴¹ - That Summons was issued in the Court of Appeal and sought a hearing before a Single Judge of the Court of Appeal (pursuant to regulation 24(1)(a) of the Court of Appeal Rules (2014) at the Grand Court of the Cayman Islands for a stay of certain parts of the Order;
 - (ii) a Memorandum of Appeal dated 24 June 2024, which was filed in the Court of Appeal on 26 June 2024;
 - (iii) a Notice of Appeal dated 24 June 2024, which was filed in the Court of Appeal on 26 June 2024;
 - (iv) An Affidavit to Support Application for Stay of Execution, which was filed in the Court of Appeal on 27 June 2024; and

⁴⁰ 1 October 2024, I also later received an email from the Registrar of the Court of Appeal in which she forwarded on an email from Ms. McBean to T and R in which she informed them about the President’s Order.

⁴¹ Filing date taken as being the date embossed on top right hand corner of the document when it is added on the Judicial Portal when a document is filed.

- (v) the Order of the President of the Court of Appeal dated 26 September 2024, which was made on the papers having read the Judgment and documents submitted by the proposed Appellant and proposed Respondent. That Order provided that:
- i. the proposed Respondent forthwith be provided with all the appeal documents submitted to the Court of Appeal by the proposed Appellant;
 - ii. the application for permission to appeal be remitted urgently to Justice Williams; and
 - iii. the stay remain in place pending the decision of Justice Williams.⁴²

108. T submitted her Written Submissions on 16 October 2024. The Guardian submitted her Written Submissions on 22 October 2024. R submitted her Written Submissions on 23 October 2024. I then determined the leave to appeal application on the papers. For reasons set out in the Appeal Judgment I refused leave to appeal. However, despite that refusal, I adopted an unusual approach when I ordered a short stay. I ordered that the stay would expire if no application for leave to appeal was made to the Court of Appeal within 7 days of the Appeal Judgment being provided to the parties or, if that application was filed by the due date, the stay would remain in place until the Court of Appeal was able to consider the applications for leave to appeal and for a further stay.

109. On 4 November 2024 T wrote to my Personal Assistant and indicated that she would not be proceeding with her appeal or the application for my recusal. She added that:

“Given that the Court noted at paragraph 47 of the ruling that my December 2023 relocation application remains outstanding, I have today filed a Summons seeking directions regarding that application”.

It appears that a Form C3 was filed on 18 November 2025 in which she sought:

“..urgent directions hearing for permanent relocation request sealed on 22 December 2023.”

In the email T conceded that:

⁴² I was informed that, on 16 September 2024, the President had requested a copy of the Judgment and ordered (i) that the judgment being appealed is immediately filed; and (ii) that there be a stay pending further consideration by the President.

“I am mindful of the Court's observation at paragraph 225 of the main Judgment that “the content of the Judgment would be relevant to any consideration that would have to be given to those applications” and added: “The relocation application has been pending since December 2023, and given the passage of time and evolving circumstances, I respectfully request that the Court provide directions for moving this application forward in a timely manner.”

It is worth noting that T's decision to: i) first file the relocation application only at the latter stages of the previous substantial part-heard hearing; and ii) then embark on the appeal route against the Order which emanated from that hearing; and iii) to then decide not progress with the appeal are all significant reasons contributing to why the relocation application had not progressed and has been delayed.

110. T's relocation application was formally restored by T when she filed a further C3 Form dated 10 October 2024 on 11 October 2024. It was issued with a mention hearing on 29 November 2024⁴³. The Summons was supported by an affidavit sworn by T on 9 October 2024. In that Affidavit, T highlighted that the child arrangement terms in the Order were:

“predicated on representations made by (R) in January and March 2024 that she would imminently return to reside and work in the Cayman Islands, after departing in early December 2023.”

T rightly highlighted that, despite those representations, R had not returned to the Cayman Islands, adding that she was residing outside the jurisdiction and had relinquished her residency. T noted that, save for their assessment visits with the Guardian ad Litem in September 2023 and January 2024, the children had not had contact with R for over 15 months.

111. At the November 2024 mention hearing it was explained to T that if she had wanted to challenge the findings made and the conclusions reached in the Judgment, then she should have pursued her appeal. It was made patently clear to T that, in relation to any applications being considered post the delivery of the Judgment, the Court would rely on the findings made and that, unless new evidence arose that could not reasonably have been known to her at the time of the 2023/2024

⁴³ Seven-week delay between filing and mention hearing as the Assigned Judge was out of the jurisdiction.

substantive hearing, the parties would not be able to plough through that evidence again and treat that earlier hearing as a dress rehearsal. At the mention hearing I was satisfied that T understood and accepted the status of the Judgment and the findings made therein. That said, at the present hearing, both parties at times fell into the mistaken approach of trying to re-explore matters and to reopen factual disputes which had been fully determined in the Judgment, and this contributed to the hearing overrunning and occupying nine days of Court time.

112. At the 29 November 2024 mention hearing directions were given about the filing of affidavit evidence. A referral was made for a Court Welfare Report for an assessment concerning:
- (i). variation of the Shared Residence Order to sole residence order;
 - (ii). contact;
 - (iii). dismissal of parental responsibility; and
 - (iv). the relocation application.⁴⁴

The appointment of the Guardian ad Litem was reaffirmed. Regrettably, since June 2024, no child psychologist had been obtained by the parties to assist the children. That was despite the fact that at paragraph 158 in the Judgment I had stated:

“The failure of the parties to instruct a child psychologist over the course of these drawn-out proceedings is most regrettable and one sincerely hopes that they will now have sufficient insight to both take a different path in relation to this avenue of assistance, particularly for RI after this Judgment.”

So, the Court again stressed the need for a child psychologist to conduct an assessment and to assist this family, and it gave permission for the Judgment to be shared with perspective psychologists. The matter was adjourned for a mention hearing for 30 January 2025.⁴⁵ Following the mention hearing, I sent some suggestions to the parties regarding the content that they may wish to consider including in a letter of instruction to the chosen psychologist.

⁴⁴ On 2 December 2024 the Court was informed that Social Worker Robinson had been assigned as the Welfare Officer. On 14 January 2025 the Court was informed that the assignment had been reallocated to Social Worker McEleney.

⁴⁵ Due to the passing of R's father, the January mention hearing was vacated and re-fixed for 13 February 2025.

113. At the mention hearing held on 13 February 2025, the parties agreed that the Welfare Officer was not now required to undertake an assessment in relation to the children, but he need only be on standby to possibly prepare an assessment concerning the proposed relocation circumstances in the US. The parties felt that it was not in the children's best interests for them to see a new welfare officer in circumstances where the Guardian was already involved and where they would be seeing a new expert, namely a psychologist. The Court was informed that parties had agreed that Dr. Basson would be the jointly instructed psychologist, with each party paying one third of the cost. After I had made further suggestions about the joint letter of instruction to Dr. Basson, the impression given to the Court was that it would shortly be finalised. R confirmed that she would soon be returning to live in the Cayman Islands. A mention hearing was fixed for 26 February 2025.
114. At the mention hearing on 26 February 2025, it became evident that there were still issues concerning the instruction of the psychologist. The parties were still unable to determine what the costs of the assessment would be. The Guardian, who had taken on the responsibility for drafting the letter of instruction, indicated that an updated version of that letter was going to be sent to the other parties on the following day. The Court was informed that it could take three months for the psychologist's assessment and report to be completed. The matter was adjourned to 28 March 2025, and I indicated that it was hoped that by then Dr. Basson would have been instructed and that the directions could then be given to trial.
115. At the mention hearing held on 28 March 2025 the Court was informed that the joint letter of instruction had been agreed and that it had been sent to Dr. Basson on 24 March 2025⁴⁶. The bundles of documents were ready to be sent to the psychologist. There remained uncertainty about the cost of the psychologist assessment. Therefore, the matter was adjourned to a mention hearing on 8 May 2025, but with an indication that an earlier mention hearing could be fixed if more certainty was forthcoming from Dr. Basson. The Court again indicated that it hoped that the matter could be timetabled to trial at the next mention hearing.
116. On 3 April 2025 the Guardian informed the Court that Dr. Basson was in a position to give an estimated timeline for the completion of the report. With that in mind, the mention hearing listed for 8 May 2025 was brought forward to 10 April 2025. At the April 2025 mention hearing, the

⁴⁶ The seven-page Letter of Instruction is dated 21 March 2025.

Court was informed that Dr. Basson's completion date for her assessment and report was likely to be the end of September to the middle of October 2025. It is regrettable that it took over four months, following the mention hearing on 29 November 2024, to finalise the arrangements concerning a psychologist. With the Guardian's indicated timelines in mind, the Court fixed the final hearing of all Children Act applications to start on 8 December 2025 with a five-day time estimate. A case management hearing was fixed for 16 October 2025. By agreement, orders were made for T to provide R and the Guardian with:

- (i). the passport photograph page and emergency contact page from RA's passport; and
- (ii). a copy of the email she sent to her former employer which had resulted in the reply email from her former employer attached to her affidavit.⁴⁷ T provided details in Court about the dentistry procedure to be carried out on RA.

117. In July 2025 the Court received correspondence from R concerning the passport and former employer directions which she contended had not been complied with. The Court was of the view that the subject matter did not fall within the limited category of emergency matters that may be heard out of term time during the Grand Court Summer Vacation. I indicated that the issues contained in a related summons filed by R on 12 October 2025 were to be listed for consideration at the mention hearing 16 October 2025. I also added:

"As I have indicated to the parties on numerous occasions, this long-running private law dispute has already occupied a disproportionate amount of court time. The amount of court hearing time that has been allocated to it has been to the detriment of large numbers of other family court users whose hearings were delayed due to the resultant lack of Court time available to allocate to them. The amount of summonses that the Grand Court has had to deal with both parties has become unreasonable."

118. At the case management hearing held on 16 October 2025, the Court directed that Dr. Basson's report was to be filed by 3 November 2025. It is lamentable that this is almost 12 months after the parties had agreed at the first mention hearing held in November 2024 that a psychologist was required. The Court gave further directions about the filing evidence. The hearing date was changed to a six-day hearing commencing on 9 December 2025.

⁴⁷ R's Summons filed on 23 April 2025.

119. On 4 December 2025, three working days prior to the hearing, T filed a Summons for directions. Those directions concerned modifications to the hearing schedule, amendments to T's witness list, the transcript/recording of the hearing, seeking leave to file a supplementary affidavit, production of medical notes from paediatrician (Dr. Balang), production of the report of Dr. Iqbal and the sharing of Dr. Iqbal's report to Dr. Basson. Due to the proximity of the hearing to the filing of the Summons, the Summons could only be considered at the outset of day one of the hearing. The only substantive decisions made were that the application to introduce the report of Dr. Iqbal as an expert and the application to submit further affidavit by T were refused. However, the Court indicated that either party could introduce evidence about what has happened since the last affidavits had been filed in oral evidence or cross-examine on those issues.

Background – The parents' circumstances post the previous substantive hearing that concluded on 21 February 2024

120. The previous substantial hearing commenced on 7 March 2023 and, for reasons set out in the Judgment, the final evidence was not given until 21 February 2024. When that hearing commenced both parents were residing in the Cayman Islands. There were periods of time when R had temporary absences from the jurisdiction, for example due to her ill health and in March 2023 when she had to go to the UK due to her father's ill-health. R's evidence about why she left her then employment at the end of October 2023 was at best confusing and at worst misleading. In her oral evidence she said that she was forced to leave Cayman at that time due to circumstances beyond her control. R claimed that she had been informed that the business' newly extended premises were being certified and that she could return there when it was up and running. She said that the position became untenable because they were no longer prepared to pay her from June onwards. R said that she was eating into her savings, and to enable her to stay on the island, she had to look for alternative employment. However, during the hearing, Counsel for T produced a notice from her previous employer indicating that the facility had opened on 25 September 2023. Counsel pointed out to R that this meant that by October she should not have had an inability to work. Confronted by that, R changed her reason and said that before they would allow her to return, they submitted a new contract to her, and the terms were not acceptable to her. She said that they informed the Commission that, as she refused to sign the contract, she could not come back to work. I asked R to confirm that initially she had said that the reason was because the premises were not open and then when they did open they were willing to negotiate a new contract. R agreed with me and said that she also secured other employment at that stage. Counsel for T states that R had deliberately

misled the Court by saying that the employment came to an end in circumstances beyond her control when in reality it was because she refused to accept the new contract. Counsel for T said that this was an example of R trying to portray herself as a victim rather than someone who chose to leave due to the contractual dispute. R also said that that previous employer who refused to honour her notice period also suspended her work permit. This meant that her professional license could not be renewed as it must be attached to a Practice Certificate. R then found new employment with a government entity but that offer was seemingly retracted. The employment circumstances in which R found herself were contributed to by a troubling attack made against her character and her professional competence, with details of her personal health circumstances being aired in a public forum, namely on an online/radio chat show. R said that the broadcasted content made it very problematic for R to find employment in her field in the Cayman Islands at that time. As a consequence, R said that she felt compelled to return to the UK on 4 December 2023.⁴⁸

121. In an Affidavit sworn on 12 January 2024, R noted that her Practicing License had lapsed on 21 October 2023 and that, as her employment ended on 18 October 2023, she was unable to renew it. At paragraph 8 in that Affidavit R stated:

“I do not plan on returning to work in Grand Cayman either now or at any other point in the near or distant future. I intend to pursue opportunities in the UK, which is both the children’s and my birthplace and previous home. We are all British Citizens. The “family” plan was always to return to the UK, within a 2-4-year timescale. There was never any further plan to settle elsewhere or permanently in Cayman.”

122. After the last day of that hearing which concluded on the 21 February 2024, R informed the Court that she had changed her mind and again said that she would soon be returning to live and work under a new work permit in the Cayman Islands. R had no formal work offer at that time. Her proposed employers had been two of the employers at whose practice she had worked until October 2023 and with whom she said that she had a healthy professional relationship. R did not know what the commencement date for that employment was going to be due to a delay in her employer completing the construction work required to set up their new business facility. The Respondent told the Court in April 2024 that she had retained her rental property in Grand Cayman despite her

⁴⁸ R returned to Grand Cayman on 10 January 2024 to attend the part heard previous hearing, departing on 16 February 2024. She then returned on 21 October 2025 to participate in the assessment being conducted by Dr. Basson.

absence. She also reiterated that she had a job offer, but she confirmed at the hearing that there had not been a formal written offer made by April 2024.

123. Therefore, as already mentioned herein, when I made my determinations in the Judgment in June 2024, I did so based on R's explicit indication that, by the completion of this Judgment, she would either have resumed residing in Grand Cayman or would resume residing in Grand Cayman very shortly thereafter. I noted in the Judgment that the factors for me to then consider would have been different if R was not returning to the jurisdiction. I noted in the Judgment that if R's absence from the Cayman Islands was to continue that would result in a delay in the implementation of the child arrangements orders which I then made. Shortly after the Judgment was delivered, T took the children to the UK for a 2-3 week vacation during their school summer recess. R said that she had given her consent to the children's temporary removal to the UK with a caveat that they see her when in the country. As paragraph 15 in the Order provided that the parties could agree to modifications of the contact orders in writing between them, R made a request to T for child contact to be set up in the UK and she made "*numerous attempts to arrange to see the children over the summer holiday*". R indicated that she received no replies to these requests from T and, as a consequence, no contact could be set up. T may well have adopted, what R characterised as being a "*radio silence*" approach, because it became evident that she immediately wished and intended to challenge the Order and obtain a stay of the orders requiring the reintroduction of meaningful contact. It is most unfortunate that R was not aware of any appeal proceedings until around September 2024.
124. R's grandmother passed away in February 2024. When the Judgment was delivered on 15 June 2024, R had not returned to the Cayman Islands. Her father passed away in January 2025. R remained in continuous employment in her professional field in the UK, as well as commencing postgraduate study. This meant that at that time, apart from the income being generated in the UK, a number of R's expenses in Grand Cayman had to be met from her savings. R told the Court that it "*seemed ludicrous*" for her to keep on making these payments when she was no longer resident in the Cayman Islands. These expenses included the children's school fees which had fallen into arrears due to non-payment by R, at that time, from October 2023. R indicated that she could no longer afford to keep on meeting the payments on her rental property in Grand Cayman whilst she remained resident in the UK. The property was on a rolling lease after an original 12-month lease, and R was aware that she would have to pay the rent until a new tenant was found. R gave the

landlord her notice to terminate the lease in mid-May 2024. Although she had in April informed the Court that she had retained the rental property, thereby again giving the impression that there was an imminent return, the Court was not made aware of the cessation of the tenancy in May which was before the Judgment was completed. It appears that the last month of rent was paid in July 2024. R was then able to clear the arrears in the school fees in May/June 2024. This imminent change concerning R's property and about her ongoing non-residence in Cayman was not communicated by R to the Court and therefore Judgment was still prepared on the basis of R's evidence given at the hearing that she had or would very shortly thereafter be residing back in Grand Cayman. About two months later R also ended the lease agreement on her vehicle, but she did leave and pay for her dog to be cared for in kennels in Grand Cayman.

125. In an Affidavit sworn on 21 February 2025 R informed the Court that her return to Cayman had been more delayed than she had expected. R indicated that this had been a *“major frustration”* for her and that the cause was:

“purely down to a delayed building project the premises without which without completion and the health board certification, my employer has no clinic room for means to accommodate me.”

She added that she could not reside in Cayman indefinitely without a work permit and that she did not have the financial means to be able to stay for the permitted six months on a visitor's visa without a local salary. I note this explanation being given by R to justify the non-feasibility of her residing in Cayman at that time, because I also note that R now contends that the Court should find that T is financially able to remain residing in the Cayman Islands for an extended period of time with the children despite T or her spouse not having a local salary. R indicated in her Affidavit that the work facility being constructed by the proposed employers was in its final stages with completion scheduled for the end of March 2025 and that she expected to be back 'on island' in April 2025, after a professional license and work permit had been approved for her. Attached to her Affidavit, R exhibited messages and information from her proposed employer which, although provisional and not firm in nature, were on the whole consistent with these observations. She said that, in preparation for return, she was in the process of seeking accommodation in Grand Cayman.

126. However, the proposed employers still did not have the building ready by March 2025. Despite that, R was convinced that the ‘pieces would soon fall into place’ to enable her to start her employment because she trusted the employers and her good relationship with them. Therefore, R signed a 12-month lease on a new property in March/April 2025⁴⁹ based on the timelines given to her for the business facility to be up and running. R said that the rental property is large enough for each of the children to have their own bedroom. When deciding to take up the lease at that time R said that she had in mind that her previous property had been rented from the same landlord and she wanted to have all the arrangements “*set up and ready*”. R refuted the allegation that was put to her that she had only rented the property to try to bolster her case in these proceedings. She accepted that the children’s school fees had been in arrears but added that the costs of travel as well as the costs of Dr. Basson’s report and loss of work for a month due to having to be in Cayman for the assessment had “*cost her an arm and a leg*”.
127. On 27 October 2025, R was informed by email that her Practicing License had been approved. This meant that she could now apply for a temporary work permit on 27 November 2025. That temporary work permit was approved on the fifth day of the present hearing, namely on 17 December 2025. Although the Court was informed at the March 2026 mention hearing that it was still only a temporary work permit, on the evidence before me, there is evidence that a full work permit is being sought and there is nothing to indicate that it will not be forthcoming⁵⁰. I note that the term limit on the disclosed work permit is 9 April 2028. However, because R’s previous Cayman residency ended in December 2023, there is a possibility that the term limit could be reset for a full eight years due to ‘the residency roll over clock’ being wound back to zero rather than including her years in Cayman prior to her 2023 departure. R intends to remain and re-establish her roots here and R told the Court that she is fully committed to her new employers, that Cayman “*is my preferential place to live*” and that she “*would be back in Cayman even if the children were not here*”. R highlighted that the “*two most important people*”, her grandmother and her father, had passed and it was their situation which historically had “*dragged her back to the UK*”. R returned to reside in the Cayman Islands in the New Year, which coincided with the end of the present

⁴⁹ In R’s Affidavit sworn on 9 March 2026 she indicated that her landlord had just offered a renewal of the lease for 12 months at the present rent of \$5,750/month.

⁵⁰ In R’s Affidavit sworn on 9 March 2026 she indicated that the temporary work permit which names the children as her dependents expires on 17 March 2026 and that her employer has confirmed that the full work permit application will shortly be submitted naming the children as dependents.

hearing on 6 -7 January 2026. On the evidence, I am satisfied that R is now residing in the Cayman Islands and that she has put in place suitable accommodation.

128. However, although I am sympathetic to R due to the circumstances in which she felt that she had to leave Grand Cayman, and I acknowledge the reasons that she has given for her very long-delayed return, R's protracted absence from Cayman has inevitably had a detrimental effect on her relationship and bond with both children. At the time she left there was a real prospect of her being able to establish meaningful contact with RA and possibly RI if she was in the jurisdiction. Her absence has been a significant contributory factor resulting in the imperative therapeutic intervention highlighted by the Court back in 2024 in the Judgment not taking place. If R had returned as she led the Court to believe that she would in mid to late 2024, or even at other later time during the interim period, with the Court's further oversight which one of the parties would have likely felt compelled to seek, the contact would have progressed in tandem with the recommended therapy noted in the Judgment. R's two-year absence has severely curtailed what the Court may have been able to do to try to achieve a restoration and development of those relationships and it has undermined the intention and purpose of the Judgment and the Order. This is inconsistent with what has often referred to as the 'delay principle' set out at s.3(2) of the Act. It has also had an impact on what options may now be available to the Court due to the change in the nature of the children's relationship with R where there have now been changes in the parties' personal circumstances in a country where their ability to reside and work is governed by strict immigration laws. It is not clear what the Guardian's view is about R failing to return and the impact of that on the children's welfare despite R's indications at the 2023/2024 hearing at various stages over the past two years. She does not really comment about it. The Guardian appears to place little emphasis on the delay and non-return as she does not explore the reasons given for the delay or the impact on the children of that delay. This may be because of the focus and weight she places on the terms in the Order made in 2024 and not on the highly inaccurate assurance of an imminent return. The Guardian did say during cross-examination:

"Contact didn't restart because (R) didn't come back. R for her own reasons didn't return to the Islands."⁵¹ (T) and (D) have been kept here for two years because (R) failed to come back."

⁵¹ My emphasis by underlining.

On the other hand, Dr. Basson recognised the significance of R's failure to return to Cayman when she importantly commented as follows at page 138 in her report:

"It has been nearly two years since this time and (R) has not returned to Grand Cayman. The already developed patterns of relating for the children to (R), have become more entrenched for them. So much so, that by the time I saw them, they were so adamant about not seeing (R), that to order contact to resume without very careful psychological frameworks, would have been damaging to the emotional wellbeing of the children. Hence, my decision to delay requesting contact for the purpose of the report, until (R) was more permanently on island. I could then provide a more thoughtful approach to this and attempt to mitigate against the psychological impact (no matter the reason) that this could have."

129. R's protracted absence has not only caused the above detrimental outcomes, but it has also had an unhelpful impact on the conduct of the required psychological assessment. In her initial meeting with R, Dr. Basson had been given the same inaccurate impression as the Court, namely that R was going to return to Grand Cayman *"imminently"*. As a consequence, Dr. Basson waited for her to return to Cayman before conducting the home observation and Marschack Interaction Method assessment with R and the children. I had to advise Dr. Basson, through the Guardian, that the assessments should go ahead without delay and before R's return to live here. A time was then set with R, for her to return to island as a visitor, and reintroduction visits and the Marschack Interaction Method went ahead. Dr. Basson indicated that, despite her trying to reassure R, this caused R to feel that she was at a disadvantage. That resulted in R sending an email to Dr. Basson on 30 September 2025 withdrawing her *"consent for any further input"*. Dr. Basson indicated that R's concerns about the process of the assessment were contributed to by T:

"using information discussed during their sessions, regarding the best interests of the children, to alienate (R)" and that this has *"been further exacerbated by (R) not being on Island and not being able to meet with (Dr. Basson) face to face."* As already highlighted, *mistrust in professionals, or proposed professionals, is a trait that T and R have exhibited during these proceedings and this has contributed to the delays."*

130. Despite the reasons given by R for leaving Cayman to live in the UK and her proposed employer's practical issues, it is evident that R has been solely focused on potential employment being with that employer despite the inordinate delay caused by their clear inability to set up the working facility in a timely manner. I note that as at the date of writing they still appear not to have their

facility up and running. R was not willing to take on any other type of employment in Cayman even if that could have meant the child contact could be re-established. I mention this, as during the present hearing, upon hearing that T's employment contract had not been renewed, R submitted that T should be willing to seek and take on any type of employment in Grand Cayman, even if it is not in her field of expertise or experience. With R's qualifications and experience in mind, R might have wished, and been expected, to have actively explored other employment options which could have resulted in her returning to reside and work in Cayman well before, and not during, the present hearing had actually started. I note that R's return to reside in Cayman conveniently coincided with the start of the present hearing and that she then felt able to put the required paperwork in place to enable that return even though the employer's facility was still not up and running and that she had to take on a different interim role on reduced pay. Her evidence also indicated that another qualified employee had started work at the Practice earlier in 2025 and was able to work out of the old premises.

131. During the hearing I suggested to the Guardian that, due to her professional qualifications, R could have returned to Cayman if she was desperate to do so. The Guardian accepted that T had been kept here for two years because R had failed to come back. I also said during the hearing when commenting upon the non-return:

"The point is, I made a court order based upon information before the court at the time. It was never clarified before the judgment. The consequence of that is that we are where we are now."

T, who for over two years has been making it abundantly clear that she wished to leave Cayman to live and work in the US, could not have been expected to remain indefinitely in Cayman, a country where she can only remain and be employed if she has a work permit, waiting to see if R would ever actually return. At the date of her renewed application, and even at the first date of the present hearing, there remained considerable uncertainty about whether R was actually going to return to live and work here. Although, there still remains a reduced degree of uncertainty as the proposed work facility is not operational and R's work permit is still only a temporary work permit, the considerations that this Court now has when deliberating upon the relocation application are very different than they would have been if the status of R's return remained as uncertain as it had been for the extended period up to November/December 2025. When I comment upon R's failure to return within a reasonable period of time, it is extremely important that I remind myself that any

orders that I make arising from the present hearing should not be made as consequence of the Court's potential unhappiness about the inaccurate indication that was given to the Court in 2024 which was a core factor leading to the decision made in the Judgment. The present orders to be made must have regard solely to the welfare principles and what is in the best interest of the children now, whilst acknowledging that R's time away from Cayman has impacted on their present welfare and relationship with R as well as on what orders would best meet their needs at this time.

132. Until recently, T's circumstances in the Cayman Islands have been secure and stable. She has had a rewarding job at educational institution and has been able to advance herself educationally by specialising in the tech-related industry whilst here. Her income was in the region of \$108,000 per annum. She married D in February 2024 which was shortly before the end of the extended 2023/2024 hearing (about 4 months before the Judgment was delivered). Although D had previously travelled to New York when required for work there and to visit her family, D now spends the majority of her time in Grand Cayman with T and the children. D's financial services consulting career appears to have been 'put on hold' as she cannot conduct her US employment here due to regulatory restrictions. D does not have the professional qualifications or regulatory licensing to perform her work in the financial services sector in Cayman. Therefore, since the nanny ceased employment in Spring 2023, D has taken on the role as a 'hands on' stepparent for the children including taking them to/from school when T is at work.

133. Dr. Basson in her report stated that D is a stepparent to the children and that she:

"..is a positive figure in the children's lives, with whom they have formed positive attachments."

Unlike at the 2023/2024 hearing, following which I made some comments which may be viewed as being negative about D in the Judgment, I have had the advantage to now hear from her and see her be cross-examined. I found D to be a forthright witness. Although understandably prickly on occasions when being cross-examined by R, D did not come across as the brash short tempered New Yorker as previously portrayed. I note that my perception is different to the one that Guardian has as a consequence of her post-hearing exchanges with D. I agree with Dr. Basson's observations about D. D clearly loves the children and she is now an even more significant figure in their lives than she was by June 2024. I accept that D may on occasion be insensitive about how R must be feeling and that she is unable to recognise that at times she acts in an overly supportive manner

towards T and not an objective manner, thereby encouraging T's parenting flaws. D may on occasion act in a manner which R views as being a usurpation of R's parental role and status. However, that is inevitable as a consequence of R's unexpectedly long absence from Cayman for 2 years (a period of time during which, as the Judgment stated, the Court had intended that R's relationship with the children would develop in Cayman with therapeutic input). The children clearly view D as being their stepparent. However, R is right to highlight again in her Affidavit sworn on 9 March 2026 the confusion that would be caused for RA if her parental relationship is being undermined in T's household and with other entities such as schools. The therapeutic intervention would need to assist RA to understand the family dynamics where there are three adults all with some form of parental role.

134. At the time of the present hearing, T had the right to reside in the Cayman Islands due to her work permit. However, by her Affidavit sworn on 16 November 2025, T informed the Court for the first time that her contract of employment would terminate and not be renewed on 27 February 2026 and, as it stands, thereafter her immigration status granted as a consequence of her work permit will come to an end and her status will change to being that of a visitor. Those on a visitor permit are unable to have gainful employment in Cayman. Her employer informed her of this development by letter on 2 October 2025. Although the timing of the change in T's employment status may, at first glance, appear to be very convenient in the context of her relocation application, I accept her evidence that her employer has taken a policy decision not to renew the contracts of expatriates at management level and to ensure that their posts are filled with Caymanians. I am satisfied that the refusal to renew T's employment contract is not a situation manufactured by her. If T had, by her own actions, created a scenario resulting in there being an inability to reside and work in Grand Cayman for both immigration and financial reasons, that would have been viewed very dimly by the Court. T told the Court at the hearing that she had been trying to find alternative employment in Grand Cayman directly with some employers and also via recruiting agencies, especially until the end of the children's current school year, but to no avail. At the time of the hearing, it was not clear whether T would be able to obtain meaningful employment where she can use her skills in the Cayman Islands at this time. After the hearing the Court was informed that "*despite all efforts to secure alternative employment in Cayman,*" T has not been able to do so. This was again confirmed at a mention hearing held in March 2026. I am not in position to find whether or not T has exhausted all efforts but on the balance of probabilities, it does appear that she made some proper attempts to do so. I am conscious of the present Government policy to only recruit

Caymanians to management level positions in the public sector. Although T appears to have skills in the tech industry on the evidence before me, she does not have the funds required to set up a Special Economic Zone entity which would enable her to work and reside here. What is a fact, is that T does not now have employment in Cayman and there is no evidence to suggest that she would be successful in seeking appropriate employment commensurate with her skills, and a reasonable and financially viable career path within a reasonable time frame. T has wanted for over two and half years to move to work and live in the US but could not do that due to the orders made in Cayman. For almost all the time she has held this wish she has stayed here ‘treading water’ despite the fact that R was resident in England. **I am satisfied that T’s application to relocate is a genuine one**, especially as it is now given some urgency primarily due to the financial/employment/immigration circumstances that she finds herself in and a real desire to provide better opportunities for herself, her American spouse and the children. In circumstances, where T is not a Cayman national whose future in the jurisdiction is governed by restrictive immigration laws, (meaning that she would be subject to rollover even if she was in employment), where her and her spouse have no current or foreseeable employment here, where I find that she has the prospects of better employment opportunities and advancement and where immigration stability in the US via her spouse, it is obvious why she would seek to relocate. I accept that she may also see the move as a way to put distance between herself and R and between R and the children, especially now that R has recently returned to Cayman following her lengthy absence, but I do not agree with R’s contention that this is now the substantial reason for making the application. She no longer seeks a ‘no contact order’ and, in particular to RA, she recognises that the development of contact with R at his pace ‘hand in hand’ with therapeutic assistance, is in his long term best interests.

135. **If T is unable to relocate, there would be resultant detrimental impact on her and a knock-on effect for the children.** Of course, when making my final decision, I must also balance the detrimental impact that may arise for the children if a move would create issues with their contact with R and issues with them receiving the recommended therapeutic input. It is obvious that it would cause her great emotional distress as well as put strain on her relationship with D, who is a highly qualified person without employment opportunities commensurate with experience in the Cayman Islands. It would be wrong for me to make any finding that T would suffer from mental health issues if relocation was refused because there is no expert evidence to that effect before the Court. What is clear, is that if she cannot relocate, there is a real prospect of financial insecurity for her, D and the children. There is no foreseeable source of income and no independent housing, by

that I mean, no housing that would be independent of R's oversight. There would highly likely be a separation for T from D for substantial periods of time and this would detrimentally also affect the children who have formed an important bond with their stepmother. The current stable and secure family home environment in which Dr. Basson has said the children have thrived over the past two years would be at risk. There is also a degree of education insecurity because school fees are substantially in arrears, although I accept R has indicated that she will soon be in a position to clear those.

136. R meets T's approach to the circumstances where immigrations status and financial circumstances are being relied upon as T's justification/primary basis for relocation by highlighting that there is little evidence of efforts being made by T to stabilise her and the children's circumstances in Cayman prior to the Courts decision. She then remarks:

"In the absence of clear evidence of attempts to secure employment, maintain lawful residence or otherwise plan for the possibility that the children may remain in Cayman, it becomes difficult to assess whether relocation is truly unavoidable or whether it arises primarily from parental preference."

Arguably in this case it could be a combination of both of those factors mentioned by R.

137. R's primary view is that T should be able to find employment in Cayman. If that is not feasible, she suggests that T's spouse, D, should leave the family unit to work in the US and commute back and forth. R kindly stated that that she would temporarily be willing to let T and the children live in her rented property⁵² and she would stay at her friend's property. R said that she would cover the rent on the property and the reasonable bills. The offer was not coupled with any offer to pay child maintenance, probably because R's expectation was that D would promptly leave to the US to work to enable her to send funds back to Cayman to support T's day-to-day expenses. R says that the children now have Britcay Premium Policy health insurance coverage through her work. Although I agree with R that the accommodation offer would involve significant personal sacrifice for R, I do not agree with R that these short-term/temporary proposals are realistic for day-to-day financial and immigration reasons. It would require D and T to run two households, one in the USA

⁵² R submits in her Affidavit sworn on 6 March 2026 that this would provide a stable residential, financial and practical framework for the children to continue residing in Cayman while the Court determines the longer-term arrangements for their welfare.

and one here. It would also require T to be reliant on the Immigration Department being willing to allow a flexible approach to the visitor visa to be adopted. At best, T could be in Cayman for a maximum of 6 months per year (presumably run from the end of February 2026), if granted extensions. This would be the case even if the children were treated for immigration purposes as being R's dependents. It would require T to obtain local health insurance coverage for herself as the short-term, ex-patriate 'vacation' health insurance would likely not cover such a period. R's proposed arrangement would also stretch R's finances even if she was on the \$15,000/month full salary mentioned by her, especially if she had to:

- (i) pay the private school fees as and when they fell due;
 - (ii) clear the arrears of school fees; and
 - (iii) pay any child maintenance.
138. The arrangement proposed by R would inevitably mean that T and the children would be heavily dependent upon R's goodwill, in circumstances where there is a deeply unhealthy relationship between R and T characterised with an inability to communicate with each other in a civil way over a number of years.
139. The Guardian accepts that T's proposals about housing and schooling in the US are well thought out and reasonable. **I also find that the application is a realistic one grounded on practical proposals for the family in the US if there is a move.** The Guardian accepts that there would be a support network for them in the US. The Guardian has little doubt that T would provide adequately for the children's physical and education needs there as she does in Grand Cayman. The Guardian appears to accept T's evidence that there will be job opportunities for T in New York having regard to her skills and experience. Despite those positives, the Guardian feels unable to recommend the relocation application at this time. She places great emphasis on the risk of detriment to the relationship between the children and R, especially when she feels that T is not willing or capable of facilitating that relationship. The Guardian's report focuses almost entirely on these relationship issues. It is understandable that she regards this as a core factor and issue. However, it fails to put that goal of repairing those fractured relationships into the context of the practical difficulties which T and D are now facing, likely due to no fault of their own. The Guardian's recommendations seem grounded on a position which would exist if T did not have these issues, or if she does have those issues, they should be readily surmountable. The Guardian

has not meaningfully assisted the Court with any realistic proposals about how T and the children could address their practical predicament thereby enabling them to remain in Cayman whilst contact and therapy takes place and whilst ensuring that the children's needs (short and/or longer term) are being well met. The Guardian's report does not consider the contributory factor to the increased breakdown in the relationship with the children caused by R relinquishing her residency here for two years and apparently having only the one return plan that was acceptable to her. If R had not returned to Cayman by the end of the present hearing, the factual matrix to be considered by the Court and its application to the relocation application would be inevitably different to the facts and circumstances it now has to grapple with. In her evidence and submissions, the Guardian appears to have disregarded the practical predicament and dilemma that T now faces in the Cayman Islands. Unfortunately, the Guardian has not meaningfully reported or made submissions about the potential impact on the welfare of the children that might result from them having to remain here in the circumstances that T finds herself in. The Guardian's submissions seem to be based:

- (i) on a scenario where T is able to and is actually living and working here rather than being unemployed and subject to the heavy restrictions imposed by a visitor's visa; or
- (ii) possibly on an adoption of the above arrangements suggested by R⁵³.

If T was still employed and able to work here until her immigration roll-over, the Guardian's recommendations about contact, which are made with the children's welfare at the forefront of her mind, would be more forceful than they are, especially having regard to short-term arrangements to be put in place. R's proposal would mean that the family unit that Dr. Basson says the children have been thriving in over the last 18 months would have to be split up as D would have to move to US. T, as the primary carer, would likely remain unemployed and with potentially great financial insecurity. There would also be the issue for T of being able to remain in the jurisdiction for extended periods of time on a visitor's visa, renewal of which would be at the whim of the Immigration Department. In her Closing Submissions and in her report, the Guardian does not comment on these practical difficulties that T faces, nor makes any suggestion about what practical arrangements could be put in place for T and the children if they were made to remain in the Cayman Islands. With the greatest of respect, the Guardian's suggestion that T and D work remotely from the Cayman Islands is not practical and probably not compliant with the Immigration legislation for a person on a visitor's visa.

⁵³ See paragraph 137 above.

140. As it currently stands, T's financial position if she is not permitted to relocate is highly unstable. T has had to remain in Cayman despite R's absence, and this has resulted in her household becoming a one-income family with her dependent spouse caring for the children. Therefore, there has been one income providing for four persons in the house and I accept that this has resulted in the family having to "live paycheck to paycheck". There is no evidence that there are any savings for T and D to draw upon if they were compelled to remain here unemployed with the children. The evidence is that the funding for T's academic courses has come from family members. The Court has been told that the flight tickets purchased for the family's intended move to the US have actually been purchased using air miles provided by D's family. T's submission is that financially it would be impossible for her, D and the children to remain in the Cayman Islands and that the children's welfare would be impaired by the lack of financial security. T rightly highlights as being equally applicable to her situation, R's evidence where R said in her Affidavit sworn on 21 February 2025:

"Without a work permit, I simply cannot reside on island indefinitely and do not have the financial means to be able to stay for the allowed six months on a tourist visa self-funding whilst not earning."

141. It is also evident that R, who at the date of writing, is currently on a third of her expected salary income,⁵⁴ is also presently financially unstable. R's portion of the school fees is significantly in arrears.⁵⁵ The Court was informed that R had still not paid her proportion of Dr. Basson's fees for her Court attendance. R has indicated that she has had considerable debts. However, in her Affidavit sworn on 9 March 2026, R now indicates that the work premises will be operational from 11 March 2026 and that her salary will return to the full contractual level. R says that she will then be able to meet all her financial commitments and address the school fees arrears. When the matter came on before Ramsay-Hale CJ on 1 April 2026, it appears that this had still not occurred as R said that her salary was then still only \$5,000/month.⁵⁶

⁵⁴ I accept that by the time the perfected version of this Judgment is handed down that may have changed to the full salary being paid. It does not appear that the received salary payments had changed when the matter came before the Chief Justice on 1 April 2026, but it appeared from the Judgments that the increased payments might be imminent.

⁵⁵ T says that as of 23 February 2026, R has not paid her share of the fees for 5 months totaling around \$11,000 in arrears. She states that if the fees are not paid the children may not be able to return to their Cayman school and /or the school may not release any school transcripts for any new school.

⁵⁶ Paragraph 4 Judgment of Chief Justice Ramsay-Hale dated 2 April 2026.

142. T's case is that the family would be financially stable in the US and that there would be a number of advancements and better paid employment opportunities in AI for her if she were to reside in New York. She says that she would not be reliant on R and indicates that she would likely not seek an order for child maintenance payments for either child from R. T's current salary is around \$108,000 per annum and the type of work that she might be able to obtain in the US would give her a salary of around US\$250,000. From the employment materials provided by T, I do not find that she has a firm job lined up. This is not surprising, as T is not in a position to make a firm commitment to any possible employer whilst she is uncertain about the outcome of her relocation application and she therefore cannot provide a prospective with a work commencement date. Also, T does not have the legal right to work in the US until she enters the US on her immigrant visa and been admitted as a permanent resident. However, I find that with her relevant qualifications and experience she would highly likely be able to find employment in areas such as AI consultancy within a reasonably short period of time after her arrival in New York if she were permitted to relocate there with the children. I am satisfied that, as a spouse of a US national, she would be able to live and work in the US, which would enable her and the children to obtain Green Cards and eventually US Citizenship. Of course, D's employment situation would also promptly change for the better if there was a move to New York, as she would be able to immediately resurrect her financial services practice.
143. R questions the present status of the relocation plans. She highlights the fact that there are no confirmed formal employment details for T or D. R raises that if there is no employment then there is no health insurance for the children. She questions the stability and certainty of the proposed longer time housing arrangements as the suggested property in Long Island is one held by a family trust in D's family and is not owned by either T or D. However, I note that the property is a mortgage free four-bedroom family home and that it is held in trust by D, her brother and her mother. The only accommodation costs would be ground rent or tax. R is concerned by her impression that the relocation plan relies upon the support of D's wider family in the USA whilst her and T's family reside in the UK. She highlights that there are no firm school places for the children following an immediate relocation or even for one at the end of the present academic school year. R submits that:
- "At the present time they appear to represent practical uncertainties within the relocation proposal which may be relevant to the Court's assessment of whether relocation is presently necessary for the children's welfare."*

She adds that:

“In those circumstances, the Court may wish to consider whether relocation is presently necessary for the children’s welfare, or whether their existing stability within the jurisdiction can reasonably be preserved while the practical arrangements proposed in support of relocation become clearer and while the therapeutic process recommended by the professionals begins to take effect.”

The Evidence from Dr. Basson

144. Dr. Basson is a clinical psychologist, and she was jointly instructed by all the parties to conduct an independent child, adolescent and family psychological assessment and intervention. She submitted a 147-page Final Report and a helpful Executive Summary which summarised the findings, assessment methods,⁵⁷ and key psychological conclusions from the full report. The full report dealt with the psychological functioning and family dynamics of R, T and the children. Dr. Basson said that the purpose of the report was to assist the Court in understanding the family’s relational dynamics, the psychological impact of prolonged conflict, and implications for the children’s ongoing well-being. She considered the children’s needs and noted issues pertaining to residency, contact, country of residence, parental harm and parental alienation. Dr. Basson attended the hearing and was the first witness giving evidence over the first day and half of the hearing.

145. Dr. Basson stated that the questions she had been asked to address were:

- i. To conduct appropriate assessments, to be determined by myself, and prepare a psycho-legal report.*
- ii. To consider appropriate contact orders if the children remain in The Cayman Islands and / or if they move to New York.*
- iii. To consider the impact of a sole residence order.*
- iv. To consider the impact of a no contact order with (R).*
- v. To consider the impact on the children*
 - a. if they were to relocate to New York with no contact thereafter with (R).*
 - b. if they were to relocate to New York with contact arrangements made with (R).*

⁵⁷In the Executive Summary Dr. Basson summarised her assessment as follows: *“A comprehensive psychological assessment was undertaken for both adults and the children. This included semi-structured interviews, psychometric testing, and observation of parent–child interaction. Measures used included the Inventory of Parent and Peer Attachment (IPPA), the Child–Parent Relationship Scale (CPRS), the Parent Mentalising Questionnaire (PMQ), and the Millon Clinical Multiaxial Inventory-IV (MCMI-IV). Together, these provided a framework for evaluating attachment style, reflective functioning, and personality organisation.”*

- c. *if they were to remain living in the Cayman Islands with no contact with (R).*
- d. *if they were to remain living in the Cayman Islands with contact arrangements made with (R).*
- vi. *To consider the impact on the children of the various orders it could make.*
- vii. *To consider what therapeutic interventions or external support, if any, would be psychologically indicated to enhance family functioning, especially if the children were to have contact with the respondent, or to otherwise assist the children and family.*
- viii. *To consider what therapeutic interventions or external support would be needed if contact arrangements with the respondent are put in place or would be needed or recommended if there was to be a no contact order which may result in the respondent no longer being involved in the children's lives."*

Dr. Basson added that she was asked to recommend questions that she deemed, as the expert, needed to be asked and answered. She said in her report that those questions were:

- "a. Is (R) a psychological parent to both children?*
- b. Is the relationship between each child and (R) repairable?*
- c. Do the parties have the capacity to change?"*

146. Paragraph 5 of Dr. Basson's report contains the details about her qualifications and experience. She is highly qualified with 19 years of post-doctoral experience and 26 years of practicing in the psychological field overall. She has 18 years of experience in child and family clinical psychology with expertise in assessing children including where there has been family breakdown and parental conflict. Dr. Basson clearly recognised that her overriding duty was to the Court. I treat her as a suitably qualified expert. The report was detailed and well-reasoned and her oral evidence was firm and impartial. I found Dr. Basson to be an impressive witness who was able to grasp the significant issues which have been plaguing this family over a number of years.

147. Dr. Basson rightly stated that this matter had been ongoing since 2021 and *"has become repetitive, acrimonious, protracted and complicated"*. The accuracy and conciseness in the following insightful 'Introduction' and 'History' paragraphs in Dr. Basson's Executive Summary encapsulates this family's woes:

"Introduction

The case concerns a highly protracted separation spanning approximately five years between (R) and (T), formerly a couple who co-parented two children, (RI) and (RA). Both women share significant parental histories characterised by early relational trauma,

attachment insecurity, and difficulties in emotional regulation. These vulnerabilities have intersected to produce a complex and entrenched family system marked by high conflict, psychological enmeshment, and competing narratives of harm and belonging.

History

(RI), the elder child, entered early childhood with an established attachment to (T) and later developed a secondary bond with (R), who entered her life at approximately 18–24 months. (RA) was born into a period of relative family stability but experienced significant exposure to parental conflict from an early age. The family relocated to the Cayman Islands, where patterns of discord intensified. The ongoing legal process has reinforced emotional divisions and prolonged the children's exposure to hostility and emotional insecurity."

148. Dr. Basson set out a list of the information that had been provided to as well as the assessments used by her. Gleaned from reading the information provided to her Dr. Basson shared this highly accurate view at paragraph 14 in her Report:

"This matter demonstrates a complex and distressing situation for a family, whose lives have been dominated by a parental separation and divorce for the best part of five years. The children have had to manage two warring parents, who they know hate each other, alongside the usual trials of childhood development. Differing narratives, allegations and abusive behaviour have made it difficult for many involved to understand. Splits between professional opinion has further hampered the case."

149. Dr. Basson then stated from paragraph 833 in the Conclusion part of her report:

"833. Having reviewed the chronology of events, professional reports, witness statements, and available documentation, it is my considered professional opinion that the ongoing dynamics between (T) and (R) present a significant and continuing risk to the emotional and psychological wellbeing of both children.

834. In this case a consistent pattern emerges entrenched conflict, emotional coercion, emotional neglect and obstructive behaviour have repeatedly undermined the children's rights to a stable and meaningful childhood and relationship with both parents. Both parties have, at times, exhibited behaviour that prioritised personal grievances over the children's best interests.

835...

836. *Both parents externalize blame, thereby absolving themselves of any need or desire to change.*

837...

838. *It is also of concern that (R's) own mental health has deteriorated under the weight of these proceedings, culminating in a suicide attempt in 2022. Whilst this reflects not only the impact of the litigation on her psychological state, but it also demonstrates the challenges that already existed for her in with her mental health and emotional regulation."*

150. I was disappointed to read at paragraph 13 in Dr. Basson's report that the Department of Children and Family Services ("DCFS") denied Dr. Basson's request for her to speak with Ms. Lydia Watling who had prepared a number of welfare reports in this matter. I am not sure what the reason for the refusal was and at who in the DCFS decided that that was the appropriate course to take. The DCFS from its substantial involvement with this family over a number of years, would have known that this was a complex matter and that the Court, with the assistance of the psychologist, was striving to do what is best for these children who find themselves in the middle of significant parental conflict. Although the denial was done "*respectfully*" I would have expected the Department to have been willing to assist the psychologist in her important role rather than being obstructive. If a similar situation arises in a future case, I hope and expect the DCFS to be more cooperative and recognise its duty to assist such experts and the Court in relation to children who find themselves in a family in conflict within the jurisdiction.

151. In the Executive Summary, Dr. Basson helpfully draws on the great detail contained in her lengthy Report to provide concise comments concerning T and R and the children. She states in relation to R:

"(R) presents as an intelligent individual whose early attachment disruptions and exposure to parental conflict have resulted in a deeply ingrained fear of abandonment and rejection. Psychometric findings indicate traits consistent with borderline and avoidant personality functioning. Her emotional regulation is variable and deteriorates under stress, leading to self-focused, impulsive, and defensive responses. Her capacity to mentalise is relatively intact at a cognitive level but collapses under emotional strain. She experiences high levels

of internal conflict, guilt, and shame, which manifest as efforts to control her environment or withdraw from relationships. These vulnerabilities are particularly pronounced in her parenting, where emotional need often precedes reflective attunement to the children's states."

When considering the above, I note that in her Report, Dr. Basson highlighted R's submission made at the previous hearing that to enable the children's relationship with her to be repaired, the Court should consider making a sole residence order with her and that: (i) the children be placed with her in the UK or Grand Cayman (wherever she was) with no contact for the children, during that time with T; or (ii) if that was not seen to be in RI's best interests, then this arrangement could be put in place for RA alone. Dr. Basson stated that by doing that:

"(R) seemed not to consider what that might be like for the children, and shows, how (R's) understandable emotional reactions to this situation, cause her to not only place her needs, before the needs of the two children, but make decisions that would be overtly detrimental to them."

152. Dr. Basson stated in relation to T:

"(T) demonstrates strong executive functioning, high social competence, and a capacity to provide structure and security. However, her psychometric profile and behavioural observations indicate personality traits consistent with narcissistic vulnerability. She tends to idealise or devalue others depending on perceived loyalty, which can inhibit her ability to fully mentalise for the children under stress. While her parenting is organised and nurturing in stable contexts, during conflict she becomes controlling and defensive, interpreting events primarily through her own emotional lens. This contributes to difficulties in recognising the children's internal emotional worlds, particularly when their needs conflict with her own perspectives."

153. In relation to RI, Dr. Basson stated:

"(RI's) developmental history reflects early exposure to parental conflict, inconsistent emotional attunement, and divided parental loyalties. During her formative years, she experienced confusion around her family structure, believing (R) to have been present since birth. (R's) later withdrawal, combined with (T's) protective positioning, contributed to (RI's) internalised sense of rejection and confusion. Over time, she has learned to mask

her emotional responses and align with (T) for emotional security. Her apparent resilience masks underlying anxiety and emotional suppression. (RI) currently functions well academically and socially, but her responses to discussions about (R) remain marked by distress and discomfort.”

154. In relation to RA, Dr. Basson summarised:

“(RA’s) attachment development has been shaped by early exposure to emotional volatility between his parents. His understanding of family identity has been distorted by competing narratives regarding his relationship with (R), leading to internal conflict and guardedness. He experiences ambivalence, wanting connection with (R) but fearing disloyalty to (T). He shows signs of hypervigilance and emotional inhibition, typical of children exposed to high-conflict environments.”

155. Dr. Basson then goes on to summarise her views and conclusions about the family as a whole as follows:

“The parental system is defined by reciprocal psychological defences: (R’s) fear of abandonment and emotional dysregulation intersect with (T’s) control and defensiveness, creating a circular process of rejection and retaliation. Each parent, in turn, enlists the children into their emotional sphere for validation, leaving both (RI) and (RA) psychologically triangulated. The children have developed adaptive but defensive strategies: (RI) through masking and compliance, and (RA) through appeasement and vigilance. Both children have been left managing parental emotions beyond their developmental capacity.

The evidence suggests that both children have been adversely affected by prolonged exposure to interparental conflict and by the inconsistent emotional availability of both parents at different times. While (T) currently provides the more stable caregiving environment, her insight into the children’s internal experiences remains limited. (R’s) current psychological functioning continues to be compromised by unresolved attachment insecurity and difficulties in emotional regulation. Both parents’ vulnerabilities remain significant risk factors for the children’s emotional stability if unmanaged.

From a psychological perspective, (RI) and (RA’s) continued development depends upon stability, predictability, and insulation from further parental hostility. Sustained exposure

to conflict or attempts to reintroduce contact without careful therapeutic preparation would risk further emotional dysregulation and identity confusion, particularly for (RI). Each child requires sensitive handling of their relational history to prevent further psychological harm.”

156. Dr. Basson rightly highlights that each child’s relationship with R is substantially different and should be treated differently when planning any way forward. She correctly highlights that the children require stability, predictable caregiving, and insulation from the indisputable ongoing parental conflict. Dr. Basson observed that the children are thriving compared to their emotional state 18 months ago and she therefore said that contact must be:

“..child-led, gradual and supported by therapeutic input for all parties.”

I note Dr. Basson’s warning which then followed:

“If the children go back to the situation that they were previously in, going back and forth between homes, experiencing the impact of mental health challenges with (R) and experiencing alienation, guilt and responsibility with (T), the children are likely to return to being emotionally unwell.”

157. She recommends that RI’s contact with R should at this time be by written correspondence while R engages in therapy *“to enhance her reflective and emotional capacity”*. This is because she was of the view that a *“slow, stepwise progression”* which protects RI would likely be more useful to RI. Dr. Basson said that dependent on how the therapeutic input for T, R and RI had progressed, thought could later be given to online indirect contact supervised by a professional, like a social worker once a month for a period of 6 months. This level of contact for R with RI at this time appears to be agreed by the parties.

158. Dr. Basson stated in her oral evidence:

“RA likely to say I do not want to do a call or I am not sure. My in-depth assessment of RA shows that he is incredibly confused about his relationship with R. He has a true belief that R is his mother, but deep confusion that he has been told that she is not. In my report I say that he was told by T and D that not see R as his mother. It is not okay to say that to a child. I say that in my report. When we want persons out of our lives as an adult that is understandable, you must reflect on how that desire impacts our parenting. Editing a

child's history is detrimental to their sense of identity and development and can cause massive confusion."

That is sending a clear message to T. She adds that:

"On a day-to-day basis (RA) is a happy little 6-year-old. In home with T and D, that creates safety for him. Underneath that he has confusion and that needs to be repaired, regardless of the outcome of this."

Dr. Basson highlights that contact with R would likely have a number of impacts on RA. She says that the biggest one would result from how much he worries about T when he sees R and the anxiety that causes him. With this in mind, Dr. Basson highlights the importance of T engaging in therapeutic work individually for herself and as a parent to integrate RA's history into her narrative as this would help her to help RA integrate this into his own. Dr. Basson says this is *"imperative"* for RA's emotional well-being. Dr. Basson is of the view that to deny this for RA:

"..will cause him ongoing identity confusion and internalized anxiety."

Dr. Basson says that T must work on being able to contain her own emotions so that she can help RA process his. Dr. Basson recommends that R undertake therapy to enable her to start to meet her own needs, to:

"..put RA's needs above her own, especially in providing nurture, and not getting your own needs met through him."

159. Dr. Basson is of the view that RA does not feel safe being alone with R and therefore contact should be carefully thought out with an appropriate adult being present. Dr. Basson recommends that, hand-in-hand with contact, RA should have regular weekly sessions with a professional (like a school counsellor) to measure his psychological well-being. Dr. Basson remarked that:

"It's the supervised nature that provides the internal world security for RA whilst the therapy is started."

She added that:

"It's difficult to make long term (contact) recommendations because each step in the progression depends on the last step."

She recommends in the report that RA's interim contact with R should be supervised video contact for 10-60 minutes which could progress to short direct contact supervised by a professional such as a school counsellor. She said that it could then move to one hour supervised contact once per week with engagement in a fun activity. At the time of writing, the contact has already advanced at that stage. Dr. Basson states that overnight contact "*would be a big stretch*" for RA and could potentially make him feel significantly compromised. She did feel that therapeutic work to "*repair*" RA and R's relationship to therapy could enable contact to be reassessed therapeutically. In the Report she states that the supervisor:

"..with the ability to arrange, co-ordinate and comment on the ongoing contact with the children, would be ideal, as moving up incremental steps in contact arrangements depend on the outcome of the step before."

She added that neither parent should have any contact with the other to make arrangements for contact and neither should be the person dropping off or picking up. That limited level of contact is not agreed by R and the Guardian. Post the hearing, the Court has informed the parties that the level recommended when the children and R were all in Cayman was too restricted, whilst at the same time not agreeing to the contact development schedule being suggested by the Guardian. I will elaborate on that when I later come to analyse the Guardian's evidence and submissions.

160. In her report, Dr. Basson said that removing contact at this stage for RA:

"..risks creating a developmental and identity rupture at a time when (R) is still forming stable internal working models of caregiving."

She stated that RA:

"who retains an ambivalent attachment with (R)," may feel "a sense of abandonment" and he "would lose the possibility for (R) to repair and integrate the complexity of his family story."

Dr. Basson said that RA could:

"feel loss, guilt and confusion" and that: "Over time, that can manifest in anxiety and emotional withdrawal, especially in an environment where (R's) role in his early life is rewritten and denied."

Dr. Basson went on to say that RA:

“would lose access to part of his family story and identity, something which he seems to be concerned with already” adding: “Even if (R’s) role was conflictual, she is still part of his psychological and narrative identity and he needs to develop a coherent integrated one, through both (T) and (R).”

This is relevant when the Court considers the issue of contact moving forward. The Guardian, highlights the above evidence of Dr. Basson and relies upon it to support the contention that:

“The most vital requirement right now is for (RA) to have the opportunity to repair the bond between him and to establish a more secure attachment (R).”

161. T says that she has ‘taken on board’ Dr. Basson’s observations about what the consequences would be for the children if a no contact order was made and that she, therefore, no longer seeks that order. That is why she agrees to the indirect contact between RI and R being by letter and adds that there should be no requirement for RI to respond. That is why she states that she agrees to contact for RA to be in the staged, child-led plan, with the timing, duration and progression of contact being dependent upon RA’s emotional safety with views expressed by professionals which could include school counsellors, psychologists and social workers been taken into account.

162. Dr. Basson also provided her observations about the effect if the Shared Residence Order was discharged and replaced with sole residence order to T. Dr. Basson felt that would likely enable RI who she said is *“thriving”*, who has *“made marked progress”* in and out of school and who, at this time:

“appears to be very happy in her home environment, to experience enhanced stability and continued progress.”

However, she added that, if there was a changed order:

“Reflection in adolescence on her early experiences may evoke feelings of anger, sadness, or role reversal.”

Dr. Basson said that a change in the Residence Order may mean that RA experiences:

“safety and stability” but that would only be the position *“if carefully structured contact with (R) is maintained”* and *“well managed.”*

163. Dr. Basson rightly opined that therapeutic interventions are required and they are of the “*utmost importance*” for R and T. She indicated that she felt that the recommended therapy should be available on island. In the Executive Summary the therapeutic interventions she recommends are:

(i) If contact resumes:

- Both parents should complete Foundations of Attachment Parent Training and engage in individual elements of Dyadic Developmental Psychotherapy (DDP).
- R should undertake Trauma Therapy or Mentalisation-Based Therapy alongside Dialectical Behaviour Therapy (DBT).
- T should engage in Cognitive Analytic Therapy (CAT) to enhance reflective capacity and insight into her parenting impact.
- Both children should engage in Parent–Child Theraplay and DDP sessions.

(ii) If contact does not resume:

- T and D should complete Foundations of Attachment Parenting and DDP.
- R should continue individual therapy addressing emotional regulation and trauma processing.
- T should engage in CAT and Theraplay sessions with each child to support emotional integration and secure attachment development.

When one reflects upon some of the psychological observations about the effect of the conduct of the parties set out in paragraphs 147-149 above it is understandable that Dr. Basson stresses the importance for therapeutic input for this family. She rightly highlights that the long-term consequences of the parent’s dynamics for the children may include attachment disturbances, identity confusion and relational difficulties as they mature. Dr. Basson rightly says that the children’s continued exposure to the relational toxicity that exists between the parents, which will continue if there is no intervention, would likely have long-term consequences for their mental health, including increased vulnerability to anxiety, depression, difficulties with self-esteem and relational dysfunction in adolescence and adulthood. Importantly, and rather alarmingly she states at paragraph 840 in her report:

“Unless decisive steps are taken to address the entrenched conflict and coercive dynamics, and to uphold the children’s right to meaningful relationships, there is a substantial risk of irreversible psychological harm.”

Most regrettably, it is clear to the Court that the forceful sentiments expressed by Wall LJ and the warnings he gave to warring parents in ***Re R (residence)*** [2009] EWCA Civ 358, which I shared back in 2024 in my closing observation at paragraph 350 in the Judgment, has fallen on deaf ears. It is troubling that Dr. Basson’s firm words concerning T and R’s parenting and her warning expressed almost two years later are so similar to Wall LJ’s comments about the parents in that case causing the child serious harm by their ongoing mutual dislike and recriminations and about the resultant damage to their children due to them continuing their battles against each other in legal proceedings.

164. When commenting upon the impact if a relocation order to New York was made with contact for R Dr. Basson stated in relation to RA that:

“The most significant psychological risk is the further erosion of RA’s relationship with (R), who already has limited and fragile relationship in both the physical world and his internal one.” She stated that *“Relocation risks solidifying a one-sided family narrative, in which (R) becomes psychologically “written out” of RA’s sense of self”* and that *“Over time, this can create identity fragmentation, especially as (R) continues to experience confusion about his early life and relationships.”*

Dr. Basson stated that, as video contact would likely make up the main part of the regular contact, it would have to be thought about very carefully. She felt that direct contact arrangements:

“would need to be carefully considered, especially in the early phases, as therapeutic work needs to be aligned with reintegration of contact.”

She felt that, although more complex to do, the therapeutic work could be done online if the parties/children were not in the same country. Dr. Basson accepted that relocation could make reinforcing contact more complicated and difficult and that safeguards would have to be considered to maintain contact between R and RA. When considering whether a relocation order should be made, I have Dr. Basson’s cautionary observations in my mind. In relation to RI, Dr. Basson expressed a view that there would be little negative impact from a relocation and that the written

indirect contact would easily go ahead and, depending on RI's views, that it was possible that this could develop into online contact to try to repair the relationship with R.

165. However, it is evident that the content in Dr. Basson's report had an impact on T. T appears to have accepted the factual assessments as well as the various recommendations. She has been able to stand back and have sufficient insight to recognise the validity of the psychologist's observations, even the negative ones about her. In her oral evidence, T said that it was not nice to read such an assessment about herself. She said:

"I read the reports six times that weekend. I dwelled on the impact on the children and the part I played. I can recognise that I have those traits. Maybe I am overprotective and (faces) phrases difficulty as not a psychologist. I am an over-protective parent. Reading what Dr. Basson says, I do not disagree with any of it. I can see it. Shocking how that impacts on RA. I put in the affidavit I full agree with the recommendations.... I do not want the children to be damaged when older... I fully trust Dr. Basson that she understands the children and she genuinely cares about best interests."

When being cross-examined by R about historical matters T rightly said:

"Dr. Basson's report highlights far more important concerns and we should focus on what Dr. Basson is saying. You and I should focus on what Dr. Basson is saying."

T commendably said when cross-examined by the Guardian:

"Dr. Basson made me change my position from no contact to the recommendation of Dr. Basson. I am willing to go with the counselling recommendation of Dr. Basson, whether here or in New York. I know that I can't get the children to move on unless I help myself as well. I must get to the position where I am able to do this for all of us. This has ruled my life for the last 5 years. I trust Dr. Basson and I believe she understands the scenario."

166. R cross-examined Dr. Basson at length during the hearing and she submits that the psychologist's evidence, as it relates to her mental health and how that impacts the way forward for her relationship with the children, must be approached with methodical caution for the following reasons. R says that Dr. Basson's report:

“(i) represents a snapshot assessment; (ii) incorporates untested narrative material; (iii) departs from the consistent conclusions of other professionals; and (iv) applies asymmetrical interpretation of parental traits.”

167. R says that one must put the Report in context with the other medical evidence filed and already considered in these long-running proceedings. Firstly, Dr. Neita, who is a qualified psychiatrist who started to see R in January 2023 and who gave evidence in the 2023/2024 hearing. When the referral was made to Dr. Neita, she was informed that R was suffering from stress from ongoing divorce and child proceedings and that she had attempted suicide by hanging in December 2022. The doctor was also made aware that at that time alcohol was also involved. R had shared with Dr. Neita that she had also seen Dr. Lam in 2021 for symptoms associated with the stress of these Court proceedings. Dr. Neita concluded that her mental condition was a reaction to the stress of the custody proceedings and she was diagnosed as having mixed anxiety and depression, a similar diagnosis to that given by a previous doctor, Dr. Magill. She said that the custody proceedings were a trigger which had spurred her on to act and that drinking alcohol was clouding her inhibitions and contributed to the event. Dr. Neita, similar to Dr. Basson’s evidence at the present hearing, found that R no longer had suicidal thoughts. Dr. Neita felt that R seemed to be coping better with the Court proceedings. Dr. Neita found that there were no symptoms of bipolar disorder and no psychotic features. Dr. Neita’s treatment plan included the prescribing of anti-depressant, sleep and anti-anxiety medication but she indicated that, if R failed to take the medication, she would be at risk of becoming depressed again and developing suicidal thinking again. Importantly, Dr. Neita was of the view that someone with R’s mental condition would hurt herself rather than others and that the risk of her hurting the children was low. Dr. Neita informed her that R was still engaging in psychiatric services.
168. In the 2023/2024 proceedings R produced a ‘Psychiatric Update’ report dated 20 June 2023 compiled after she had seen R on four occasions, approximately a month apart, from March 2023. Dr. Neita stated that R had maintained her improvements with no untoward events during that period. However, the doctor flagged the ongoing concern arising from R’s intermittent use of alcohol when she was stressed and advised that she should only drink in moderation. The doctor believed that she was compliant with her medications and that psychometric testing done in the week before the report showed no significant level of depression and mild levels of anxiety. The doctor indicated that R’s updated diagnoses are:

“Major depressive disorder and anxiety disorder - unspecified.”

She added that the acrimonious child custody proceedings are a “*psychosocial stressor*” for her, but her clinical status was stable. She went on to say:

“As of the assessment on June 16, 2023, it is this writer’s clinical opinion, with a reasonable degree of medical certainty, that (R) is fit to exercise parental custody of her children and she does not pose a risk to them, or to herself, it is also this writer’s opinion that she is fit to resume work. These opinions have not changed since they were expressed in court.”

169. R also produced a letter from Dr. Tobian, MSW, LISW-S, LICDC, a Recovery Services Supervisor and Psychotherapist⁵⁸ at Infinite Mindcare dated November 16, 2023. The writer indicated that:

“Based on my personal assessment, there is no evidence of any active, diagnosable substance use disorder based on available information. I would also rule out any historical opioid or sedative/hypnotic use disorder based on available information. In the report by Dr. Brannon⁵⁹, he notes both opioid and sedative/hypnotic use disorder as ‘rule- out’ conditions and suggested further assessment from a substance use specialist. Based on my assessment, I do not believe either of these rise to the level of diagnostic substance use disorders. There are no current concerns in this area and historically I would describe use of these substances as ‘misuse’ vs. a substance use disorder.

Regarding alcohol use, (R) was diagnosed with ‘alcohol use disorder’ by Dr. Brannon. There is no specification of severity on the diagnosis, which is an incomplete diagnosis. I understand Dr. Brannon’s concerns for (R’s) alcohol use, which I share and would again categorize a reported consumption of alcohol as misuse vs. a diagnosable substance use disorder. To expand on my rationale, the majority of (R’s) heavy misuse of alcohol occurred during a very specific and limited time period which coincided with a major depressive episode which culminated in a suicide attempt. While (R) reported to have used alcohol non-recommended limits and other various times, a reported use outside of that limited period, does not rise to diagnostic levels...

While it can be difficult to diagnose and monitor substance use conditions as we rely heavily on self-reported information, it is my overall opinion is that (R) has been honest,

⁵⁸ Credentials taken from her letter dated November 16, 2023.

⁵⁹ R produced a heavily redacted report from Dr. Brannon dated 15 April 2023. Having read the content of the report and the views expressed thereon by Dr. Tobain, I do not separately comment on that redacted report in this judgment.

open, and forthright in her engagement with therapy services. There are numerous pieces of information which (R) has disclosed which would negatively impact on evaluation of her potential substance use disorders. She openly shared these pieces of information despite having no way to have learnt this information otherwise. She has also been consistent with sharing this information across her personal providers. In my opinion, this indicates a high degree of authenticity in her reporting and reflects her personal desire to make and sustain changes in these areas.”

170. In the Judgment, following my review of the then filed medical evidence about R, I stated:

“When I consider all the medical evidence, I am satisfied that, when R is compliant with her medication regime, her mental health is stable. I am satisfied, particularly from what Dr. Tobain reported, that R is motivated and forthright in her disclosure to professionals concerning her health. I note that, when she had attempted suicide, R did not disclose that fact to anybody until her work colleagues became concerned and sought assistance for her. That was at a time when these proceedings were at an elevated contentious stage, and R understandably felt that T would have welcomed the disclosure of such information to bolster her case. That said, R should have disclosed the information, especially as contact took place with the children after the episode. I am satisfied that R would not take that same secretive approach again. I am satisfied, having read the observations and use of the medical practitioners, that R’s historical mental health issues do not mean that she would harm the children and do not prevent her from being able to safely care for them.”

R contends that the findings of the above medical experts:

“are materially not reconciled with the weight placed by T on Dr. Basson’s report.”

171. In the Judgment I did not comment in great detail about the content in Dr. Brannon’s “forensic psychological evaluation” because the copies made available to the Court from R were so heavily redacted. In the present proceedings R presented less redacted versions of the reports of the assessment made almost 3 years ago in April 2023 and she places great emphasis on it. R is of the view that the assessment was:

“forensic in nature and included a clinical interview, detailed medical status examination, and a battery of validated psychometric instruments.”

R provides details of each instrument and states that they are widely accepted as being reliable measures for assessing “*as reliable measures for assessing personality structure, emotional regulation, symptom exaggeration or minimisation, and current risk*”. R contends that the MMPI-3 instrument used by Dr. Brannon is regarded as being:

“a robust tool for identifying personality pathology including features relevant to borderline personality disorder, while also incorporating validity indices designed to detect response distortion.”

R states that Dr. Brannon’s testing indicated:

“valid test presentation, intact judgment and insight, low current levels of depression and anxiety, no active suicidal ideation, and no evidence of ongoing psychopathology inconsistent with safe parenting. Distress was contextualised as situational and reactive rather than characterological.”

This is similar to a number of the conclusions reached by Dr. Neita which are outlined above.

172. R seeks to contrast Dr. Basson’s assessment which she highlights took place was undertaken after a prolonged period of limited or disrupted contact between herself and the children. As a result. R submits that caution is required to:

“avoid circular reasoning, whereby distress and dysregulation arising from enforced separation are relied upon to justify continued restriction of the parent-child relationship.”

R correctly reminds the Court that expert evidence is advisory and must never supplant the Court’s obligation to put such evidence in the context of all other evidence, including of other experts, when determining what orders would be in the best interest of the relevant children. R criticises Dr. Basson’s methods by highlighting what she sees as being “*a methodological asymmetry in the treatment of parental traits*”.

R states that:

“While both parents were identified as presenting relational or personality-based challenges, the functional impact of those traits was not equivalently assessed” adding “*In particular, there was no structured analysis of offsetting factors such as facilitation,*

insight, emotional regulation over time, or capacity to promote the children's relationship with the other parent."

173. R feels that T's concerning behaviours have been commented upon and assessed in a more favourable way than her own. R contends that T's behaviours are consistent with rigidity, control, and emotional reactivity and that Dr. Basson's report has viewed them as being as adaptive or protective, whereas lesser comparable traits which Dr. Basson has attributed to R are viewed as being destabilising. R argues that T's emotional distress, and the need for T to address that through therapy, should not be a barrier to R's contact taking place.
174. The Guardian seems to accept the majority of Dr. Basson's report. However, she does challenge some of the core recommendations made by this expert, an expert whom she jointly instructed on behalf of the children. The Guardian reinforces Dr. Basson's view that it is important for RA's identity to include R as a parent and that therefore, there should be contact to avoid psychological harm to RA.
175. The Guardian to a degree supports the interim contact recommendation made in relation to R and RA, namely once weekly. The Guardian does not believe that it needs to be supervised, although she acknowledged that for a period after the hearing it actually would be. She believes that it should be longer than an hour in length.
176. She felt that by the time that this reserved judgment was handed down parties would have been engaged in the individual therapy recommended in Dr. Basson's report. In the report, she also expected R and RA would have been engaged in the joint therapy recommended in Dr. Basson's and that T and RA would be engaged in the joint therapy recommended in Dr. Basson's report. If that had happened during period of time before the judgment was delivered, the Court would then have to consider the next stage of contact along the lines of those recommended by her. Unfortunately, no meaningful therapy has taken place.
177. The Guardian places great emphasis on the physical contact visits that she has supervised as part of her assessment, including those that were commented upon back in 2024 in the Judgment. In relation to RA, she does not agree that there is the reticence and reluctance for contact from him which Dr. Basson reports there to be. She reports about a child that may be initially reserved after

soon leaving T or D, but who soon settles in to have a fairly normal child/parental interact with R on contact visits. She comes at it from a more practical position, what she has herself witnessed and experienced on the contact visits, rather than the more in-depth psychologist's analysis which governs Dr. Basson's views.

178. The Guardian agrees with Dr. Basson that there should be therapeutic work for R and RA to try to reestablish their attachment. She notes that Dr. Basson stated that this would include Theraplay with the parent and child engaging in the same session. She also noted that Dr. Basson highlighted that the therapeutic sessions would be intensive and difficult to conduct remotely. I note that Dr. Basson refrained from expressing a recommendation about the relocation application, likely because she understood that was a matter for the Court to determine. Having regard to the added complexity of undertaking such work overseas, the Guardian does not agree that the children should relocate to the US at this time as she contends that this would:

“risk irreparable damage to that parent-child relationship and significant psychological harm to (RA), including identity confusion and/or internalized anxiety due to unresolved loss (as set out in Dr. Basson’s executive summary document).”

The Guardian also has concerns because the majority, if not all the contact, would have to be indirect contact and she states that she and Dr. Basson are reticent about T and D managing such contact and putting RA in a situation where he would likely pick up on T's emotions. As Dr. Basson has highlighted that RA is conscious that T gets upset when he sees R, and as he wants to protect T, he does not want to unsettle her. The Guardian, as set out in the Judgment, highlighted the problems that have occurred when there was such contact, and the fact that T has, over a number of years, stated her negative views as to R's status as a parent.

179. However, the Closing Written Submissions filed on behalf the Guardian clarify her statement that the above reintroduction suggestions would “preferably” be supported by therapeutic interventions. The Guardian felt that even if the Theraplay did not occur (for example if it was hindered or prevented by either party) that her suggest phased reintroduction should take place. This is a significant difference between the Guardian and Dr. Basson, the latter forcefully stressed that therapeutic intervention was a fundamental requirement for the relevant child and both parents. Both the Guardian and Dr. Basson were very firm in their position when they were asked to address

the difference between them. When Dr. Basson was asked about the differing view so the Guardian she forcefully said:

“I’m not going to contradict my recommendations because they are very thoughtfully and carefully considered following an extensive assessment. ... I understand that the Guardian has a different perspective and she’s really entitled to do that. And it might be even helpful for the judge to have some different perspectives. I would just remind the court that my recommendations come from a very extensive piece of assessment work. I don’t come up with recommendations off the top of my head. They are very carefully considered. I have experience working with very heavily traumatised children with looked after children, making recommendations for contact, um, and also in very difficult family circumstances over an extensive career in Cayman and in the UK. And I take recommendations in these very tricky cases extremely seriously because I know they have an impact on a child’s life, not just now, but for the decades to come in their lives. That does not pass me by. And so I won’t be made to move on the recommendations and the understandings that I have made because they are very thoughtfully considered.”

As I have already remarked, I found Dr. Basson to be a very impressive witness who has conducted an extremely in depth and wide-ranging assessment. Although I do not seek to devalue the views expressed by the Guardian deriving from her hands on interaction observations of the children and about T and R’s conduct, and although I accept that she commendably has some academic background in psychology, I feel it appropriate to place significant weight on the long and short term recommendations made by this psychologist who has taken into account a considerable amount of factors. The family dynamics and the therapeutic intervention that needs to be done with this family is different to that seen in number of child contact/residence cases. There is no quick fix. The psychological input that is required to address the children and parents’ issues means that one’s deliberations must go deeper than how a child and parent interacted during a few supervised contact visits. This is especially so when the children are currently thriving and, as Dr. Basson indicates, there is a real risk of them returning to the unsettled state they were previously in if the establishment of the relationship is not handled in a careful staged manner. I do not agree that contact would be progress to the degree or timeframe suggested by the Guardian, especially without the therapeutic intervention.

180. The Guardian supports the interim contact recommendation made by Dr. Basson in relation to RI, namely initially by letters sent by R to RI running hand in hand with therapeutic input. She also agrees with Dr. Basson's view that if RI and R were in the Cayman Islands, the next step could be supervised short face to face contact in an activity once per month for a 6-month period, whilst also considering whether therapeutic input for RI would be beneficial for RI. The Guardian noted that Dr. Basson stated that T would need to engage in therapeutic work concerning her denied narrative of R in RI's life. The Guardian agrees with that but states that RI and R would have to be in the same jurisdiction for their broken relationship to have any change. The Guardian highlights the long-term psychological consequences mentioned by Dr. Basson at paragraph 851 and 852 in her report:

"851. Without contact, (RI) would likely feel a sense of relief. However, she may be at risk of consolidating a rigid 'all or nothing' narrative about (R) (she is bad/of no consequence). It would be easier for her then to generalise this to other relationships or matters in her life. She may develop the view, if you don't like something, cut it out, don't deal with it.

852. Whilst this protects her from pain in the short term, it could limit emotional flexibility and empathy in later relationships."

Background - The hearing

181. The hearing, which was recorded, commenced on 9 December 2025. Unfortunately, it did not conclude within the six-day time estimate and it was extended to a nine-day hearing. The Court heard oral evidence from the parents⁶⁰ as well as from D. Detailed expert evidence was given by Dr. Basson over a one and half day period. The Guardian presented her evidence and was cross-examined. NW, LS and BM⁶¹ submitted affidavits on behalf of T which were treated as being their evidence-in-chief. R indicated that she did not seek to cross-examine any of the three.
182. I was conscious at the hearing that R was the only party who was not legally represented. As I said in 2024 in the Judgment, a number of aspects of the right to a fair hearing, guaranteed by common law and s.7 of the Cayman Islands Bill of Rights ("BOR")⁶² are applicable. Peter Jackson LJ⁶³

⁶⁰ T's evidence occupied about two days of court time spread over three days.

⁶¹ Initials of witnesses used due to anonymisation of this judgment.

⁶² The Cayman Islands Constitution Order 2009.

⁶³ In relation to the mirror provision at Article 6 European Convention on Human Rights.

summarised these aspects at paragraph 23 in *Re C (Children) (Covid-19: Representation)* [2020] EWCA Civ 734:

“(1) Fairness is case-specific and is to be assessed in relation to the proceedings in their entirety: Ankherl v Switzerland (2001) 32 EHRR 1 at [38].

(2) There must be protection not only from actual unfairness but also from the risk of unfairness: Kanda v Government of the Federation of Malaya [1962] AC 322 (PC) at p.5.

(3) The right of access to the court must be effective, so that the individual has the opportunity to address all material that might affect the court's decision and is placed in a position to call evidence and to cross-examine: Mantovanelli v France (1997) 24 EHRR 370 at [36].

(4) The importance attached to the welfare of the child must not prevent a parent being able effectively to participate in the decision-making process: L v UK [2002] 2 FLR 322 at 332.

(5) The principle of equality of arms entails a reasonable opportunity to present one's case, including one's evidence, in a way that does not place one at a substantial disadvantage to one's opponent: Dombo Beheer BV v The Netherlands (1994) 18 EHRR 213 at [33].

(6) The administration of justice requires not only fairness but the appearance of fairness: R v Leicester City Justices ex p Barrow [1991] 2 QB 260; P, C & S v UK [2002] 2 FLR 631 at [91]. However, the misgivings of individuals with regard to the fairness of the proceedings must be capable of being objectively justified: Kraska v Switzerland (1994) 18 EHRR 188 at [32].

(7) The determination must be made within a reasonable time: Article 6 itself.”

183. I have at all stages of this part hearing had regard to Peter Jackson LJ’s summary and to the Court’s responsibility to ensure that all members in this family have a right to a fair trial. I felt that, although R did not have legal representation, due to her intellect and professional experience she was able to fully rehearse her case and challenge the evidence that she did not agree with.

184. On 15 December 2025, R started her evidence in chief from 3:40PM and she was then cross-examined until 5:00 PM. The hearing then resumed for its sixth day on 17 December 2025. At the start of that day, R indicated that she wished to file a “notice of application and affidavit” seeking an order to solely instruct a psychologist. I indicated that she would not need to file a notice as I

was willing for her to then make the application orally. It was evident that she wished to challenge parts of the jointly instructed expert, Dr. Basson's, evidence. She accepted that she had received Dr. Basson's report on 7 November 2025 and said that her application arose from her cross-examination of Dr. Basson. She wished there to be a shadow expert solely instructed by her to review all the psychological evidence, including such evidence filed for the previous substantial hearing. R indicated that she was willing to undergo a further assessment by a psychologist instructed by her. T opposed the application indicating that it should have been made much earlier. The Guardian initially said that she was neutral about whether there should be any further expert and any resultant adjournment of the hearing. However, after further consideration, the Guardian said that any delay of the court decision would detrimentally impact on the children and that if a report was obtained it would be limited in weight. The Guardian highlighted that there had already been expert evidence on the issue, that Dr. Basson had been cross-examined and she concluded that she did not support the application made by R. Conscious of any delay that would inevitably be caused, I asked R whether she had consulted with potential experts and whether she had received any time frame for when an additional assessment would be completed. R replied that she had reached out to an expert, that she did not have a date, but she believed she could get it all done by the end of January 2026. After considering all the submissions, being conscious of the right of R to a fair trial, I refused the application. I gave a brief, and rather rough, *ex tempore* ruling which should be a part of the recording made of the hearing. Due to the need to try to deliver this reserved judgment promptly, I do not intend to rehearse the reasoning given for my decision herein, save to say that I was concerned about the inevitable further delay in this matter which, in its current reincarnation, had restarted in November 2025 and which was already in the sixth-day of what had been listed for a six-day hearing. A detrimental impact on the welfare of the children would result from the inevitable delay. I indicated to R, who had shared with the Court that she has some knowledge of the psychological issues raised from making referrals herself and from her wider professional experience, that I felt that she had very ably cross-examined Dr. Basson at length on the areas of disagreement. During the hearing, although it was a joint expert being challenged and despite R greatly exceeding the time limit agreed for her cross-examination of Dr. Basson⁶⁴, I ensured that R was provided with ample opportunity to challenge the content of the joint expert's evidence which she disputed. R's cross examination of Dr. Basson lasted for five and half hours, spread over two days, with two and half hours being on the first day of the hearing and

⁶⁴ In the agreed witness schedule and timings, the Court and the parties had allocated only 2 hours to each party for their cross examination of Dr. Basson.

approximately three hours on the second day of the hearing. At paragraphs 28-37 in her Written Submissions, R, due to her professional background, was able to concisely address the areas of contentions that she had with Dr. Basson's evidence.

185. On 9 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 28 January 2026. On 23 January 2026 the Guardian wrote seeking an extension for filing to 30 January 2026. I granted that extension. On 30 January 2026 the Guardian requested an extension of filing to 2 February 2026, which was granted.

Background – Proceedings post the hearing

186. R's submissions were received on 2 February 2026. Hard copies of T's Closing Submissions and a separate lever arch file headed "*Legal Research Note on Parental Responsibility Prepared for the Court*" were received on 3 February 2026.⁶⁵ In the submitted Legal Research Note, which runs to 22 pages and is supported by eight case authorities and with excerpts from nine statutes, T raised very detailed Written Arguments about whether a non-conceiving, single-sex spouse who had been added to a child of the marriage's birth certificate has parental responsibility. A hard copy of the Guardian's submissions was received on 4 February 2026.⁶⁶ On 6 February 2026 T filed Supplemental Response Submissions.

187. The Guardian's Written Submissions contained and exhibited evidence (43 pages of emails) about post-hearing issues concerning arrangements for RA's contact with R and the therapeutic input for the family. R in her closing submission also referred to such issues and exhibited 38 pages of emails. This led to T, without leave, filing 11-page Supplemental Written Submissions "*in response to the written submissions of the Guardian and R regarding post-trial contact*". On 6 February 2026 R emailed the Court objecting to the Supplemental Submissions. R said that she was:

"concerned that the filing of further advocacy at this stage, without leave and without opportunity for response, is procedurally unfair."

R invited the Court to disregard the Supplemental Submissions or provide directions if the Court considers that any post-trial material is required, including whether any response is permitted. R's

⁶⁵ These were uploaded into the Court Portal after close of business on 2 February 2026.

⁶⁶ Emailed version received on 3 February 2026.

email prompted a response on the same day from T's attorneys. In that email Ms. Bridges stated that:

"Both the Guardian and (R) erroneously referred to the post-trial contact issues in the written submissions, notwithstanding the fact that there was no evidence before the court on these issues because these events took place after the trial....."

She added that if the Court decides to disregard the supplemental submissions, then the Court should disregard the submissions of the Guardian and R regarding the post-trial contact as there is no formal evidence on these issues. She added, in the alternative, if the Court regards the post-trial contract issues as being relevant when preparing his judgment, he could either require all parties to file further evidence on this issue, or he may decide that he is content to just consider the post-trial contact issues having regard to all the submissions but on the understanding that they are not supported by any evidence.

188. As a consequence of the litigating by correspondence approach being adopted by the parties, on 17 February 2026, I instructed my Personal Assistant to send an email to them. The relevant parts of that email are set out below:

"...I find that, as with the previous substantial judgment in this matter, I am being hindered in doing so by the way in which the parties choose to litigate⁶⁷. There are two issues that have arisen post-hearing that are presently concerning me:

T' submitted Research Note on Parent Responsibility

Until I received the substantial bundle containing the Note and 8 Case Authorities/9 Statutes I was not aware that there was an issue for determination by me about whether a non-conceiving single sex spouse could be added to a child of the marriage's birth certificate and, if they cannot, then such a registration would not in itself grant that spouse parental responsibility (although they would have it if there is a shared residence order).

If this was an issue which the Court was being asked to determine, I would have expected it to be raised at the outset of the hearing or at the very least well before the date for

⁶⁷ I had not been able to complete the Judgment in 2024 due to evidence presented and evidence filed by the parties after the March 20204 hearing. That resulted in me having to request a further Welfare Report and make recommendations for an updated report from R's psychiatrist.

providing written submissions, so that the other parties could have the opportunity to make submissions on the point if they chose to do so.

Before I can proceed with the judgment, I need to know from the other parties whether they wish to file written submissions on this newly raised issue. If they do wish to file submissions, they need to tell me when they can be provided as I will need to review those before proceeding with the judgment writing.

Introduction of evidence concerning post-hearing events

I did not expect to receive written submissions from the Guardian and (R) referring to / introducing “evidence” about events that they say have occurred post the hearing (and exhibiting post-hearing documents). Ordinarily, the Court makes a decision based on the evidence provided at the hearing, and, even then, that evidence is introduced either orally or in an affidavit/expert report.

I note that Ms. Bridges on behalf of (T) has tried to address that issue by providing supplementary submissions. I note that (R) contends that the Court should make a decision based on her and the Guardian's submissions alone and that (T) should be prevented from commenting on the post-hearing events/“evidence” set out in those submissions.

The Court has been placed in a very awkward position as it is being asked to consider “evidence” contained only in written submissions about post-hearing events. It appears great reliance is being placed on those events by both the Guardian and (R).

The dilemma is neatly summarised by the final two paragraphs in Ms. Bridges' email dated 6 February 2026 - In that email she states that “Both the Guardian and (R) erroneously referred to the post-trial contact issues in the written submissions, notwithstanding the fact that there was no evidence before the court on these issues because these events took place after the trial.....” She added that if the Court decides to disregard her supplemental submissions, then the Court should disregard the submissions of the Guardian and R regarding the post-trial contact as there is no formal evidence on these issues. She further said that, in the alternative, if the judge regards the post-trial contact issues as being relevant when preparing his judgment he can either require all parties to file further evidence on this issue or he may decide that he is content to just consider the post-trial contact issues having regard to all the submissions but on the understanding that they are not supported by any evidence.

Before I am able to continue with my judgment writing, I will need the parties to agree a way forward in relation to both of the above issues which have been caused by the way that they have litigated this case. I suggest the parties sit down with each with (without copying in the court) to see if they can agree. If they cannot agree, then they will need to seek a mention hearing date as this matter will not be litigated with the Court via correspondence.

....As this will be a judgment that takes a great deal of time to prepare, I am not willing to allow the value of its content to be derailed or devalued by later challenges which may arise by the disagreements concerning the above unusual litigating approaches of the parties not being properly addressed and determined prior to the writing of the judgment.”

189. On Friday 20 February 2026 the Court received an email from T’s attorney, with attached *inter partes* correspondence. Paragraphs 3 and 4 in Practice Direction No.2 of 2014 “Communications Between Counsel and the Court etc” make it clear that such correspondence must not be copied to the Registry or in any bundle submitted to the Court. Therefore, I do not intend to comment on the content in those communications, save to say that they mention issues between the parties as to how to proceed. Noting that Counsel for the Guardian would not be returning to the jurisdiction until Monday, 23 February 2026, T felt it appropriate to seek a mention date on the following day or even Wednesday, Thursday or Friday in that following week.
190. On 20 February 2026 the Court also received an email from R. In that email R indicated that the request for a mention hearing was premature because insufficient time had been given to the Guardian for her to respond and because the parties had not been asked to provide their dates of availability.
191. Having reviewed the above two emails, the Court responded by email to the parties after the close of the day on 23 February 2026. In that email, I indicated that I would be better placed to decide the way forward after I had heard from the Guardian and her Counsel.
192. On 23 February 2026, the Guardian’s attorney emailed the Court and indicated therein that she did not intend to file any submissions in relation to the parentage/parental responsibility issue raised by T. When dealing with the Court’s concern about the content of the written submissions, the Guardian shared her belief that the Court had stated that the parties, when preparing their written

submissions, should indicate what interim orders would be needed pre-delivery of the reserved judgment and therefore she felt that it was necessary to have some contextual framework as to the reasoning behind the Guardian's suggestions. The email stated that the Guardian's position was that interim contact remains a live issue requiring determination and it was proposed that the parties file evidence addressing post-trial contact before the Court makes any "necessary" interim orders. The Guardian added that:

"In light of the various difficulties encountered since trial in relation to the operation of interim contact, it would be helpful for the Court to consider further directions to ensure clarity and proper implementation of interim contact pending judgment."

The Guardian's Counsel suggested that there should be a mention hearing with directions following submission of a completed listing form and she added that she was not available to attend Court during the week of 23 February 2026.

193. On 24 February 2026, the Court received an email from T's Counsel written in response to the Guardian's email. Attached to that email was a five-page letter written:

"to update the Court and to set out our client's position on the two issues and to update the Court on (T's) immigration issues and the need to have an urgent directions hearing."

In the letter T opposed R's request that R have until 6 March 2026 to file her reply Written Submissions in relation to the detailed parental responsibility issues and supporting authorities provided by T. T contended that the request from R to be able to file by or on that date was a delaying tactic because: (i) R had a month to reply; and (ii) R was seeking to delay the judgment being provided after 27 February 2026. I found that submission to be an unmeritorious one, as no directions had been given about the filing of Response Written Submissions, and because T's separate detailed Legal Research Note was not something that the Court or the parties had likely expected to receive. The 27 February 2026 cut-off date for the reply submissions proposed by T in an email sent on 2:48PM on 24 February 2026 was an unrealistic one.

194. In the letter T indicated that if the Court could not resolve that parental responsibility issue and/or the issue concerning the Guardian and R introduction of post-hearing evidence on the papers without further submissions from the parties, then there should be an urgent directions hearing. The letter contained submissions about how the Court should address the contentious issues. The parties

are reminded that it is inappropriate for parties to rehearse their case and set out their submissions in correspondence to the Court, unless invited to do so by the Court. Such an approach does not comply with the requirements of Practice Direction No. 2 of 2014. That said, I accept that, in this case, Counsel for T genuinely felt that she was assisting the Court and was not acting unprofessionally.

195. In the letter, Counsel for T expresses “*a wish to remind the Court*” about T’s employment ending on 22 February 2026 and the fact that she had not been able to find other employment “*despite all efforts to secure alternative employment on the island*”. Counsel added that:

“Any further delays will mean that the Applicant will need to file another urgent application for permission to leave the island on an interim basis pending judgment as the Applicant will have no legal right to remain on the island after 27 February 2026, unless the Immigration Department grants a limited visitor extension on 27 February 2026. (...). Any further delay in concluding the Applicant’s relocation application risks material prejudice to the children, as to which see below for more details.”

196. The letter contained evidence about T’s immigration status stating:

*“As confirmed with the Immigration Department on 23 February 2026, no decision or action will be taken by Immigration prior to (27 February 2026) while the Applicant remains in lawful status. **The Applicant has been advised to return to the Immigration Department on 27 February upon cancellation of the permit.** The Applicant understands that a one-week extension would most certainly be given, and that any extension beyond one week is at Immigration’s discretion at that appointment. **The Applicant wishes to make clear that the length of any visitor stay is solely at the discretion of the Immigration Department and is not within the Applicant’s control.**”⁶⁸*

The letter informed the Court that, at an appointment to be held on 27 February 2026, a request was going to be made to the Immigration Department to grant them leave to remain in Cayman until 26 March 2026, that being the date of the flights to the US which have been booked. The Court was informed that the children may continue to attend their school as long as they are classified as visitors and their passports stamped with the 26 March 2026 departure date.

⁶⁸ The bolding is that of the writer of the letter.

197. By the letter the Court was informed that notice must be given to: (i) T's landlord by 27 February 2026, failing which she will have to pay rent for April 2026, which she and D do not have the funds to pay; and (ii) the children's school by or in the week of 2 March 2026 about whether RA and RI will be attending for the summer term because if the children do not attend they will still be liable for the full fees of that term. These two decisions, which T says have to be made by her, form a part of T's submissions contained in the letter that the Court should at this stage make the directions and orders that she seeks within a timeframe that meets some of the decisions that she was still empowered and had a discretion to make relating to her circumstances.

198. The letter introduced evidence about T's financial position relating to health insurance, final salary, and what the costs of relocation would be. At the end of the letter Ms. Bridges states that:

"Each day of delay in resolving the matters before the Court increases the financial burden on a family that is already operating under severe financial constraint."

The writer indicated that T wished not to break Cayman immigration law and Court orders. From the wording used in the letter it was evident that T was not countenancing the possibility of the Court not ordering relocation. The letter appeared to suggest that if the Court orders that she seeks are not made urgently, then T will:

"be forced into a position where she must act unilaterally under the pressure of immigration deadline."

That could be interpreted as being a statement that the children may be removed if an order is not made. However, to add balance, Ms. Bridges added in the letter:

*"The Applicant wishes to assure the Court that the steps she has taken since closing submissions have been limited to what is absolutely necessary: confirming her immigration position, booking outward bound flights to comply with Immigration requirements, and confirming health insurance costs and school attendance. **These steps have been taken out of practical necessity, not to presume the outcome of the Court's determination.**"*

199. Ms. Bridges also states in the letter:

"We are rapidly reaching the stage where the Applicant will soon be left in a position where she faces the prospect of breaching the immigration laws of the Cayman Islands or the

Hague Convention, neither of which she is willing to do, nor should she be put in this position.”

200. In the letter sent in the afternoon on 24 February 2026, T requested a mention hearing to be listed on the 25 and 26 February 2026. That was not realistic. In the letter it appears that T was asking the Court to make the permanent relocation order at a mention hearing before the Court had had sufficient time to complete the reserved judgment and reach a fully informed a well-considered determination, which may include the additional evidence about events post the 8 January 2026. That was unrealistic. In the alternative, it was being suggested in the letter that, if the Court was unable to determine the permanent relocation application separately from the substantive judgment, an “interim” “relocation” should be made.

201. Because of the unrealistic demands being placed on the Court, I felt compelled to send a written reply to the parties on the same day. Having regard to the urgency expressed on behalf of T, I informed the parties that there would be a mention hearing at 9:00AM on 2 March 2026. This Court was again compelled to provide these parents with additional Court time on short notice. In the email I stated:

“I have this evening received a five-page letter from Ms. Bridges on behalf of (T). Of course, it is ordinarily not appropriate for parties to write to the Judge in such detail and such matters should be raised and rehearsed either evidentially or at a hearing. It may be that the evidence contained in that email, if the Court is being asked to accept and consider it when making the old and new sought determinations, may need to be filed in the appropriate form with supporting documentation. The Court reiterates that it does not litigate via correspondence.

I do not need to be repeatedly reminded orally or in writing that the initial relocation application was filed two years ago. However, I would again remind the parties that the application was first made by a Form C3 application dated 21 December 2023. That application was filed after the sixteenth day of the thirty-one hearing which resulted in the last substantial Judgment. Due to the timing of the filing of the application the parties were informed in December 2023 that it obviously could not have been dealt with at that stage. Therefore, at paragraph 3 in the previous Judgment, I stated that directions relating to that application would not be given until after the Judgment had been delivered. As T obtained a stay from the Court of Appeal of the Order, no such directions were then sought by T.

The relocation application was restored by T when she filed a further C3 Form on 10 October 2024 in which she said that she “seeks the urgent listing of a previously filed relocation Application in December 2023”. I would also remind the parties that the main reason for the delay in the proceedings post October 2024 was the troubling failure of them to ensure that a child psychologist was engaged within a reasonable timeframe. So, when parties are seeking to dangle the 2-year flag before the Court as a means of pressuring the Court when it comes to it determining the applications, they may wish to take a good hard look at themselves about the unusual timing of the bringing of the application and their roles in that 2 year timeframe coming about.

All the parties in this case, because of the manner in which they have chosen to litigate this matter during and post the hearing, are now placing the Court in an almost impossible position and are, to be frank, placing the Court under questionable duress which is presently impinging on its ability to provide a carefully reasoned judgment within a reasonable time frame.

The substantive hearing had been carefully case managed to conclude in December 2025, with time limits agreed and set for each witness. Because of the manner in which the parties chose to litigate the case at the hearing, the hearing had to overrun into January. This prevented the Court being in a position to use the Court Christmas Vacation period to work on the judgment as had been planned. The parties’ written submissions were received at the beginning of this month. (R) and the Guardian have sought to introduce evidence before the Court in their submissions which was not before the Court at the hearing. (T) has invited the Court, in a separate set of written submissions running to 22 pages with a significant number of supporting authorities, to deal with a potentially complex issue in relation to parental responsibility which was not included in her opening skeleton argument.

The above actions will likely result in the Court having to give further directions about the provision of additional evidence which may be relevant and must therefore be considered before there can be a determination of any of the applications which were before the Court at the hearing.

The above actions may have also resulted in the need for the Court to give directions about the filing of submissions on the parental responsibility issue.

If the above was not enough, the Court is now being asked to make a determination about the relocation order prior to delivering its judgment to fit in with (T's) dates. That is totally unrealistic and it would be improper for the Court to make such a decision without having had ample opportunity to consider ALL the relevant evidence and detailed submissions.

As the Court is unable to make a determination about the substantive relocation application before all the evidence being relied upon is filed and before it has had ample time to consider the same and the detailed written submissions, the Court is being asked to make an order for temporary relocation.

If that was not enough, there appears to be an expectation that the Court is going to be able to rule, and should rule, on interim contact issues. There seems to be an inaccurate impression that the Court had indicated that it was going to consider and determine interim contact prior to completing its judgment. As I had hoped (it appears now in vain) to be left alone to get on with the substantive Judgment, I had never intended to do that and, in any event, that would require a hearing probably after the new evidence being raised in the written submissions being before the Court in the appropriate form. If the Court is continually being asked to deal with interim disputes and answer emails/letters, it is impossible to predict when it will actually be in a position to determine and rule on the substantive matters.

As already indicated, this case has already occupied over 38 days⁶⁹ of Court time over the past two years. Because of the number of emails the parties send, they should be aware about the amount of judicial time that those emails occupy at the expense of other court users. There seems to be an improper belief that the Judge can rule on these highly disputed matters, whether they be interim or substantive on the papers or by email/letter correspondence.

I am extremely surprised to read under the heading "Issue 1: Research Note on Parental Responsibility" that Ms. Bridges seems to have an expectation that the delivery of the Judgment will be by or close to 27 February 2026. Having regard to the above, the one thing that I can indicate with certainty in this case is that the Judgment will not be delivered by that date or even close to that date or by the opposed 6 March further submissions filing date sought by (R). In fact, even if the post-hearing issues had not arisen, the Court would

⁶⁹ This was incorrect as it has occupied over 39 days.

not have been in a position to provide the Judgment in the time frame that Ms. Bridges and her client seem to believe to be a reasonable one. It is not the Court's fault that the parties find themselves in the position that they are in. It is simply not appropriate to expect the Court to be able to provide the type of ruling that is needed in this extraordinary case within the timeframe that is being suggested to the Court. as of 24 February 2026, due to the parties' actions there may need to be further evidence (oral and written) and submissions before the Court can properly embark in the judgment writing process."

202. The Court was rightly made aware by an email sent by Ms. Bridges that she had a hearing before another Judge scheduled to commence 30 minutes after the start of the mention hearing. Therefore, on 26 February 2026, on my instructions, my Personal Assistant reminded the parties that the hearing was listed for only 30 minutes for a mention hearing commencing at 9:00AM. Being cognisant of the content of the email sent by Ms. Bridges on 24 February 2026 about T's immigration predicament, the email to the attorneys also stated:

"I would like to see any correspondence from (T) sent to Immigration in which she hopefully informed them about the long running and ongoing child proceedings which is awaiting a Judgment in the Grand Court about where the children should live. I would also like to see any correspondence sent by her to Immigration in which she has hopefully explored whether she and the children would be permitted to stay in Grand Cayman at least until the handing down of that Judgment and/or until the end of the school year.

I would also like to see any written reply from Immigration to such a request."

203. The parties attended before the Court on 2 March 2026. That hearing lasted for over one and half hours. The Court was informed by R that her employers had still not been able to have the work facility set up. She said that this meant that she was still unable to undertake her professional role there and was taking on more administrative tasks. It also meant that R's salary was still only a third of what it would be when she could take on her intended role.

204. At the 2 March 2026 mention hearing, after hearing from Counsel, the Guardian and R about the post-hearing evidence adduced by the Guardian and R about contact and therapeutic input, I indicated that if the parties wished to file any evidence dealing with the post 8 January contact and therapy issues, then they had leave to file those affidavits by noon on 9 March 2026. The parties agreed that there was no need for any affidavits to be filed in reply. They agreed that there is no

need for there to be a hearing at which the parties could present their evidence orally and be subject to cross examination. They agreed that it be a matter for the Court to determine what weight it placed on the evidence produced in the above manner as it had not been tested by cross-examination.

205. At the request of the Guardian, I considered the issue of interim contact between RA and R at the mention hearing. After hearing briefly from the parties, I directed that the contact should take place at least once a week for at least two hours. I directed that the contact should take place at times convenient to the Guardian, but that the Guardian should provide at least 48 hours' notice to the parties. I directed that it be a matter for the Guardian to determine the venue where the contact would take place. I did not direct specifically what the collection and return arrangements would be because I expected the parties to, at least, be able to agree that and that they would be guided by the Guardian. I note that R states in her Affidavit sworn on 9 March 2026 that she says that my directions:

“reflect a clear professional and judicial recognition that RA’s relationship with me requires careful stabilization and rebuilding.”

Although I have strived throughout these proceedings to make orders intended to facilitate the rebuild the relationship between R and RA, the thinking behind the Interim Contact Order made after hearing briefly from the parties was not for the order to act as part of a long-term development plan already held by the Court. The order was made because I felt, having regard to the fact that there had already been some re-introduction visits that one hour was too short for meaningful contact for RA at this time and that the greater flexibility of choice of venue meant that the contact would be more stimulating and promote a more rewarding and more natural engagement between R and RA.

206. Having heard from Ms. Bridges at the mention hearing about why she felt the need to file the Legal Research Note on Parental Responsibility, I accept that some of the observations made in my email on 17 February 2026⁷⁰ may have been a touch unfair. During the substantive hearing there was a discussion about whether the Court had been correct in the Judgment to state that, as T and R were in a single sex marriage, R had parental responsibility in relation to RA due to the registration of

⁷⁰ See paragraph 188 above.

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her name on the birth certificate. Therefore, I accept that the Legal Research Note was provided to assist the Court if it was considering the proper legal foundation and scope of R's parental responsibility. I should add that Ms. Bridges, in her Note, commendably highlighted what the conflicting arguments might be.

207. Just before the mention hearing commenced I was shown a comprehensive Position Statement prepared by Ms. Bridges on behalf of T for the hearing. In the Statement reference was made to the urgency caused by T's immigration situation. As I was unclear about whether the Immigration officials were aware of these proceedings, I indicated to the parties that I would write to the Deputy Director of Cayman Border Control. This approach was not objected to by any of the parties. Therefore, on 2 March 2026, I emailed the Deputy Director, Mr. Garfield Wong. In the email I very briefly set out some of the background to this matter and went on to say:

"I am writing to enquire about whether the Immigration Department would be able to extend (T) and the children (and possibly her spouse) visas to enable them reside in the Cayman Islands until I was able to deliver my perfected delivered Judgment (whether that be in March, April or May) or even until the end of the children's upcoming Summer school term. If that is something that the Immigration Department might be able to grant, would there be any conditions attached to that grant (financial, health insurance etc.)?"

If the Court was to decide that it was not in the best interests of the children to relocate to the USA, if (T) was unable to find new employment and thereby obtain a work permit in Cayman, is there any procedure for her (as the present primary carer of the children) to be able to remain living in Grand Cayman (repeat visas?)."

208. On 3 March Mr. Wong replied in an email:

"I have authorized an extension for all persons (4), for 30 days, which we will revisit if any further extension is requested."

I immediately wrote back as follows to Mr. Wong seeking clarification:

"I just wanted to clarify whether the request for a further extension you mention in your email would be a request made by (T) and/or a request made by the Court."

It would be helpful to know whether there is any scope for repeat 30-day extensions to be given if requested by the Court until the perfected Judgment is handed down (latest May) and/ or to the end of the current academic school year.”

Mr. Wong replied:

“Once the request comes from the Courts, the request will be honored accordingly sir.”

209. Having considered the emails with the Deputy Director, I am satisfied that if the Court were to make the request, that T would not be required by Immigration to depart from the jurisdiction prior to the date of the circulation of the perfected judgment or until the end of the present academic school year. From the face of the email correspondence, it appears that there would be no conditions attached to T, including financial. In fact on 23 March 2026 I again wrote to the Deputy Director to ask him if, in circumstances where the Reserved Judgment was still not completed, he could indicate whether T (and her family’s) immigration permission could be extended for a further month. On 24 March 2026, he confirmed that, if applied for, an extension would be given to mid-May. My Personal Assistant then shared that indication with the parties. T says that, on 24 March 2026, her Counsel then wrote to R seeking consent for the children to travel to New York on 26 March 2026 pending delivery of the reserved judgment subject to an undertaking to return to the Islands if permanent relocation was not granted. On 24 March 2026, R communicated her refusal to the requested temporary removal.
210. Alas, the litigation issues that have burdened this case continued unabated after the 2 March 2026 mention hearing. The procedural event leading up to and following the mention hearing is a microcosm of the parties’ approach to litigation which has plagued these proceedings. The Court was not surprised, because it had to encounter the same issues after the evidence had supposedly concluded in the 2023/2024 substantive hearing. The 2 March 2026 mention hearing was necessary because the Guardian and R had attempted to introduce new evidence post the hearing not by seeking leave to file an affidavit but by including it in their closing written submissions. At the mention hearing T opposed the introduction of this evidence even if it was to be presented by affidavit. The Court gave directions that the affidavits should be filed by noon on 9 March 2026. Although the timeline for filing was agreed by the parties, less than an hour before the deadline for filing, the Guardian emailed the Court asking for a two-and-a-half-day extension to closing on 11 March 2026. That request for an extension was opposed by T. On 9 March 2026, in an email sent

to the parties, the Court granted a two- day extension for the filing of all affidavits until noon on 11 March 2026. The Court suggested to T and R that they may wish to send and file copies of their affidavits to the Court (without the need to provide them to the other party) to enable the Court to continue preparing its Reserved Judgment in the interim. The Court reminded R that it still expected her to file her written submissions in reply to the legal research note on the issue parental responsibility by noon on 9 March 2026.

211. In the afternoon on 9 March 2026, R provided the Court with her unfiled affidavit with exhibits totaling 133 pages. R failed to file the directed written submissions in reply to T's legal research note and instead she dealt with it over about five pages in her affidavit. The purpose of the affidavit was supposed to be to give evidence limited to post-hearing contact and therapy and R did that over three pages in her affidavit. Unfortunately, R then chose to use at least 11 pages in the affidavit to make further detailed submissions about the substantive wider issues before the Court.
212. In the afternoon on 9 March 2026, T provided the Court with her unfiled 19-page affidavit with 88 pages of exhibits. That affidavit dealt appropriately with evidence concerning post-hearing contact and therapy. T also filed an Affidavit sworn by D. I recall that at the March 2026 mention hearing, Ms. Bridges had mentioned that D had prepared an affidavit as she was the person who was actually involved in the contact arrangements. The content in D's Affidavit was appropriate as it was restricted to the post-hearing contact. On 10 March 2026 the Court received an email from R at 12:40AM. Although indicating in the email her view that:

"The contents of (D's) do not materially affect the issues before the Court."

R still objected to the Affidavit being considered. R objected as: (i) D was not a party to these proceedings; (ii) the matters addressed in D's Affidavit were proper matters for the parties and the Guardian; and (iii) no directions had been given for the filing of third-party affidavit evidence. As the need for such evidence has come about due to the improper manner in which R had attempted to introduce post-hearing evidence, and because D's Affidavit deals with the issues raised by R, I was satisfied that it was appropriate for T to be able to file D's Affidavit.

213. Unfortunately, the Guardian was unable to comply with the direction and an unsworn copy of her 19-page affidavit (with 97 pages of exhibits) was provided to the Court on 12 March 2026 at

12:26AM. The affidavit primarily dealt with post-hearing contact, but it did make some reference to family therapy.

214. On 20 March 2026 at 6:18PM, Ms. Bridges sent an email to the Court with approximately 15 pages of extracts from the transcripts of selected parts of the oral evidence which she states I had requested at the 2 March 2026 mention hearing. The provided transcripts are heavily marked with yellow marker pen and red underlining, presumably done to emphasise areas in the transcript that Ms. Bridges seeks to draw to the Court's attention as they are favourable to T's case. Also attached to the email is a two-page Note which refers to the transcripts and includes submissions made on behalf of T. If I had asked for transcripts I would not have expected them to have been heavily marked up by the providing party. I also would not have expected them to be used as an avenue to provide further written submissions by means of a written Note. On 20 March 2026 at 7:32PM, R emailed the Court raising her understandable concerns about the nature of the material that had been provided, which she characterised as being unilaterally selective. R stated that if the email and attachments were going to be considered that she should be granted permission to draft a short responding note and to provide transcripts that she thought were material to the issue. In this matter I have already indulged (it could be argued to have over indulged) all the parties in relation to the introduction of post-hearing evidence as well as the submission type content in their filed post-hearing affidavits. Although I have tried to be flexible the latest findings are in all the circumstances 'a bridge too far.' I already have rough and tidied up versions of the transcripts which are provided during and shortly after the hearing. I have reviewed those and had regard to them even when I have not directly referred to them when drafting this judgment. It is not appropriate for these further submissions and heavily marked-up attachments to be provided on 23 March 2026 when I am at an advanced stage of writing a judgment which T, in particular, has told the Court she is anxious to receive due to her stated circumstances. Accordingly, I do not take account the content of the 20 March 2026 emails and the Note and heavily marked up attachments thereto. For the avoidance of doubt, I have considered the unmarked transcripts which were provided to me shortly after the hearing which no doubt overlap with the marked-up transcripts.

215. On 24 March 2026 T sought financial assistance from R in the sum of \$13,000:
"to enable the family to remain on island pending delivery of the reserved judgment to cover support for short-term-housing, medical insurance, and living costs of the family."

R promptly replied, refusing the request for financial assistance. T stated that in circumstances where: (i) R had refused to consent to a temporary removal pending the judgment; (ii) R had refused financial assistance to enable the family's needs to be met if they remained in Cayman pending judgment; and (iii) in the absence of any reasonable proposal made by R or the Guardian that could enable the family to stay she had to again seek the Court's assistance. Therefore, on 24 March 2026, T filed a C3 Application Form seeking an *"emergency interim order granting leave to temporarily remove"* both children to New York pending delivery of the reserved judgment. In the Form she sought a direction that if the permanent relocation was not granted that she return the children to Cayman within 14 days of the judgment being handed down. She also sought an order that if the children were required to return to Cayman that R pay the \$16,000 arrears of school fees at least 5 days before the children's return. T sought a further order that if the children were required to return to Cayman, that R pay \$13,000 into T's bank account at least 5 days before their return and thereafter pay \$13,000 per month into her bank account pending delivery of the judgment. In the C3 Form, T stated that the application was being made:

"to avoid any misconceived or wrongful steps being taken in relation to the Hague Convention"

and because the order would allow the children to travel:

"without being left in immediate uncertainty and instability as to housing, finances, schooling, medical care and lawful practical arrangements".

216. The temporary removal application was supported by T's Affidavit sworn on 25 March 2026. T stated that the application was brought due to:

"the complete financial inability of myself and the children to remain in the Cayman Islands, and immediate and serious risk to the children's welfare that flows from that position."

T indicated that she only had \$1,600 in available funds left and that \$1,202.50 of school fees were due on 26 March 2026. She highlighted that the school fees were approximately \$16,000 in arrears due to non-payments by R. T said she had insufficient funds to pay the \$400 fee to extend her immigration permission, to pay for health insurance and to meet the children's immediate needs if they had to remain in Cayman. She highlighted that her property tenancy was ending on 31 March 2026. T stated that, due to her lack of funds, her lawyer was representing her pro bono. She stated that the application was being made as a short-term interim measure and not to pre-empt the

permanent relocation decision. In the affidavit, T said that she was also seeking an interim direction that: (i) the children remain in her care as their sole primary caretaker; and (ii) that she be granted sole day-to-day decision-making authority in relation to the children, including but not limited schooling and medical care. Exhibited to the Affidavit was T's signed undertaking: (i) that she would return the children within 14 days of the judgment if leave to permanently remove was not granted; (ii) that the pending delivery of the judgment she would remain subject to and comply with orders of the court; (iii) that she will provide R with the flight and New York address details; and (iv) that RA would be made available for remote contact with R as may be agreed between the parties or directed by the Court.

217. I was unable to deal with the Form C3 application as I had already departed the jurisdiction on 24 March 2026, returning on 10 April 2026. As a consequence, Ramsay-Hale CJ considered the application on 25 and 26 March 2026. Although, it was unfortunate that I could not hear C3 Form application, there was some benefit in this discrete interim application being heard by a different Judge because, if I had been the one to hear it, inevitably one of the parties would have then complained that any interim decision I made meant that I was prejudging the permanent removal before they had seen the substantive reserve final judgment or providing them with a clear indication of the decision that I was going to make.
218. The Chief Justice commendably promptly circulated a draft judgment arising from the hearing on 26 March 2026 which was perfected on 1 April 2026. She noted that R and the Guardian opposed the temporary removal application. She recorded R's submission that the application was an attempt to secure relocation "*through the back door*" and that T's assertions about her financial circumstances should be treated with caution. The Chief Justice stated that at the conclusion of the hearing she indicated that she was minded to grant a temporary removal application. The Chief Justice then recorded that R asked for an opportunity to secure funds to enable T and the children to remain in Cayman pending the delivery of the reserved judgment. The Chief Justice stated that when the hearing resumed, R offered to provide the sum of \$10,000 per month to meet the living expenses of T and the children for the interim period.
219. In her judgment, the Learned Chief Justice rightly indicated that the issues that were before her should not be regarded as a determination of the relocation application. The Chief Justice stated:

“The Court is being asked to determine an interim welfare question in real time, without prejudging the outcome of the substantive proceedings” and later sagely added “the Court must be astute to avoid determining, even implicitly, the relocation application itself but, equally, it cannot defer a decision where the children’s immediate welfare requires intervention.”

The Chief Justice correctly spelt out that the questions for her consideration were restricted to whether the children remained in the Cayman Islands pending judgment or whether they be permitted to travel temporarily with T, their long standing day-to-day primary carer, pending this judgment. The Chief Justice rightly highlighted that the US is a Hague Convention jurisdiction and clearly recognised that the Courts in the USA would ordinarily (in the absence of any of the exceptions set out in the Convention) be required to make return orders if the children were wrongfully retained in New York. The Chief Justice found that the order sought was genuinely interim in nature and subject to reversal and therefore rejected the submission that it was a determination of the relocation issue *“through the back door”*.

220. The Chief Justice noted that T’s employment had ended in February 2026 and that she had no right to work within the jurisdiction. She noted that in the absence of a job and income, T had surrendered her tenancy lease at the end of March 2026 and that she had minimal funds thereby making her unable to meet the basic living expenses of herself and the children in Cayman. On the other hand, the Chief Justice noted that T could stay with D in New York in the free property mentioned earlier by me in this judgment. The Chief Justice had in mind that the children could be enrolled in a public school in New York pending judgment and that their educational needs would then be met. The Chief Justice was of the view that the children would have healthcare insurance provided by R’s employer and that there would be an opportunity for T and D to find employment to support themselves and the children.

221. In her judgment, the Chief Justice rightly highlighted that she must determine the children’s welfare in the circumstances as they existed at the time of the hearing. She was satisfied that T’s inability to provide housing and meet basic needs for the children was real and immediate. She noted that:

“The urgency arises from the convergence of loss of employment, lack of income, immigration constraints, in the absence of support and is not, in my view, a tactical creation to evade the pending judgment.”

The Chief Justice later accurately summarised T's precarious situation and predicament as follows:

"30. ... The Applicant has lost her employment and presently has no income. She has no right to work within the jurisdiction and no realistic prospect of securing lawful employment in the short term. Her housing position is precarious to the point of imminence, such that she will shortly be without accommodation. Her available funds are limited and insufficient to meet the children's basic needs, including housing, food, school fees, and other essential expenses. The evidence demonstrates a progressive deterioration in financial circumstances, compounded by immigration constraints and the absence of financial support that would mitigate her present circumstances.

31. The Court is faced with a stark comparison. If the children remain in the Cayman Islands, their primary carer will be without secure accommodation within a matter of days. There will be no reliable means of meeting basic living needs while she waits for the decision of the Court. As I observed numerous times during the hearing, the Applicant is not Caymanian. She does not have the right to work. She has no family here to turn to for support. There is a real risk of instability, including potential unlawful presence as she cannot even fund the application fees necessary to extend her right to remain in Cayman as a visitor."

The short-term observations made and concerns highlighted by the Chief Justice equally apply to the long-term predicament for T and the children.

222. The Chief Justice accepted that R challenged the extent and genuineness of T's contentions about her financial predicament but noted that prior to the hearing R had declined to provide financial support or make any *"concrete proposal"* to enable T and the children to remain in Cayman pending this judgment. The Chief Justice found that there was *"no viable status quo capable of sustaining the children's welfare pending judgment"*.

223. In her judgment, the Chief Justice, when carrying out the pros and cons balancing exercise, rightly considered the Guardian's concerns about the effect on the therapeutic regime and that contact between R and RA if the children were permitted to be temporarily removed. Insightfully, the Chief Justice remarked:

"The initiation of counselling and supervised contact presupposes a stable and sustainable living situation for the children within the jurisdiction. In circumstances where the primary

carer is unable to provide housing or meet basic needs, the court could not prioritise the initiation of a therapeutic regime over the children's immediate need for security, accommodation, and day-to-day care."

As can be seen in this judgment, admittedly not as concisely expressed as the Chief Justice has been able to do, this is a finding that I have also made. The Chief Justice went on to say that as our order is only a temporary order it would not be bringing therapeutic work to an end but simply suspending it pending delivery of this judgment and any directions that this Court might make in regard to therapy in its substantive reserved judgment. The Chief Justice accepted T's indication that she would facilitate remote contact, although she did accept that it would not replicate the benefits of direct contact.

224. The Chief Justice concluded:

"33. In my judgment, the greater risk to the children's welfare lies not in the proposed temporary removal, but in the consequences of their remaining in circumstances of immediate financial and housing instability. The formal undertaking to return the children within 14 days of judgment if relocation is refused, is reinforced by the continuing jurisdiction of this Court, the applicability of the Hague Convention and the practical consequences for the Applicant in the event of non-compliance. Those safeguards, in my view, rendered the proposed arrangement practically and legally reversible.

34. Until the Respondent's offer this morning, there was no viable, lawful, or sustainable arrangement presently available which would enable the children to remain in the Cayman Islands in the Applicant's care pending delivery of judgment. It is common ground that they cannot be placed in the Respondent's care pending the resolution of the relocation application.

35. The Respondent's offer, provided it is implemented promptly and in full, is capable of securing housing, subsistence, and day-to-day stability for the children within the jurisdiction on an interim basis. On that footing, the Court is satisfied that the children's immediate welfare can presently be safeguarded without requiring temporary removal from the jurisdiction.

36. Having weighed the competing welfare considerations, the Court would grant the Applicant leave to travel temporarily with the children pending delivery of the judgment.

The Court declines to do so at this stage on the basis that the Respondent has offered to provide financial support in the sum of KYD10,000 per month to secure the children's immediate welfare within the jurisdiction.

37. The Applicant has liberty to apply on short notice in the event of any default, in which case the Court will grant leave to travel without revisiting the merits of the interim welfare assessment."

225. It seems that at the hearing T sought permission to take the children out of the jurisdiction for the Easter holidays. After R had offered to provide maintenance for T and the children, the Chief Justice refused that application as she found that T's need for financial support had been met and RA's need for therapy weighed more in the balance.
226. The matter came back before the Chief Justice on 1 April 2026 following an application made by R for the Chief Justice to recuse herself from hearing the matter. The Chief Justice dismissed that application. It appears that T had been paid only \$5,000 of the proposed \$10,000. At the hearing, R said that she could not pay the \$5,000 balance per month and in her Judgment the Chief Justice said that R shared her view that she had *"been backed into a corner and coerced into making the offer"*. When asked by the Chief Justice what she could pay, R said that she would need time to consider that as her rent was more than her salary which was \$5,000. It is not clear whether R was still on the reduced salary as her proper employment had still not commenced or whether her increased salary 'pay day' had not happened. R criticised the Chief Justice for making the 'maintenance order' without requiring T to make full financial disclosure. It appears from the Chief Justices' Judgments that R did not suggest to the Chief Justice that R could temporarily vacate her home to enable T and the children to stay there. That suggestion had been a cornerstone of what R viewed as being her *"realistic"* proposed arrangements, seemingly adopted by the Guardian, which would prevent the need for T and the children to permanently relocate as their housing needs would be met.⁷¹
227. In her brief judgment delivered on 2 April 2026, the Chief Justice referred to her earlier judgment and gave additional reasons for her decision now made, *"in the absence of any offer of financial support from"*, permitting T and the children to leave the jurisdiction. The Chief Justice reiterated:

⁷¹ See paragraph 137 above.

“5. The Applicant has no job, no home and no right to work in the Cayman Islands. Finding a new job would take time for divers reasons including the demand for her skillset, the new government policy prioritizing Caymanian employment which the Applicant raised at the first hearing and also because of our work permit regime that takes time to authorize employment.

6. If the Applicant is to remain here temporarily while her relocation application is determined, or permanently if she is required by Williams J to remain in the Cayman Islands, she will require financial support until she can find new employment and support herself and her children.”

228. On 2 April 2026, the Chief Justice’s decision was placed into a formal order. The preamble in the order recorded the four undertakings given by T. The order contained provisions that T had leave to temporarily remove each child on an interim basis from Grand Cayman to New York from 1 April 2026 until further order of the Court, subject to T’s undertakings.

229. R filed a Notice of Appeal on 1 April 2026, and she applied to the Court of Appeal for a stay of the Chief Justice’s Order. On 2 April 2026, the Registrar of the Court of Appeal notified the parties that:

“Having read the Chief Justice’s judgment and understanding that leave to travel was granted on a temporary basis as being in the best interests of the children and bearing in mind that the jurisdiction to which they will travel is subject to The Hague Convention,”

the President of the Court of Appeal refused to order a stay. The President’s decision was recorded in an Order dated 20 April 2026. Shortly thereafter, T and the children travelled to New York.

230. On 14 April 2026, R filed a Summons with supporting affidavit and wrote by email to the Court asking that they be brought to my attention upon my retrain to the jurisdiction. In the email she stated that the Summons was urgent:

“arising from matters occurring after the children’s removal from the jurisdiction and the subsequent breakdown in contact.”

R stated that the grounds of urgency were: (i) that there had been a complete interruption of contact between herself and RA for over three weeks; (ii) that there was a real and ongoing risk of further

deterioration in, or severance of, that relationship absent urgent intervention; (iii) that the current arrangements were not stable, structured, or subject to effective oversight; (iv) that the children's return to the jurisdiction has now been made conditional upon financial provision at a specified level; and (v) immediate directions were required to protect the children's position pending judgment and to preserve R's relationship with RA. She noted in the email that she sought: (i) an order for the return of the children to the jurisdiction; (ii) alternatively, immediate and enforceable directions for contact; (iii) repayment of the CI\$5,000 paid on 27 March 2026 for a specific purpose which did not materialise; and (iv) full and proper financial disclosure.

231. Later in the day on 14 April 2026 R sent a second email to which she exhibited an email/letter sent to her and the Guardian by Ms. Bridges.⁷² R said that she did not copy the other parties into the email because the correspondence that it related to had already been circulated to all parties. Where that correspondence had been previously circulated, R should still have copied her email sent to the Court to the other parties. In the referred to correspondence, Ms. Bridges provided R and the Guardian with a written update about what had been happening since T and the children's arrival in New York. T's attorney quite rightly had not copied the Court into the *inter partes* correspondence, presumably recognising that if she had done so, that would have amounted to improperly introducing additional new evidence before the Court. In her second email R stated that the content of Ms. Bridge's communication increased the urgency of the matters contained in her Summons. R added:

"In particular, I was not informed in advance of the children's enrolment in schools in New York. What was presented to the Court as an "interim relocation" now appears, in practice, to be developing into a de facto relocation during the period in which judgment remains reserved. The matters described in the correspondence reflect, in substance, the very concerns I raised before the Court at the recent hearings, namely the risk of unilateral steps being taken which may alter the status quo prior to determination."

When I read this last remark, it became apparent to me that R has not taken on board the comments made by the Chief Justice in her 26 March 2026 Judgment. It is quite clear from paragraph 14 in that Judgment that the Chief Justice envisaged that the children may well be enrolled in a public

⁷² There is some confusion as the email from Ms. Bridges bears a transmission time of "22.15" on 14 April 2026 and the second email from R to the Court states that R's email was transmitted at 4:25PM on 14 April 2026.

school pending the handing down of this judgment. Such enrolment seems to have been regarded as being a positive factor concerning the meeting of their educational needs which the Chief Justice took into account when determining whether the children may temporarily leave the jurisdiction.

232. When I reviewed R's unissued Summons, it was evident that I was possibly being asked by R to overturn, akin to an appeal, the Chief Justice's Order for leave to remove. That said, I accept that R was also relying upon issues about contact with RA which she alleges is being denied. I note with interest that in the correspondence from Ms. Bridges which R presented to the Court, T is saying that she is trying to set up and make suggestions about contact, but that R is the one being obstructive. I am not in apposition to determine who is correct, but I am aware that this type of cross-blame, failed co-parenting culture is something that is part of the pattern in this case. Upon reviewing the unissued Summons, it was also evident to me that R was seeking a further opportunity to argue for the making of financial disclosure directions that she had unsuccessfully argued before the Chief Justice and presumably that may be a part of her grounds of appeal of the Chief Justice's decisions. With the above in mind, on my instructions, my Personal Assistant promptly notified the parties that I do not intend to list to be heard, any Summonses prior to the handing down of this judgment. They were informed that the preparation of this judgment was at an advanced stage⁷³ and that, in any event, there would unlikely be a slot in my Court List to hear the two to three hours Summons before the draft version of reserved judgment was, pursuant to Practice Direction No.1/2004, circulated for the parties' comments. I told the parties that:

"The delivery of this Judgment has been severely detrimentally affected by the litigation conduct of the parties after the conclusion of the substantive hearing. I do not intend to permit any such approach to further delay the completion and delivery of my judgment. The time has come for the parties to please permit the Court to get on with concluding its judgment."

233. The Learned Chief Justice, who was able to stand back and consider with fresh eyes what temporary arrangements would be in the best interests of the children, reached an understandable decision. Her reasons for granting leave to temporarily remove were grounded on a correct realism of the practical difficulties that T and the children were facing if they had to remain in Cayman pending this judgment. That said, when it comes to my final determination, I am not in any way fettered by

⁷³ The draft of this judgment was completed by 29 April 2026. However, due to its length and detail, the formatting of it was not able to be circulated for comment until 12 May 2026.

the Learned Chief Justice's two Rulings. As stressed by the Chief Justice and the President of the Court of Appeal, the Orders made are temporary in nature and relate solely to the period pending this judgment. The recent temporary removal permission does not mean that there is a *fait accompli* concerning permanent relocation. If I was of the view, having regard to all the circumstances in this case, that a permanent relocation would be the less favourable to the children's best interests than for them to have to remain in Cayman, then I would not make that order no matter what temporary order was in place.

The parties' evidence about events post-hearing (post 9 January 2026) and the Guardian's evidence

234. When considering the Guardian's evidence about matters post the substantive hearing, I feel it is necessary that it must be put in context. To do this, one must first look at parts of her evidence set out in her report dated 2 December 2025. In the report, the Guardian sets out details of meetings and contact visits that took place in December 2023 and January 2024. Those meetings are set out in detail in the Judgment, and they were a significant factor in my then, determination and the decisions then made. When I do so, I am conscious that those meetings dealt with a situation that existed over two years ago and the surrounding circumstances that prevail now, including but not limited to R's protracted absence from the jurisdiction and the effect that has inevitably had on her relationship with the children who are now two years older, are not the same. As this present judgment is to be read in conjunction with the Judgment and although I again include those earlier meetings in my considerations, I do not see a need to replicate that detail again herein.
235. The first time that the Guardian saw the children for the purposes of this hearing was on 27 August 2025. She intended the meeting with each child to be a casual one to build a rapport rather than to talk about substantive issues. The Guardian said that T informed her before the arranged meeting that the children were saying that they did not wish to attend, and T suggested that the Guardian come to her home to collect them as D would bring them to the appointment. In the end D brought them to the Guardian's office. RI, encouraged by D to go into the room to explain why she did not want to meet the Guardian, reluctantly came into the room. The Guardian says that RI's demeanour changed from that exhibited when she was in the waiting room with D as she became "*relaxed, chatty and engaged*" and she engaged in activities with the Guardian. The meeting lasted for an hour, and the Guardian felt that it was a "*very pleasant meeting*" with RI being "*in good spirits throughout*". When it came to RA's turn to come into the room to meet the Guardian, he was reluctant and D encouraged him to go in. The Guardian played with RA in the meeting room with

D joining in. After a while the Guardian invited RA into her room, but he again declined but did say he would feel more comfortable if RI came in also. Both RA and RI came into the room and played with the Guardian. D and the Guardian had a chat after the meeting before departing with the children. When one considers the previous history in this matter, there does not seem to be anything remarkable in relation to the meeting. It is an example of the Guardian's ability to build and maintain a rapport with the children.

236. The Guardian had hoped that Dr. Basson's assessment would soon be completed so that she could conduct her own assessment meetings with the benefit of the psychologist's report. Unfortunately, it became evident that there would be a delay in the provision of that report until at least mid to late October 2025. With that in mind, the Guardian wanted to have another meeting with the children. She emailed T in mid-September to ask about the best dates and times for RI to meet her outside of school hours. The Guardian wanted to meet after school hours to ensure that RI's school day was not disturbed. At the same time, the Guardian had emailed the principal at RA's school about setting up a meeting with him that same week. However, due to the delay in any response, the meeting with RA could not be set up. On 26 September 2025, T sent an email to Dr. Basson. In that email she indicated that she was a little worried about RA because he was refusing to be dropped off at school and was *"distressed, crying, clinging and pleading not to be left"*. The Guardian said that the teacher told her when RA gets in the classroom he is settled and has no issues. T said in the letter that she had noticed that RA no longer wanted to sleep alone in the room he shared with RI and, almost every night, he was coming into her and D's room to sleep beside them. T said that she was worried that RA may be developing *"some form of separation anxiety, panic about separation"* and that the *"whole process"* was impacting him. T highlighted to Dr. Basson that RA had recently had his first meeting with the Guardian a couple of weeks previously which he initially refused to attend. She said that as this was the first meeting with the Guardian for over 18 months, and that the meeting and/or the *"whole process"* *"may have triggered something"* or *"triggered some of the possible anxiety"* she said that she was seeing. T also suggested that the Guardian seeing the children at school might be triggering the school drop off issues. She said that she knew the children *"inside out"* and that she can see that they *"aren't right"*. She concluded by saying:

"I am very worried that if we don't realise what's happening, it will get worse. My kids deserve normal, worry free lives. I work so hard to protect them and shelter them from trauma and for two years they have really been flying personally, socially and

academically. They are such happy kids now. To see that something out of my control is triggering something that's hurting him, really breaks my heart when I just want my kids to be allowed to have happy lives.

I wanted to bring all of this to your attention so that you have the full picture and can advise on the best way forward to support him. My biggest concern is to make him secure and alleviate any worries he has."

237. The Guardian noted the content of the report, and she felt that as Dr. Basson's appointments would soon be resuming, that any further meetings with her should wait until that assessment had concluded. However, in mid-October Dr. Basson and the Guardian agreed that it be helpful for the Guardian to conduct some initial video calls between the children and R in preparation for her assessment sessions with them. Because T objected to that course, there was only one initial video call and that was conducted by Dr. Basson.
238. The second meeting between the Guardian and RA took place on 12 November 2025 at his school. The Guardian had explained to T that she would be conducting a video call between RA and R. Later in the evening prior to the meeting, T sent a lengthy email indicating that she was not comfortable with such a video call taking place, and she cited her view that Dr. Basson had recommended that virtual contact sessions should be conducted by a therapeutic professional. T suggested that the Guardian speak to Dr. Basson. In reply, the Guardian pointed out that she and T had already spoken to Dr. Basson about the Guardian facilitating a video call. On the morning of the meeting T sent an email to the Guardian indicating that RA was "*incredibly stressed*" about the meeting and that he had had a toilet accident just as they were getting to the school. The Guardian reported that she met RA in a conference room and that when he saw the Guardian he smiled and greeted her. The Guardian said that he had asked if "*mommy*" had told him that the Guardian was coming to see him and he answered "*no*". This was inconsistent with what T had told the Guardian because she said that she had told him. The Guardian believed that T had told him. The Guardian references this to be an example of what Dr. Basson highlighted in her report concerning RA experiencing some confusion as to what he is supposed to say to whom. The Guardian and RA played for a little while until she let him know that there was going to be a video call with R. RA indicated that it was okay if the Guardian called R. The Guardian reported that RA "*engaged well*" with R during the call. The Guardian reported that RA showed R the various things he could do with the slime that he was playing with. At one stage in the video call, RA asked where

R was and she explained that she was in England at his grandmother's house. The video call with R lasted for about 40 minutes until the Guardian brought it to an end so that RA could return to his classmates. When the Guardian asked RA how he was feeling after the call he shrugged his shoulders. The Guardian asked if he wanted to choose one of the emotion faces and he picked the one with a straight across mouth and he explained to her that meant "OK". When the Guardian asked RA if it would be okay with him if she came back to see him again, he replied "yes". The Guardian then emailed T to confirm that "*all went well*" and that RA was in "*good spirits*" and seemed to enjoy the call with R.

239. The third meeting between the Guardian and RA took place on 26 November 2025, again at the school. The Guardian decided not to notify T in advance of the meeting to see if that helped reduce some of the stress on RA that T had previously reported. The Guardian highlighted that Dr. Basson had indicated that T's anxieties are felt by the children and, by not notifying T, the Guardian wanted to try to avoid that happening. Like the previous meeting, RA smiled and greeted the Guardian when he came into the room. The school principal indicated to the Guardian that RA was disappointed that he had to leave his spelling lesson when he was pulled out of the classroom. The Guardian reported that she and RA played a game and that she told him that they would do some worksheets and then have a call with R. When they had finished with the worksheets, RA shrugged his shoulders when the Guardian asked him if it was okay to have the video call with R. She also asked RA if T had asked him about the previous call, and he replied that she did, but he told her that they had not had a call. She reassured RA that it was "OK" for him to talk to T about the calls with R. The Guardian asked RA if he remembered how he felt after the previous call and she reported that he chose a sad face, which was different to the straight-line face he had previously chosen. The Guardian was conscious about Dr. Basson's report mentioning RA's concerns for T's feelings, so she asked him if he was sad because he was worried about how T would feel. The Guardian reported that he initially started to say yes but then said "no". The Guardian also asked if he was sad because had having a call made him miss R, and he shook his head and again said "no". After that exchange the Guardian asked RA whether he was ready for the call or whether he wanted to do another activity and he said that he was ready. The Guardian noted that RA was a bit quiet at first and was concentrating on what he was doing on a worksheet. She said RA started to warm up after he finished that and he engaged with R. In fact, the Guardian reported that he and R were "*very engaged*" throughout an activity concerning a paper boat that he was making and that he was "*quite chatty and animated, explaining all the drawings to (R)*". This call lasted for

approximately 45 minutes until the Guardian's telephone battery ran out. After the call the Guardian asked RA how he was feeling and he again drew a face with a straight across mouth. When he was asked whether it was an okay face, he again said that it was a sad face. The Guardian asked him what was making him feel sad and he replied that he did not know. She then asked if he wanted to do another call with R and he replied "no". When asked why he did not want to he replied "*I just don't*". The Guardian asked him if he thought he would want to spend time with R in person if she was here and again, he said no. When they talked about the meeting they had previously had at R's new house, when asked if would like to go there, he again said no. When asked, he said he did not know why he did not want to go, adding that he just did not. When asked, he told the Guardian that he remembered going to R's house and that was something he was not "*OK*" doing again because he did not like switching houses. The Guardian said that she explained to R that the judge might decide that he should spend time in both houses and asked him how much time he would want that to be in each house. He responded "*like 80 20*" and then clarified, when asked, that the 20 would be in R's house and the 80 in T's house. The Guardian said that RA then asked if RI would also be coming, adding that he wanted her to, but could not explain why he did. The Guardian concluded that RA did well during the virtual visits and interacted comfortably with R, displaying no signs of distress.

240. After this third meeting, T's attorney sent a rather stern email to the Guardian's attorney. The attorney set out her interpretation of Dr. Basson's recommendations made in her report, which she said included a requirement for there to be a therapeutic professional present at contact. She did not regard the Guardian as being someone who fitted that description. She sought an explanation from the Guardian as to why the Guardian had proceeded with the unannounced contact without a therapeutic professional being present.

241. The Guardian reported that R had sent her an email on the following day in which she set out an exchange she had with RA's teacher. RA's teacher stated that:

"(RA) presented as his usual self today and showed no signs of discomfort or distress. He was settled, engaged, and participated well throughout the day."

The Guardian felt that the teacher's observations were consistent with what she had experienced with R at the meeting held on the previous day.

242. The Guardian indicated that it has been harder to arrange to meet RI than with RA due to RI's school and other commitments conflicting with the Guardian's availability. However, adopting Dr. Basson's suggestion that the meeting take place during the school day, the Guardian contacted the principal of RI's school on 26 November 2025 asking for his suggestion about the best time for a meeting with RI. In consultation with the school, it was decided that there could be meeting on 1 December 2025. A member of staff was tasked with speaking to RI about the proposed meeting. RI told that member of staff that she did not want to meet with the Guardian. Therefore, at the time of her report dated 2 December 2025 the Guardian felt unable to say much about RI.
243. The Guardian did speak to the principal of RA's school in mid-October 2025 who informed her that he was generally doing well but had had a "*wobbly patch*". Consistent with T's evidence she explained that he had had some difficulties at drop off time in relation to leaving T or D. The teacher expressed a concern that T and D were having conversations about R within RA's earshot. The principal noted that the week of 29 September started dreadfully and that T struggled with leaving RA and would become visibly upset. She reported the school had to get T to leave so that RA settled. It was decided between the school and T that D would handle drop offs to prevent the upset. I highlight this piece of evidence because Dr. Basson has made clear that RA is protective of T, and she wished to alleviate her distress. The principal indicated to the Guardian that after his meetings with R have taken place during the school day, RA has been fine. Counsel said that she had carefully watched him for any signs of distress, but she had not observed any and RA seemed settled. The principal confirmed that the school counsellor would be willing to facilitate contact between RA and R if that is what the Court ordered.
244. The Guardian's Affidavit sworn on 12 March 2026 deals with events post the hearing. For the avoidance of doubt, when it comes to those events, I consider what is stated in the affidavit as being the Guardian's evidence before the Court and not what was set out in the earlier filed closing written submissions. In her Report dated 2 December 2025, the Guardian opposed the termination of contact between either child and R. In relation to RI, she recognised that RI's relationship with R was seriously fractured and that RI could not be forced to have contact in the current circumstances. She accepted that the views expressed by RI in late 2023 to early 2024 had become more entrenched due to there being no contact since then and the continuation of the high level of conflict between T and R. The Guardian found that apart from written letter contact, therapy would need to be well underway before significant contact could take place. She echoed Dr. Basson's concerns that if no

therapeutic work was done it could have a detrimental knock-on effect for RI in her adult life when it comes to relationships. The Guardian was concerned about leaving the relationship between RI and R unrepaired and about:

“denying RI the opportunity to try to get back to the positive and loving parent-child relationship she once had with R.”

The Guardian said she shared the views of Dr. Basson that significant therapeutic intervention was needed which would involve both T and R accessing and engaging fully with the recommended therapy. However, Dr. Basson stated that, if R does not acknowledge the reasons behind Dr. Basson’s findings that R engage in individual therapy, including trauma therapy, mentalization-based in based therapy and dialectical behaviour therapy and as a result of adopting such an approach does not attend therapy, then contact could not progress. I accept that, in circumstances where R does not agree with some of the conclusions reached by Dr. Basson as she questions her methods, R would be able to see a new psychologist who could review all the previous psychological and even psychiatric reports (including Dr. Basson’s) about R and make recommendations about R’s therapy. One difficulty with that would be that the new psychologist, if assessing and treating R in isolation, would not have the in-depth knowledge that Dr. Basson has about the interrelationship between R’s issues and the children’s issues and would not be working within the confines of Dr. Basson’s global recommendations reached after a very thorough assessment.

245. In her report, the Guardian stated that there would be serious and significant consequences for RA if R was removed from his life due to there being no contact moving forward and that those consequences would impinge upon:

“the very core of (RA’s) sense of belief.”

She added:

“(R) is one of (RA’s) parents and is part of him and his identity.”

In her report, the Guardian concluded from her meetings with RA that he is confused about the unexplained absence of R from his life and that this has been added to by T and D’s attitude towards R. In her report the Guardian noted Dr. Basson’s recommendations regarding contact for RA which were set out at paragraphs 883-892 in her psychological report, but she did not agree that it be

limited to one hour per week. She appears to have reached that conclusion primarily based on what she had seen during the assessment contact visits at end of 2023 and in January 2024 as well as the more recent online visits. In her report, the Guardian felt that RA would be able to progress to having meaningful and direct contact with R on a relatively short timescale, especially if the therapy had commenced. She added that she did not view the commencement of therapy as a prerequisite for that contact.

246. In her report, on the basis that she believes that the relocation application would be refused, the Guardian recommended the following phased introduction to contact for RA:
- a. three weeks of twice-weekly video calls (these could be facilitated during the school day by, for example, the school counsellor);
 - b. thereafter, three weeks of twice-weekly direct contact from school pick-up to 7:00pm;
 - c. thereafter, a six-week period during which one of the two contact days is an overnight contact such that R brings RA to school the following morning;
 - d. thereafter, a six-week period during which both contact days are overnight contacts;
 - e. thereafter, the schedule set out in 2024 at paragraph 349 of the Judgment to commence, including the initial eight-week period (with necessary adjustments to the time to account for this period falling during the school term rather than the summer holidays).
247. In her report, on the basis that she believes that the relocation application would be refused, the Guardian recommended the following contact for RI. She recommends that prior to the commencement of a phased reintroduction to direct contact, RI and R engage in the joint therapy recommended in Dr. Basson's report and that written correspondence could take place during this period. She then recommends:
- a. The phased reintroduction to contact commence after the joint therapy has been underway between R and RI for an eight-week period, unless the therapist recommends additional time. Such phased reintroduction to include:
 - i. four weeks of twice-weekly video calls;
 - ii. thereafter, four weeks of twice-weekly direct contact from school pick-up to 7:00pm;
 - iii. thereafter, a six-week period during which one of the two contact days is an overnight contact such that R brings RI to school the following morning;

- iv. thereafter, a six-week period during which both contact days are overnight contacts;
- v. thereafter, the schedule set out at paragraph 349 of the Judgment to commence, including the initial eight-week period (with necessary adjustments to the time to account for this period falling during the school term rather than the summer holidays).

248. Having regard to her recommendation about the contact with R for both children, the Guardian felt that T and D were unable to put forward any meaningful suggestions as to how contact could proceed, save for video calls supervised by a therapist or school counsellor. In her report the Guardian concluded that T was unable to suggest anything save for her interpretation of Dr. Basson's recommendations. The Guardian reported that T's view was that RA's contact be supervised contact for a year and that T could not say what would happen after that. In relation to RI, the Guardian felt that T was saying that there should be no contact unless RI agrees with it. In the report she felt that there was no support from T for RA to have a relationship with R, and, in fact, she felt that there was "*a concerted effort to terminate it*". The Guardian expressed in her report that, taking into account the events of her two-and half -year involvement with this family, she had "*serious concerns*" about T's "*ability or willingness*" to comply with any contact orders made if she were to relocate. She said that this concern had been elevated by the failure of T, after the Order was made, to facilitate any contact in the Summer of 2024 when T and the children were in UK. I do not place much emphasis on that at this time because, as indicated herein, it is clear that at that time T was seeking/intending to appeal and stay the Order. The Guardian does highlight other areas of non-cooperation, for example about who should be listed as emergency contacts on passports, the sharing of medical information and what she views as a failure to enable R to be a part of the decision-making process in relation to the children. The Guardian stated at paragraph 154 in her report:

"...(T) has been adamant for several years, including in the current proceedings, that she wants the relationship to be terminated altogether (it may even be the impetus for her relocation application). Even after the matter having been fully litigated and the Court finding that this is not a case in which an order for no contact is warranted, (T) tried to appeal that order and shortly thereafter made a further application for a non-contact order and to terminate (R's) parental responsibility."

At paragraph 165 in her report, she added:

“(T) has been very clear that she does not want the relationship between (R) and either child to continue, and I have not seen any real change to this viewpoint such that I can be confident that the relationship between (RA) and (R) and (RI) and (R) would be fostered if the application for relocation were to be granted. To the contrary, I have serious concerns that it would be suppressed altogether, as has been the pattern for quite some time.”

249. It is with the above views being held by the Guardian in her December 2025 report, that she felt it important to introduce this post-hearing evidence which she felt provided further insight into the issue of whether T would facilitate contact and therapeutic intervention if she relocated. This is because of the contact that she has been able to arrange and what she has had to do to enable that to happen. There have now been six contact sessions facilitated by her between RA and R since the hearing. The Guardian feels that the sessions have enabled her to observe the significance of the parent-child relationship between RA and R, as well as the foreseeable difficulties that would arise if RA were to be separated from R. The Guardian also states that the post-hearing evidence highlights a variety of issues about location, duration and frequency of contact between R and RA that have arisen. She says that it has involved disproportionately lengthy email exchanges initially from R and T but latterly more from T and that carrying out contact has often been *“difficult, stressful and tedious process”*. The Guardian said that she also wished to address assertions that she had not been conducting the contact sessions in a child-centric manner.

250. The Guardian states that both parties have *“very assertive and definitive views”* making it difficult to find a middle ground between them. This is nothing new to the Court, it has been a feature of the interaction between R and T for many years. The Guardian stated that when she has offered information she has been *“questioned, ignored, contradicted”* especially from T’s side. She accepted that more recently T has shown a greater level of cooperation and that R has, on the whole, been more receptive. The Guardian, having regard to the difficulties she has encountered and the nature of the content of email correspondence wrote:

“I cannot begin to imagine how professionals in a new jurisdiction with no knowledge of the intricacies of this matter of the person involved would be able (or willing) to navigate such issues and difficulties.”

This observation, if accurate, would apply even if there is no relocation ordered, because the Guardian's role would likely officially come to an end after the delivery of this reserved judgment and there would still have to be new professionals involved. It is clear to me from reading the affidavit that the Guardian is frustrated with the parties and T's legal team, whom she believes are behaving with a litigation mindset rather acting in a manner to meet the children's best interests. Again, this approach is nothing new to the Court in these proceedings.

251. The Guardian states that T and R contacted her after the substantive hearing to inquire about the setting up of contact. There were a substantial amount of emails, including from T's attorney. T felt that contact between R and RA should take place at the school for reasons set out in a detailed email from Ms. Bridges sent on, on 15 January 2026. It appears that T's attorney relies upon T's interpretation of Dr. Basson's evidence about contact. T said that in light of Dr. Basson's evidence: (i) contact should be in a structured setting (which is the school) until Judgment and therapy are underway; (ii) contact should comply with Dr. Basson's time and structure parameters; and (iii) she would ensure that T and D are not involved in the drop offs. As Dr. Basson's evidence was the only psychological guidance in place prior to the therapeutic input starting, that was not an unreasonable position for T to take until the Court indicated or ordered otherwise, which in fact I later did on the 2 March 2026 mention hearing. Although the Guardian felt that the school was an unnatural setting, she was willing to set up a visit at the school. R did not agree, stating that contact being restricted to school was not supported by Dr. Basson's report. Again, this was not an unreasonable position for R to take having regard to her interpretation of the psychologist's report as well as in light of the Guardian's observations. In fact, the Guardian in her email to the parties on 16 January 2026 actually stated:

"I understand everyone's points and concerns, all of which are valid."

She said that the parties should still try to resolve the issue without reverting to Court. She stated that she did not see there to be a school restriction emanating from Dr. Basson's report and noted that Dr. Basson herself conducted assessment contact away from the school. She reiterated her view that contact could take place away in a non-school setting and suggested it take place at Camana Bay later that day. The parties still could not agree due to what the Guardian termed as being their *"polarized positions"*. R, but not T, agreed with the suggestion then made by the Guardian that the 16 and 30 January 2026 contact take place at Camana Bay and that the 23 January 2026 take place at the school.

252. As the Guardian rightly recognised that the different interpretations of the recommendations in Dr. Basson's reports were causing the contact issues,⁷⁴ she reached out to Dr. Basson for her input. Dr. Basson said that she was comfortable with RA and R's contact being at a fun public location as well as at R's home. Dr. Basson also said that school would be an acceptable venue if there was no better option, but that was not her preference. This message was relayed to the parties, but T's attorney said that, for full transparency from the jointly instructed expert, they required written confirmation from Dr. Basson before T would consider any venue away for the school. Ms. Bridges stated in an email sent on 22 January 2026, that if the confirmation from Dr. Basson was provided, they could then set a workable schedule for ongoing sessions. She thanked the Guardian for her continued involvement and added:

"We remain supportive of contact progressing and are keen to work constructively to agree arrangements that are safe, child-led, and consistent with the expert guidance previously given by Dr. Basson."

253. As T suggested that the Guardian should speak to RA about the next steps for contact, she saw him on 23 January 2026 at his school. She said that RA was positive about the visits and suggested venues away from the school. The Guardian emailed the parties to inform them about what happened at that meeting and she asked for suggestions about contact over the upcoming long weekend.
254. A first contact session was arranged for 24 January 2026. Because it was an arrangement proposed by T, the Guardian collected RA from T's home and walked him to a nearby restaurant from where she would walk him back to T's home. The Guardian reported that the arrangement for RA to depart directly from T's home for the contact turned out to be "*extremely difficult*" for RA. She said he became "*very dysregulated, crying and saying he didn't want to go*" and, when he had calm moments, he told the Guardian that he wanted RI to come. The Guardian felt that this was because: (i) contact was still new for RA with the last one being on 19 December 2025; (ii) T had been away for a week which had disrupted his routine; and (iii) RI stayed at home. The Guardian viewed the latter reason to be the most significant as RA would be well aware that his spending time with R "*is not the favored position in his household*". The Guardian highlighted Dr. Basson's observation that RA experiences significant confusion in such situations and struggles with a conflict of

⁷⁴ Paragraph 24 of Affidavit sworn on 12 March 2026.

loyalties. The Guardian says that it took effort from herself, D, RI and R to help RA through his upset. The Guardian said that she was not surprised that RA had difficulty on that day and added that some of the dysregulation has ceased due to the pick-ups from 30 January 2026 taking place at his school, a neutral location.

255. The contact took place and the Guardian said that once RA was with R and settled at the restaurant that he was engaged with R and enjoyed his time with her. She said that R joined them on the short walk to the restaurant and R reassured RA with *“gentle words and hugs, and he became more visibly calm”* and that by the arrival at the venue he was no longer upset and was able to relax.
256. After the 24 January 2026 contact, further visits took place on 30 January, 9 February, 23 February, 2 March and 9 March 2026. The first four of those took place at a restaurant which had been suggested by T due to its proximity to RA’s school. This meant that neither T nor D would need to transport him to the venue as the Guardian could drop him off back at school. The Guardian indicated that R started driving them to and from the school which she felt worked out much better. The Guardian says that during the sessions RA had something to eat and then plays with R. She noted on one day RA asked R to push him on the swings, which he enjoyed greatly. The Guardian said that she could very clearly hear RA laughing *“so fully”*. Contact on 9 March 2026 took place at Camana Bay and the Guardian highlighted that, as had happened on 2 March, RA wanted to play tag with R.
257. The Guardian said that the 2 March 2026 session was the first contact session since the one held on 24 January 2026, before which RA displayed any reluctance about going. When the Guardian collected him from school RA told her that he did not want to go to the contact. The Guardian said that he was not crying and did not look visibly upset. The Guardian is of the view that RA would have picked up on the stress at T’s home leading up to the 2 March 2026 mention hearing. They joined R at her car and RA greeted her, albeit in a bit quieter manner than he usually did. When they got to the restaurant RA read to R from his book and they chatted. It was after this that they went to the playground to play on the swings and to play tag together. However, RA had a wetting accident a few minutes before it was time to leave. The Guardian feels that he was having fun in the playground and failed to leave enough time to make it to the bathroom. R cleaned him up and he came back to the table and resumed playing with his toys and in fact didn’t want to put them away and leave. At the drop off at the school, the Guardian said that she noticed that RA hugged R

with even more engagement than he had done previously. The Guardian does not agree with T that the wetting accident was due to distress at the contact session because at the time it happened, he was in the playground having fun with R. The Guardian noted that unfortunately RA's therapeutic support has not started, as that would provide it with the help and tools that he needs to deal with the mixed emotions that he was having. She added that the more time that RA spends with R he would greater be able to reconcile positive feelings and experiences he has with R against the one-sided negative narrative that she feels he is picking up in T's household which must be confusing for him.

258. The Guardian's Affidavit details the contact that occurred on 9 March 2026. That contact took place after the hearing on 2 March 2026 at which I had said that contact could be for at least two hours on at least one day a week, with the venue being at the discretion of the Guardian. With the Court's direction in mind, the Guardian arranged a two-hour contact at Camana Bay. When the Guardian collected RA from school, he said that he did not want to go. The Guardian informed RA that she acknowledged how he was feeling, which she said seemed to help him. The Guardian said RA perked up when he was told that contact was going to be at Camana Bay and that he was chatty during the car trip. They arrived before R and when RA spotted R he immediately smiled and pointed to her. RA and R sat and had an ice cream at which time there was lots of giggling and chatting. RA then said he wanted to go and play and asked R to play tag with him, which they did for about 10-15 minutes. Again, the Guardian observed a lot of laughing and giggling she felt was *"quite heartwarming to see"*. R and RA then had lots of fun playing in the fountains and the Guardian said that R was *"really quite joyous"*. In fact, R was reluctant to stop playing in the fountains when he was told that he needed to dry off before the end of contact. When it was time to leave, RA did not want to go, and he kept asking for *"20 more minutes"* as he wanted to play some more. The Guardian was of the view that this new contact venue was very beneficial to RA, and that he had enjoyed his time with R *"immensely"*. R appropriately convinced RA that it was time to go and RA and R had a long hug to say goodbye. Whilst they were hugging, RA repeated again that he wanted to stay and play some more and R reassured him that they would do it again very soon. I note that neither D nor T have any comments to make concerning what appeared to be a positive contact visit for RA. However, when summarising all of the contact visits, presumably including this last report in one, T characterises what the Guardian calls RA's enjoyment as RA being compliant during contact. T expresses a view that the Guardian's:

“perception of “enjoyment” may be biased by the fact that she obviously wants contact to accelerate.”

Although I do not agree with the Guardian’s recommendations surrounding her schedule of developing contact, her description of the positive interaction at the contact visit is not one that arises due to her having an alleged bias due to her recommendation. The content of paragraph 41 in her Affidavit illustrates T’s lack of insight whereby she feels that it is the contact session alone, and nothing to do with the circumstances in her own household, that impinges on what she calls a *“shy and subservient”* child’s view about R and his contact with R. That said, I do agree with T’s comment made at the end of that paragraph, namely that ongoing therapy is required. However, I would then add that such therapy is not only required for RA (and for RI), but it is required for T and R to assist them in recognising their own past and present damaging contributions to RA’s (and RI’s) distress and to assist them with addressing that. Because of where they are due to a lack of therapy for themselves, they are not equipped to fully understand the deep rooted reason for the distress that they say they are witnessing, and in such circumstances it is understandable that they are concerned and that their automatic conclusion is that the contact sessions themselves caused the distress, as that is the change in the status quo that has existed prior to R’s return to the jurisdiction.

259. Due to RA’s comments towards the end of the 9 March 2026 contact, the Guardian observed that it would be better for RA if the end of contact times were not so rigid, enabling RA to have a more gradual transition. The Guardian said that it would also provide her with a little time to have a debriefing about what RA thought about the contact visit. The Guardian also felt that contact should be introduced as part of the gradual child-led progression that was underway.
260. Sadly, it is apparent that a clash of characters has surfaced between D and the Guardian which is not helpful or healthy. I have reviewed what each say about the other, and I am conscious of what the Guardian said at the last mention hearing about the atmosphere at handovers with D. This is not a criticism of the Guardian whose input and vastly time-consuming assistance to this family has gone far beyond what could be professionally expected of her. The parents and D should acknowledge that. T, D and the Guardian all have strong views which they genuinely hold about what they believe to be in the best interests of the children, and it may well be that this is the cause of the surfacing at times of the unfortunate breakdown in their communications and demeanor

towards each other. What I hope, and expect, is that if they are required to have any future interactions, they will be able to put their personal impressions about the other to aside for the betterment of the children. There is a tension between T and the Guardian. I note that T is of the view that the Guardian has failed to respond to her welfare concerns. It is evident that the Guardian has become rather exasperated by what she views as voluminous and tedious communications, written ‘with an eye’ on the proceedings rather than solely for the benefit of the children. On the other hand, T firmly expresses a view⁷⁵ that the Guardian is primarily legally trained and does not have the psychological training required to make informed decisions about the pace of the development of contact. She reiterates the strict interpretation of Dr. Basson’s evidence that there is a requirement for contact to be monitored with the person who has had psychological training. I partly agree with T’s observations, and I have had those and Dr. Basson’s in mind even though I have since the hearing made slight adjustments to the progression of contact. As I have said herein, I do not agree with the Guardian’s timetable for the incremental increase in contact whether with or in the absence of therapeutic support and input.

261. In relation to RI, the Guardian highlighted the logistical issue about how letters are supposed to get from R to RI. If the therapeutic intervention had commenced, which it still has not, then the therapist would have been an appropriate person. The Guardian indicated that, when interim contact arrangements with RA are more structured and if her time is not taken up with time-consuming correspondence with the parties, she would be able to meet with RI and possibly hand over a letter from R. R confirmed that she has already written two letters to RI which she has provided to the Guardian to share when it is appropriate for her to do so. I see no merit in the criticism set out in T’s rather ‘point scoring’ comments set out at paragraphs 94-97 in her affidavit sworn on 9 March 2026. Her assertion made there that R has not written a letter “*at all*” for RI is an inaccurate one and I do not agree that it illustrates a lack of engagement by R in the recommendations of Dr. Basson. In fact, I find that R’s actions in this regard show some sensitivity in relation to RI. It is also wrong for T to state that the letter requires no facilitation from any other party because R has sensibly sought to have the Guardian decide when it is appropriate for that to take place. A letter was delivered during the December 2025 hearing. Any further letter handover has not taken place because the Guardian has not been able make arrangements to see RI.

⁷⁵ I say firmly as it is written in bold print and underlined.

262. In her last Affidavit, R's observations, although briefer than the Guardian's, are consistent with the latter's observations. R did comment that the urinary incident on the last contact session followed by the unusually tight farewell hug was consistent with the emotional strain associated with loyalty conflict being placed on RA which has been highlighted by Dr. Basson. R also noted that RA's teacher said that she did not have any concerns about RA's presentation at school as he seemed his *"usual bubbly self"*.
263. In relation to therapeutic intervention for the children, due to time constraints, the Guardian was unable to give a detailed account of what has transpired on that front. In her Affidavit she highlights paragraphs 71 to 81 in the Guardian's Written Submissions dated 2 February 2026. She noted that there had been a significant amount of email correspondence concerning therapy, concentrating on issues such as insurance coverage, referral letters, choice of provider and the provision of Dr. Basson's report to them.
264. The Guardian believes that R has already commenced therapy sessions and that T is awaiting approval before she can commence any sessions. Dr. Basson had recommended two on-island providers who work at Aspire for RI and RA. One of them, Dr. Meadows, despite initially indicating that she could work with RA, later said that she could not due to capacity constraints. The Guardian is concerned that Aspire are not willing to assist because they are concerned that any therapist would be dragged into the wider legal dispute however, there is no meaningful evidence to support that and the email from Dr. Lam dated 2 February 2026 clearly gives the lack of capacity reason. Therefore, I, like R, will treat it as being due to a lack of capacity. T has returned to Dr. Basson to seek any further recommendations. In relation to RI, despite the fact that Dr. Basson made a provider recommendation for a psychologist who would be well suited to work with RI, the Guardian feels that T is not in agreement with such therapy starting until after this judgment is handed down. The Guardian is of the view that RI is in need of psychological support to work through her feelings now, including about any correspondence, and that T must not place barriers preventing RI from doing so. The Guardian does not have an issue with the school counsellor providing services to the children but that should be in addition to, and not in place of, child psychologist(s) therapeutic intervention.
265. R says that the events post-hearing illustrate the limited availability of therapeutic services on island. R shared with the Court in her latest Affidavit that she had contacted the Wellness Centre

and was told that Dr. Schirn, a clinician identified by Dr. Basson, was accepting child referrals and would accept BritCay Insurance. T states that she had tried to get RA registered at the Wellness Centre but said that R was refusing to sign the admission process form. R says that she provided the intake materials and forms to T hoping that there could be a cooperative referral process. However, she said that a revised intake was circulated by T's lawyer which R said introduced narrative material relating to the litigation. R is concerned that this approach makes the therapeutic process less clinically focused and more parental litigation dispute focused. R said that at the time of the Affidavit, she had received no further input from T about RA's referral, a referral which R contends should proceed without unnecessary delay. The above shows T and R's ongoing inability to set up therapy. It is consistent with their previous interaction with the Wellness Centre, which the Centre previously highlighted and strongly criticised. It does not bode well in relation to the therapeutic recommendations made by Dr. Basson, even if the children are not permitted to permanently relocate from Cayman.

266. In her recent Affidavit, T states that she had been trying to get RA's therapeutic support in place since December 2025. She informed the Court that she had emailed Dr. Basson on 18 January 2026, 31 January 2026 and 27 February and 26 to follow-up about the obtaining of referral from Dr. Basson. T highlighted the difficulties of obtaining therapists on island who are able to conduct the in-depth work required for RA. She states that the Wellness Centre may be the only available therapeutic provider, but due to the position being taken by R it is not possible to progress with the intake process. In the Judgment which was written in 2024, I recorded that previously the Wellness Centre had withdrawn their services from the family due to their expressed concerns about the inability of these two parents to properly engage with them. T says that she has sought to arrange counselling for RA through the school because she views it as being an interim safeguarding measure whilst there is no other therapy going on. She informed the Court that R refused to consent to the involvement of the school counsellor, as well as refusing to have Dr. Basson again involved. She noted that Dr. Basson stated in an email dated 4 March 2026 that there is presently no suitably qualified psychologist who can take on RA's case. The apparent lack of mutually acceptable therapeutic input on island at all within a reasonable period of time is a factor to take into account when considering relocation. In such circumstances, it would have been helpful to know what therapy T and R may be able to obtain in the US.

267. T informed the Court that she has commenced the process to obtain therapy for herself by communicating with Dr. Basson to make an urgent referral for her through the Health Services Authority. Unfortunately, that formal referral has not been forthcoming and she has not been able to follow through on her application for counselling sessions through the Employee Assistance Programme as her employment has ended. T informed the Court that she has had an intake session at Infinite Mind Care and that she is having to pay for therapy at \$275 per session. With that in mind, she says that having regard to her current financial position is untenable for her to continue paying for these sessions.

268. The Guardian, after her review of post-hearing events, says in her affidavit that even on occasions when RA has been initially resistant, he has settled quickly and participates willingly in contact with R. She says that she has observed RA enjoying spending time with R. The Guardian is of the view that she does not believe that T necessarily appreciates or accepts that RA genuinely enjoys being with R or that she shares her view that RA would benefit from longer and more frequent contact visits which impacts T's reaction to the contact and makes her have a *"tendency to put obstacles in the way"*. She concludes with a statement that she has:

"serious concerns that with the current dynamics contact would not be permitted to proceed consistently or be upheld if the children were in New York, which risks permanent damage to the children."

She stresses the importance of the children's therapy, both individual and parent/child therapy being implemented without further delay.

269. T's Affidavit sworn on 9 March 2026, in which she relies upon D's Affidavits sworn on the same day, provides a very different interpretation of post-hearing events relating to contact and the recommended therapeutic intervention. I recall at the close of the hearing that T was receptive to contact arrangements being set up. That said, there was an issue about the supervision of that contact due to her different interpretation of Dr. Basson's report. T appeared not to initially agree to the Guardian supervising contact, but after I made it clear that the Guardian was an appropriate person to do that, she agreed.

270. In her Affidavit, T states that RA told her that after 19 December 2026 contact session that R came to the school and that when he was asked if he was going to see her again, he said he did not know

but did not want to. T said that she told RA that it was “okay” if he wanted to see her and that she was happy with that, but he still repeated that he did not. D confirmed that that exchange happened. Accepting that it did happen, I would still not be surprised if directly asked by T or D whether he wished to see R again, RA would reply that he did not. His recognition about the true feelings of T towards R and about him having contact with R are so entrenched, as well as his clear understanding of RI’s views about R, that to remain an insider rather than outside of the family he expresses a view that is consistent with the other members of the family’s true opinions. In her Affidavit, when summarising the contact that has happened post-hearing, T highlights that she has not been present before any visit, that on 24 January she was out of the country entirely and that in every other occasion RA has been collected directly from school. T, therefore, concludes that RA’s “stress response” to contact visits is not whether consciously or subconsciously related to her or her feelings about contact. She says that it is a stress response from RA specifically about the contact itself that manifests:

“regardless of whether I am present, regardless of the venue, and regardless of which adult facilitates the handover.”

However, I do not accept this contention. As I highlighted earlier in this paragraph, whether or not T is in the jurisdiction when contact take place and no matter the brief verbal ‘assurances’ that T and D say are given by them to him, RA has throughout the extended period post T and R’s separation been acutely aware, that him enjoy willingly engaging in contact with R would be at odds with the views of the rest of that household. It is totally natural for him in such circumstances to not only tell T and D what he believes they wish to hear about not wanting contact, but then also to experience the type of upsetting physical behaviours mentioned by T⁷⁶ as he tries to balance his position between the conflicted family members (including his sister) without seeking to seem to be disloyal to them. That said, it is also natural for T, witnessing what she says she does with RA in her household, to forcefully share her concerns and to make suggestions concerning the mechanics of the contact visits to see about how best to minimise the upset.

271. T and D commented upon the 24 January 2026 contact in their latest Affidavits. T was out of the jurisdiction at the time, so I refer to D’s evidence. D said that before the contact visits, RA was

⁷⁶ Toileting accidents, sleep disturbance, screaming, hiding under blankets and nightmares.

hiding under the blankets in his room. D said that when the Guardian arrived and asked him if he was ready to go, RA:

“burst into tears and started hysterically crying and screaming: “I don’t want to go!”

D said that she tried to encourage RA to attend the contact. This summary of events is consistent with the Guardian’s observations set out above. D said that RA did not settle and continued screaming for thirty-five minutes repeatedly calling out:

“I want (D).”

D told the Guardian that she did not agree with her view that Dr. Basson had said that RA should not be given a choice about contact rather than contact being determined by RA’s comfort and sense of safety on the relevant day. On that point, the Guardian clarified that she had had discussions with Dr. Basson about what should happen if the children were reluctant to engage in the process or contact. She says that Dr. Basson felt that the best thing to do was to acknowledge how they are feeling and then to recognise and confirm to them that that is normal and understandable for them to feel that way, and then to provide them with support they need to move forward with the task. D may not have been aware of these discussions on that contact when she wrote her Affidavit. The Guardian says that this is how she approached RA when he was struggling on the 24 January 2026 occasion.

272. D’s evidence departs from the Guardian’s when she says that RA was extremely uncomfortable when R arrived and hugged him with his hands down by his side and he continued crying and sulking. The Guardian stated that RA became visibly calm when R hugged him and he was no longer upset by the time that they reached the contact venue restaurant. As the parties agreed that the recent Affidavit written evidence should not be tested by oral evidence, I cannot determine which version is accurate. However, if D’s version is correct, it is not surprising. It appears that she was present when RA came. RA would understandably be reticent about showing affection towards R in D’s presence because RA would be aware of D and T’s views about R. D insightfully highlights at paragraph 13 in her Affidavit that what happened illustrates the reason why Dr. Basson said that she or T should not be involved in contact handovers/exchanges. It would also not be surprising to hear that R calmed down and relaxed by the time they arrived at the restaurant, as by then he would know that he was not being watched by D. I note with interest that T and D form the same conclusion about the cause of the distress. In fact, they both use the same terminology in their

written Affidavits, namely that RA's response or the distress "*was intrinsic*" and that was not preceded with "*any adult interaction*". They both fail to recognise the concern set out by Dr. Basson about the effect on his demeanor resulting from: (i) the deep rooted confusion RA holds about R's parental role in the present family dynamic; (ii) his engrained protective loyalty for T; and (iii) his recognition that he may have different views about R being a part of his life than all of the other members in that household hold. The fact that such negative views may not have been expressed to RA on the contact day, does not cure the effect of RA's long-held understanding of T, D's and RI's negative feelings and beliefs.

273. Both T and D say in their respective Affidavits that "*the 30 January 2026 contact visits preceded using a school-based model*" that T had proposed. They both report that the collection by the Guardian at the school was uneventful. D said that when she collected RA after the session he "*sprinted*" into her arms "*with a visible and overwhelming sense of relief*". D said he was quiet and withdrawn and when she asked him how he was he did not reply but turned his thumb downwards. D said that when T spoke to him later in the day, he said that he did not want to go again. The Guardian does not say how the hand back went, but D's evidence of how RA was at handover seems very different from the Guardian's observations at paragraphs 41 to 45 about the interaction that occurred on that and later visits.⁷⁷ The same can be said about the 9 February 2026 visit where D again reports that RA was expressing distress and reluctance about further visits and gave another thumbs down gesture to D. The same can also be said about the 23 February 2026 visit and D's report that RA was completely withdrawn when she picked him up and when he gave a further thumbs down gesture without speaking. D and T say that nature in the evening RA said to T:

"Please don't make me go again mummy. I really don't want to go again."

They said that he refused to sleep without T or D being with him and that he stayed up to 2:00AM. They said that he went to his bed during the night. He said that at the school drop off on in the morning he was crying and physically panicking being left. Both T and D in unison contained in their Affidavits that this is caused by there being no therapeutic support in place and because the school counsellor had been "*blocked by the Respondent*". When I note the consistency between T and D's Affidavits, I am unable to conclude that such consistency enables me to accept their

⁷⁷ The 9 February, 23 February and 2 March 2026 visits.

evidence because it is clear by the highly similar words and phraseology used that they have both heavily consulted with each other when drafting their Affidavits.

274. In her Affidavit, D reports that after the contact the Guardian informed her that RA had wet himself during the session. She said that neither she nor T had been contacted in real time when it occurred. I have to say, there was no requirement for the Guardian to do that and when one sees how the Guardian reports that she and R sensitively and appropriately handled that and how RA was and how he interacted with R afterwards (as set out at paragraph 257 above) there was no need for them to do so. In her Affidavit at paragraph 39, feeling a need to use bold print and to underline, she stated:

“I record, as a safeguarding concern, that I was not informed in real time when the toileting incident occurred.”

I record for the purposes this judgment, that I do not view it as being a “*safeguarding concern*”, especially as the report was made at the hand back. D reported that at the hand back there was clearly something wrong with RA as his head was down and he walked over to her “*visibly upset*”. She said that he was embarrassed and that all afternoon he begged her that he not be made to attend contact again. T and D both say that later that evening he said to T:

“Why do you and (D) and (the Guardian) make me go to see (R). I don’t want to go. Please don’t make me go any more.”

Insightfully, D recognises that RA is in distress and needs professional help to process what is happening to him. I am not convinced that D has the insight to recognise that the distress may not be caused by the contact session itself, but by the internal confusion and torn feelings that RA has due to the rivalry between the two households. T arguably has greater insight when she states at paragraph 37 in her recent Affidavit that RA requires:

“professional support to help him processes experiences, understand his feelings, and build the emotional scaffolding that would enable contact becomes safe and beneficial.”

275. I accept that T has been proactive in the arrangements for setting up the contact. Although I also acknowledge that she has been forceful about the type of contact that she sees as being appropriate which has not been in line with that sought by R and that which is suggested by the Guardian. When I review what has happened since the hearing, I do not accept the Guardian’s characterisation that

T is obstructive. I consider that T has different, genuinely held views and has suggested conditions to be attached albeit some incorrect, based on what she thinks is best and “safe” for RA at the time from her interpretation of Dr. Basson’s recommendations. It is evident that the difficulties emerge from the differing interpretations that T, R and the Guardian place on the recommendations and the reasons for those recommendations made by Dr. Basson. The content above concerning the inter-partes communications and actions in the week of 12 January 2026 is instructive. A clear example of that is T’s initial objection to the contact taking place away from the school as she believed that Dr. Basson was saying that it should not and she wanted to confirm that, whilst R insisted that it should take place away from the school based on her interpretation of the report. A further example concerns who should transport RA to and from contact. T was entitled to raise that Dr. Basson had indicated that that she or D should not transport RA to and from contact and I feel that T should not be criticised for trying to suggest alternatives including, D taking/collecting RA to and from the school. I accept that the differing interpretations resulted in significant inconvenience for the tireless Guardian not only in the actual contact arrangements themselves but also in the contact arrangement procedures that involved a lot of toing and froing in copious email exchanges. The Guardian has clearly felt exasperated as she continued ‘to go the extra mile’ to ensure that contact took place, but I find that it is unfair and inaccurate to cast the blame entirely on T and to contend that she was exclusively the issue just because she had a different view than the one held by the Guardian. The Guardian was entitled to express an alternative view to that being presented by T and R based on her interpretation of Dr. Basson’s report. The Guardian rightly sought clarification from Dr. Basson which was very helpful in eventually clarifying what she was saying about the contact arrangements.

276. The post-hearing evidence paints a picture consistent with the problems that have persisted throughout these proceedings. It encapsulates the issues and defective thinking that has plagued this family for years. What I take from the evidence is the fact that T, R and, to a more limited degree, the Guardian have failed to recognise what goes to the root of Dr. Basson’s evidence. I am not surprised that RA tells T and D that he does not want to go to contact and gets upset prior to and possibly after contact. As highlighted by Dr. Basson, this is due to the confusion and internal conflict that he feels due to his divided loyalty and him wanting to protect T who he knows gets visibly upset in his presence by the thought of R being in his life. At no time does T in her evidence address why RA’s demeanor is so different when he seems to happily engage with R in contact whom he seems to view as being a parental figure. It seems that she is still not in a position to

recognise that RA actually enjoys the contact visits and that the upset is not caused by the visits themselves but by RA not wanting to cause upset in T's household. Although I find that T was genuine when she expressed in her oral evidence that after reading Dr. Basson's report she had a wake-up call about her psychological and parenting flaws which have impacted on RA, her actions since the hearing illustrate an ongoing inability to accept that RA acts differently in each setting and to be open to considering that part of the reasons why that may be is homegrown. T is still unable to comprehend why RA may be saying one thing to her and D, yet acting in a manner inconsistent with that when with RA. If she was able to do that, T would see that Dr. Basson has highlighted T's contribution to the confusion and unsettlement that this young boy continues to experience emanating from the long-running family conflict between her and R. T would also see that, despite the passage of time that RA has been separated from R, he still identifies her as being a parental figure. T's failure to do that is one of the reasons why Dr. Basson stressed that the therapy should not just be for the children but for both T and R and that such therapy would have started before the contact gets anywhere near the level set out by me in 2024 in the Order. It is likely that T, without therapeutic intervention, will not have the mental capacity to understand personal issues that need addressing and then act to repair them. T stated in her oral evidence that she understood that the dynamics between her and R have caused some of the issues with the children. T says she recognises some of the traits that she has which Dr. Basson highlights adding:

"I recognise and I am very willing to work on them because I cannot damage my children."

She also said that she would:

"one hundred percent engage in therapy and I will try my best to change."

Although I am cautious to do so having regard to T's previous words and actions, having heard her evidence and seen her demeanor, I am satisfied that T does now recognise that for the children's sake there is a need for her to change and, that whatever the outcome of these proceedings, she now realises that therapeutic intervention for her and the children is the avenue to do that to assist the children to better move forward into their later teenage and adult years.

277. R similarly lacks insight into why RI is forcefully saying that she does not want to see R and why RA may express reticence in relation to seeing her, even to the Guardian on occasion. She and the Guardian have too simplistic a view when they submit that because RA settles into each contact visit and then engages and plays happily with RA, that means that contact can move forward at the

pace set out in paragraph 246 above. Although that might have been the position back in 2023/2024, the present inevitably now more accentuated deep rooted psychological factors for the children, evidence of which was not before the Court at that time due to the parties then long running failure to engage such expert assistance, requires a more in depth and wider ranging enquiry before determining how contact should advance. R is adamant that RA's reticence about contact is solely due to deliberate coaching and pressure placed on her from T and likely also D. As Dr. Basson indicates, the causation goes a lot deeper than that. Both T and R have greatly contributed to RA's mental turmoil. Not only by their present conduct but also by how they have created a highly conflicted family dynamic with severe mental and physical discord being witnessed by the children. They both think that the fault for the very unhealthy family culture lies not with themselves but solely with the other, even if they may on the rare occasion self-blame without much conviction. Although T said in her oral evidence that Dr. Basson's report 'opened her eyes' and contained some hard truths, in the next breath she will place the blame squarely on R for why this family is in the position it is. R takes a similar position in relation to T, although she has shown even less insight concerning Dr. Basson's observations about how R has contributed to the family's unhealthy state.

278. The Guardian expressed a view R has "*a tendency to see herself as a victim*" and correctly added that that needs to change. Her absence from the Cayman Islands and resultant absence from RA's life for such an extended period of time has contributed to RA's confusion. As I have previously stated, if R had returned to the jurisdiction in mid, or even late 2024 as she had clearly stated in her written and oral evidence, any issues about the progression of contact and the setting up of therapy would have been possible. Whether to hear this upsets R or not, she must recognise that T has been the one consistent in their lives, providing good care for the children during her absence. R must have realised that if she had still failed to return to the Cayman Islands by the time of the present hearing, in light of her previously not adhered to assurances about imminent return, it would have put a different complexion on the considerations this Court would have had in the relocation application.
279. I do not question R's genuine and heartfelt desire to play a meaningful parental role in the children's lives, but her failure to return to the Cayman Islands due to the fact that she rigidly stuck to the highly delayed employment plan, which she has harboured for the past two years, is at odds with her taking up the opportunity that the carefully and deliberately thought out structured terms in the Order made in 2024 sought to provide to her and the children. She is a highly qualified person in a

required profession and she has not convinced me that she could not have found alternative employment when it was evident that her prospective employer could not be relied upon to get her back here in a time-frame that would enable her to meet her responsibilities towards reestablishing relationship with the children under the terms of the Order.

280. Although understandable that R would want the children to be close to her now she is back in Cayman, at no time in her evidence, unlike the Guardian who also disagrees with the relocation, was she able to accept that for the children, there could be any positive welfare benefits for them in the USA, especially in the pretty dire circumstances that T and her family find themselves in Cayman post the termination of her employment.
281. Even if some of the blame for RA's present confusion, mental turmoil and highlighted psychological issues is not the fault of R but can be said to arise from T's conscious or subconscious wish and resultant conduct to exclude R from RA's life, the failings of R and the effect of them on RA's psychological wellbeing must be addressed and considered alongside the recent positive brief contact visits when considering the development of the contact arrangements. R focuses solely on her contact moving forward but does not fully grasp that for that to happen RA must address, in therapy, the psychological issues caused by his confusion and the family dynamics which make him so unsettled before and after contact when he is back in Ts household. R needs to also recognise that the therapy work highlighted by Dr. Basson is needed for both herself and T in this regard.
282. When considering the contact recommendations made by this commendably dedicated Guardian, I can understand that she is the one who observes the contact and she witnesses what she terms as on occasion being "joyful" or "heartwarming" interactions. What the Guardian observed is positive and it should give real hope that even after the long gap, R can still be a parental figure in RA's life. What was seen heightens why the therapy is required to help RA understand the make-up of his family and how RA fits into that. On the other hand, the Guardian does not see how upset RA is in Ts household post or pre-contact. She has reported some briefly held reticence immediately prior to some of the visits. Whatever the reason for the upset whilst in T's household, it cannot be ignored, it must be addressed, and the child-centric resource for doing that is the therapeutic work for both adults and children. Although the Guardian rightly states in her recommendations that the therapy should take place, she seems to be saying that it can develop in the stages up to the level that was ordered in June 2024 (a time when the family's situation was

very different to what it is now) no matter what stage the therapy has successfully (or not successfully) reached. I am of the view that the two 'go hand in hand' and it is the progression of therapy that will inform about whether contact can move at the speed and degree that the Guardian suggests. In a case such as this, even if RA was not locating to the US, I would be unable to order the level of contact recommended by the Guardian set out at paragraph 246 above without the therapeutic advancement placing the children and adults in a position for that to healthily happen.

283. Accordingly, I take a different view to the Guardian and R as I am satisfied that any significant increase in the level and nature of contact between R and RA should not occur primarily on the basis that T and R have in the brief post-hearing contact visits, after an almost 2-year gap, been able to happily engage. That is too simplistic an approach to adopt, especially in light of the psychological issues facing RA (as well as for T and D), which Dr. Basson highlights and advises must be addressed for there to be a healthy long-term outcome for RA. The recent assessed contact is relevant and potentially very important for RA, but it is but one of the factors to consider when developing the contact regime at a pace that meets R's psychological position which may be different to RA's demands and the Guardian's recommendations. The fact of the matter is that RA now has a settled life in T's household and Dr. Basson has made it patently clear that he is thriving there, and she has reiterated it is important to prevent him regressing to being as unsettled as he was about 18 months ago. He inevitably is going to suffer some upset as he has been shielded over the last few months from the family conflict experienced in the past and inevitably there is now to be some disruption caused by reintroducing R into his life, and how T consciously or subconsciously responds to that. No matter how sensitively they have approached it, the reintroduction of the Guardian into RA's life and the involvement of Dr. Basson will have been unsettling to RA, bringing back, after two years of relative calm, some of the unsettled feelings that he had in 2023. T and R's obligation is to minimise that upset. That may be achieved by them not continuing to allow their animosity toward each other to engulf their whole being, but by actively engaging in the therapeutic work that they both require. R's reaction to Dr. Basson's report is to accept the parts in it that criticise others but to question a large number of the observations made about her. R disagrees with Dr. Basson's psychological assessment of herself and Dr. Basson's resultant view that R requires therapy and that any meaningful development in contact cannot be separated. R's contention that Dr. Basson is the one who is wrong is consistent with R's defensive approach, namely that when something not to her liking is said about her, her response is that others are at fault.

Various Options

284. This is a case where T has been the primary carer of the children for a considerable period of time. In fact, in the Judgment back in 2024 I stated:

“...it is important to acknowledge that commendably T has been the constant in the children’s lives. Whenever R was having mental health issues resulting in her not being able to take up contact or resulting in her leaving the Islands for periods of time, T has been there for the children to ensure that they were cared for..... the reality of what has happened, including some of R’s actions and comments understandably highlighted by T, has resulted in T at this time becoming the children’s main and consistent carer.”⁷⁸

At least since the Judgment in 2024, T with the assistance of D, has taken on all the responsibility for the children’s day-to-day care due to R’s absence from Cayman. It clearly would not be feasible, or in the children’s best interests, for the primary care to be transferred to R. T is no longer seeking a non-contact order. So, in the present case, there are these available options for the children’s future:

- (i) Staying in the Cayman Islands with T with consideration being given to orders to develop direct contact between RA and R and initially indirect contact between RI and R - consideration also being given to arranging therapeutic input for the family.
- (ii) Permanently moving to New York with T with consideration being given to orders to develop indirect and/or direct contact between RA and R and initially indirect contact between RI and R - consideration also being given to arranging therapeutic input for the family.
- (iii) A discharge of the shared residence order in relation to one or both children. If it was varied to a sole residence to T in relation to RI, then R’s parental responsibility for RI would come to an end. If it was varied to a sole residence to T in relation to RA, then R’s parental responsibility to RA would remain in place.
- (iv) Whether there should be any restrictions placed on R’s exercise of her parental responsibility in relation to RA.
- (v) Whether there should be any restrictions placed on R’s exercise of her parental responsibility in relation to RI if the shared residence order remains in place.

⁷⁸ Paragraph 288 in the Judgment.

Parental alienation/Alienation behaviours

285. Before I go on to consider the Welfare Checklist, I feel that I should comment upon parental alienation. The issue of parental alienation and the relevant facts attached to it, of course, form a part of the Welfare Checklist considerations. At various stages in both the 2023/2024 substantive hearing and in the present substantive hearing parties have referred to parental alienation, almost in passing on occasion, when talking about T's approach to the children.

286. In the Judgment (which arose from the 2023/2024 substantive hearing), I did not consider whether a finding should or could be made concerning parental alienation due to the nature of the submissions made by the parties at the close of the case.

287. In the Judgment I noted R's concerns that T was trying to create a situation where R would be alienated from the children, for example when T enabled RI to read an email from R which contained name-calling by R. As I have already mentioned in the Judgment, and in this present judgment, that clearly had an impact on RI and on her views about R. Another example continually raised by R is T encouraging the children to call R by her shortened first name rather than "mummy". T said that she had told the children that they could choose what they wanted to call R. I had the impression from the evidence that T was content with this form of identification for R and that she failed to recognise why that would upset R and why it may give the impression that R could be regarded as being a secondary parent. R also pointed out that T regarded the children as being only her children as she would refer to them as being "*my children*" rather than "*our children*". This is something that I have noticed T saying during these stages of these proceedings. At the first substantial hearing I found that T would do that as she knew that it would unsettle and upset R and that it was an example of her acting deliberately in a way to get a reaction from R. In the Judgment I said:

"From what I have heard and seen, including from T's demeanour, it is clear that T does not accept that R should be regarded as having the status of being a parent to the children."

I added that:

"It is evident that T seeks to reinforce that in the children's minds, often by the subtle use of language."

288. In the Judgment I did not feel that it was appropriate to make a finding that the reason for the children's expressed resistance to seeing R was solely due to T's conduct and that it was a consequence of possible alienating behaviour. The Judgment highlighted the intense dislike that the parties had for each other. There were a number of reasons for their disposition, including their obvious incompatible personalities and their unrestrained emotions which clouded their insight as to what may be in the best interests of the children. I remarked in the Judgment that as a result of T and R's at times selfish and self-centred approach, the children had become upset and conflicted. An example of the parents putting their personal needs ahead of a child is the unsavoury event that occurred on RA's first day at school which was vividly set out in 217-218 in the Judgment. There were many other examples out in the Judgment. After one incident RI said:

"Why can't you get along? I hate both of you."

In the Judgment I commented:

"It is quite telling that RI was clearly upset by T and R's conduct and was pleading with them to act in a civil manner. Even a child of RI's age saw fault in both adult's actions. To T and R's shame, RI appeared to be the individual acting the most maturely of anyone at that incident.... Despite RI pleading with T and R to behave themselves earlier in the day, they continued to act in a selfish manner that upset the children, their personal emotions still overtook the commonsense and dictated the poor interaction."

It is the children's exposure to the parties' conduct that has led to the children looking for a way to escape the distress that has been caused to them. The Guardian insightfully stated at the 2023/2024 hearing about the parents:

"It is not clear whether they recognise their own role in and responsibility for the emotional issues currently being faced by the children."

Dr. Basson rightly highlighted in her oral evidence each parent's historical lack of understanding about how their conduct would have contributed to the expressions of reluctance being made about seeing R. I note that T indicated, at various parts of her oral evidence, that having read Dr. Basson's report she now recognised that negative trait and the need for therapy to address it. R did not seem to be so receptive of the concern raised by Dr. Basson and was of the view that the cause of the children's expressed anxiety was *"not coming from my end"*. Dr. Basson accurately responded to R's position by saying:

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“It's a mixture of the two. It's very clearly a mixture of the two, especially for (RI). The damage done in your relationship with her by some of your behavior towards her, has had a significant impact on her view of you that isn't just coming from, ..., (T) and (D).”

289. In the Judgment I made the following comment at paragraphs 343-344:

“343...The children have been put into a position in which they must take sides in the dispute and also take on a protective role for T, who they now view as their primary carer. The Guardian correctly labels the situation to be one of “conflict of loyalty”. This is not a child’s role, and it puts a child at a real risk of emotional harm, harm which is already emerging for RI and for which both parties should ensure she gets assistance to enable her to understand that it is not her fault and that she should be able to concentrate on being a child. The children have been brought into that dispute by being shown inappropriate materials or being put in circumstances in different environments (including at home, at school or on video calls) where they witness their parents’ hostilities. I have little doubt that T has made it clear to the children, either directly or rather insidiously by means such as name identity, as she has made clear to the Court and to the Guardian, that she does not, and they should not view R as their mother. This causes confusion and stress to the children and can cause harm, especially as the reports up until February 2023 showed that R was a very significant family figure in both children’s minds.

344. I accept that the parents’ stress levels have been markedly increased due to what has been years of drawn out and highly contentious court proceedings. These proceedings have created an environment of evidence gathering and planning to assist each party’s case in Court. The videoing and the line of questioning by parents during indirect contact has made those conversations less child focused and more stressful for the children. The negative and investigatory atmosphere created and the nature of some of the exchanges have created an environment in which the children will not have looked forward to the contact conversations.’’

290. Although I did not go on to specifically address parental alienation in the Judgment, it is clear that I highlighted certain conduct from T which may have influenced each child’s perception of their relationship with R. However, I also highlighted other conduct from both parents which had a bearing, in particular on RI, on the reluctance or resistance to see R.

291. However, as parental alienation has been mentioned by the parties, albeit sometimes almost in passing, during this latter stage of proceedings I need to comment upon it in the present circumstances and not solely in those that existed in 2024. In the Written Submissions filed on behalf of the Guardian she highlights T's:

“stated views over a considerable period of time regarding (R's) status as a parent, which Dr. Basson noted in her report had been communicated to (RA), and the reluctance and obstructiveness she has shown towards contact arrangements....”

The submissions highlight the Guardian's view that T's interpretation of Dr. Basson's findings and observations about how contact should occur and develop are unhelpfully restrictive. In the submissions, save for a quoted extract from Dr. Basson's report mentioning a *“partial alienation response”* by RI parental alienation is not specifically mentioned. There is no indication that the Court should consider or is required to make any findings in relation to parental alienation. I recognise that in the first substantive hearing which led to the Judgment, the Guardian made more substantive submissions about the possibility of there being parental alienation.

292. At paragraphs 47-50 in her closing Written Submissions R briefly refers to parental alienation. She contends that the Court should be guided by *FF v MM* [2025] CIGC (Fam) 11, a decision which has been appealed to the Court of Appeal. R relies upon this case as confirmation that: (i) alienating behaviour need not be deliberate; (ii) the focus is effect and impact, not blame; and (iii) that proportionality and reversibility are central. R added that:

“even where alienating behaviour was found in FF v MM, the Court exercised caution against irreversible interventions” adding that *“Relocation here would be a more extreme and less reversible intervention, removing jurisdiction, supervision, and enforceability.”*

When reviewing R's Closing Submissions, although not specifically relating it to parental alienation, the mentioned types of conduct that R seems to rely upon in support of such a contention are: (i) T and D not correcting the children when they call D “mommy”, (ii) T and D not actively enforcing R's parental role; and (iii) T and D not making R an active part of the children's day-to-day narrative.

293. In T's Closing Written Submissions she states that as R has *“characterized”* this case to be one of parental alienation or of alienating behaviours, which is now the preferred terminology, the Court

must address it directly. Ms. Bridges correctly reminds the Court that it is a matter for the Court and not any expert to determine from the presented evidence whether there is parental alienation. This is made patently clear in *Re Y (Experts and Alienating Behaviour: The Modern Approach)* [2026] EWFC 38 (“*Re Y*”) and by the earlier decision made by HHJ Middleton-Roy in *Re GB (Part 25 Application: Parental Alienation)* [2023] EWFC 150 (“*Re GB*”). In *Re Y* the President forcefully expressed that only registered experts who met the regulatory standards required in such family cases could be instructed and that experts should not be instructed prematurely. Both the President to the Family Division in *Re Y* and HHJ Middleton-Troy in *Re GB* referred to the President’s observations made in *Re C (Parental Alienation: Instruction of Expert)* [2023] EWHC 345 (Fam). At paragraph 17 in *Re GB*, HHJ Middleton-Troy shared the President’s below comments made following the receipt of submissions from the Association of Clinical Psychologists - UK (“ACP”):

“Before leaving this part of the appeal, one particular paragraph in the ACP skeleton argument deserves to be widely understood and, I would strongly urge, accepted:

‘Much like an allegation of domestic abuse; the decision about whether or not a parent has alienated a child is a question of fact for the Court to resolve and not a diagnosis that can or should be offered by a psychologist. For these purposes, the ACP-UK wishes to emphasise that “parental alienation” is not a syndrome capable of being diagnosed, but a process of manipulation of children perpetrated by one parent against the other through, which are termed as, “alienating behaviours.” It is, fundamentally, a question of fact.

...Most Family judges have, for some time, regarded the label of ‘parental alienation’, and the suggestion that there may be a diagnosable syndrome of that name, as being unhelpful. What is important, as with domestic abuse, is the particular behaviour that is found to have taken place within the individual family before the court, and the impact that that behaviour may have had on the relationship of a child with either or both of his/her parents. In this regard, the identification of ‘alienating behaviour’ should be the court’s focus, rather than any quest to determine whether the label ‘parental alienation’ can be applied.”

294. Despite T’s Closing Submissions correctly indicating that parental alienation is not a syndrome capable of being diagnosed by a psychologist and despite highlighting that it is the Court’s function to make the findings about it, she refers in her Written Closing Submissions to the following observations made by Dr. Basson (i):

“It’s far too over simplistic in this case psychologically to say that this is a pure case of parental alienation. I have been extremely clear about that in my report. I’ve been very

clear about the impact of both of your behaviors on these two children”; and (ii) “that T’s behaviors were not “conscious alienation”

but her emotional responses to a situation. Although it is my role alone to determine whether there has been alienation, I have to say that Dr. Bassons’ observations mirror my own independently reached view.

295. Therefore, having regard to the above, apart from R’s brief mention of *FF v MM*, no party has referred in their Closing Submissions made to the Court to the relevant case law relating to parental alienation. No party has made meaningful submissions about the test for a finding of parental alienation. No party has given substantive factual allegations concerning T’s conduct which could amount to parental alienation nor applied any allegation to the relevant law. This is why I have stated that, at the close of this hearing, parental alienation seems to have been something that is mentioned as a periphery matter in passing rather than something requiring a core finding to be made by the Court. That said, as mentioned above,⁷⁹ I still feel it to be appropriate for me to comment upon parental alienation, albeit in a shorter fashion than I ordinarily would have done if the parties had relied upon it and addressed it in a meaningful way in their closing submissions.

296. The approach adopted in parental alienation cases has undergone a modernising revision, with courts now focusing upon the relevant behaviours and the impact that they have on a child, rather than on labelling the parent. The new approach requires the court to start by looking at the child’s behaviour. Then the court should consider whether the child is reacting to the other parent’s behaviour, including any alleged abuse. The court should assess whether the child’s reaction is an understandable one. It is after that the court may go on to consider whether the relevant parent has influenced the child. The Family Justice Council’s Guidance (“the Guidance”) issued in December 2024 highlights this newly revised approach and it explains that alienating behaviours are:

“psychologically manipulative behaviours, intended or otherwise, by a parent towards a child which have resulted in the child’s reluctance, resistance or refusal to spend time with the other parent.”

⁷⁹ See paragraph 291 herein.

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The approach set out in the Guidance should now be adopted by the courts as made clear by the President of the Family Division in *Re Y*. I am satisfied that the same modern approach should be adopted in such cases in this jurisdiction. The Guidance also sets out three elements which must all be satisfied before a court may conclude that alienating behaviours have occurred. The approach now is also that this factual matrix has to be established before expert evidence is considered. In other words, expert evidence should only be directed after any findings of fact have been made and should not be relied upon for the purpose of making such findings.

297. In this case an expert, Dr. Basson, was instructed without there being a freestanding fact-finding hearing post the renewed relocation application. However, in the very detailed Judgment delivered in 2024 I deliberately conducted a rather laborious approach to analysing and making findings concerning the lengthy background history and numerous cross-allegations made by the parties. The Judgment was intended be a one stop referral document, acting as a comprehensive source for all that detail up to the date of the Judgment. As I mentioned at paragraph 6 above, the detail contained in the Judgment is highly relevant to the present judgment. It is my expectation that the present judgment should be read in conjunction with the Judgment and, therefore, I have only sparingly replicated some of the earlier outlined detail into this judgment. In the Judgment there were no findings made in relation to parental alienation. Despite that, findings were made about some of the limited allegations again relayed in the present proceedings which have been suggested to be evidence of alienating behaviour. There were also a number of findings made in the Judgment about the troubling conduct of both T and R which I found to have substantially contributed to RI's reluctance and refusal to see R and RA's negative views about seeing R. I am conscious that R was out of the jurisdiction from prior to the Judgment until December 2025 and this absence, due to R's employment choices, is a major factor for the fracturing of any relationship with the children. It has inevitably prevented the carefully produced contact schedule ordered by me in the Judgment, which was intended to develop RI and RA's relationships with R at a time when the family dynamics were fragile. R's extremely protracted lack of presence in Cayman and in the children's lives is a significant circumstance contributing to the children expressing the views that they have about R and about how they engage with her.
298. With the Judgment from 2024 in mind as well as the updating information herein, I am satisfied that the first of the three elements set out in the Guidance is met. RI is clearly reluctant, resistant and refuses to engage in a relationship with R. RA although expressing to T and D, and on occasion

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to the Gurdian and Dr. Basson, that he does not want to attend contact with R, he does not refuse to go. RA attends contact, and the recent visits assessed by the Guardian have been positive, with RA happily engaging with R and treating her with affection as a parent. However, RA has expressed reluctance about attending and on occasion has initially resisted the idea of attending contact with R.

299. Therefore, where a child is reluctant, resisting or refusing to engage in a relationship with a parent or carer, the Court's focus will then move to the second element. The second element requires consideration as to:

“the reluctance, resistance or refusal is not consequent on the actions of that parent towards the child or the other parent, which may therefore be an appropriate justified rejection by the child (AJR)⁸⁰, or is not caused by any other factor such as the child’s alignment, affinity or attachment (AAA)⁸¹ ...”

In other words, one must consider whether the child’s reluctance, resistance or refusal is a consequence of the action of the estranged parent, where it is alleged that that parent has been abusive to the child and/or to the caring parent.

300. In the Judgment I dealt with the parties’ cross-allegations about historical domestic violence. I found that both parents had used inappropriate physical force on the other on 2 December 2020⁸² and on 1 December 2020⁸³, the earlier incident being witnessed by the children who were caused distress as a consequence. I also noted in the Judgment that RI had seen R acting erratically and in a threatening manner when she slashed a canvas with a knife in March 2019⁸⁴ and that both children had seen R in late 2020 with a knife threatening to cut out a tattoo of the letters T and R in her finger.⁸⁵ I also noted an incident in September 2020 where there was a very heated exchange primarily driven by R in which R had inappropriate physical contact with T when RA was in T’s

⁸⁰ AJR is defined in the Glossary in the Guidance as a “situation where a child’s rejection of a parent is an understandable response to that parent’s behaviour towards the child and/or the other parent”.

⁸¹ AAA is defined in the Glossary in the Guidance as “reasons why children may favour one parent over another, or reject a parent, which are typical emotional responses to parenting experiences and not the result of psychological manipulation by a parent”.

⁸² Paragraphs 267-269 in the Judgment.

⁸³ Paragraphs 265-266 in the Judgment.

⁸⁴ Paragraph 251 in the Judgment.

⁸⁵ Paragraph 264 in the Judgment.

arms and which caused RA to cry.⁸⁶ It is this type of violent behaviour, witnessed by the children, which Dr. Basson clearly had in mind when she talked about the impact of both parties' behaviour on the children in the context of her view that this should not be regarded as being "*a pure case of parental alienation*". She similarly had it in mind when, in her oral evidence, she addressed R and told her about the significant impact on RI's view of R caused by R's behaviour and that this factor was a part of the mix including the effect of T and D's conduct relating to R which the children observe.

301. As R has been absent from the Cayman Islands at least since the delivery of the Judgment, the types of incidents mentioned above have thankfully not since occurred. That said, the damage to the children due to both parties' conduct had already been sown from the earlier events and the children's defence mechanisms were activated. As RI knows that T is her birth mother and that she was born prior to R 'being on the scene' and due to the parenting role taken on by T, especially during R's absences, RI naturally views T as being her primary parent. RA similarly views T as his primary parent. It is quite natural that, in these circumstances and with what they have witnessed, they act in a 'loyal' manner towards T, their primary carer, which they feel will not upset but will also protect T. In addition to this, RI in particular has also suffered rejection by R, when R said that she did not want RI to visit her due to her concern about her behaviour.⁸⁷ Therefore RI's rejection of R and RA's expressions of reluctance towards seeing R is an understandable reaction to the historical conduct of R towards RI and towards T. When I say that I also recognise that some blame must also be allocated to T for her heated conduct at times towards R.

302. The recent experiences of the children being exclusively well cared for well by T and D, which have been accentuated by R's absences for extended periods of time, are reasons why they favour T and may be rejecting R. This cannot be said to be caused by psychological manipulation by T and it is quite natural reaction when it is put in the context of the children thriving away from the previous almost continual parental conflict that they felt drawn into.

303. Having made this finding in relation to the second element I do not need to consider the third element which, for completeness sake, requires consideration to be given as to whether:

⁸⁶ Paragraphs 261-261 in the Judgment.

⁸⁷ Paragraph 308 herein.

“the other parent has engaged in behaviours that have directly or indirectly impacted on the child, leading to the child’s reluctance, resistance or refusal to engage in a relationship with that parent.”

However, I recognise that some of T’s conduct, for example (and not exhaustive) the sharing of R’s unpleasant email with RI, not encouraging the children to use a parental term for R, not actively portraying R as a member of their family unit and by saying negative things about R which the children can hear could have some impact on how the children view R. It is clear that the children recognise that both T and R “hate” each other. Although the conduct may have tendencies of alienating behaviour, I do not feel it would cross the threshold in this case, even if I were to disregard my findings concerning the second element.

304. I make the above observations and finding based on the very limited closing submissions made by the parties in relation to alienation behaviours. I have carried out the above exercise to ensure that this is a complete judgment, one that will hopefully be useful to any future tribunal, by addressing in more detail than the parties did an issue that had been raised but, with respect to the parties, not properly or helpfully argued.

The ‘Welfare Checklist’

305. As highlighted earlier in this judgment, in exercising my broad discretion when I consider the above options and determine what orders are in the children’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 back in 2024 in the Judgment 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.”

306. In relation to the **wishes and feelings of the children**, I must have regard to the same in light of each child’s understanding and the fact that RI is aged 12 and RA aged only 7. The children have

been able to thrive due to the respite they have had for at least 18 months from the previously constant friction this family, it is obvious that they still both wish to be removed from the unhealthy dispute ridden environment. They are and have been from the time when the parties were together, both acutely aware of the dispute between T and R and what each parent wants. I am conscious of R's submission that the children's wishes must be treated with caution when loyalty conflict and adult narrative pressure may be present. RA, in particular, has had to navigate a difficult path and appears to be trying to keep both T and R happy, especially by his actions and words when in their presence.

307. When considering RI's wishes, I remind myself that in the Judgment I highlighted the fact that T had enabled RI to read an email from R in which there was name calling by R. RI said that T had shown her the letter stating that she was old enough to see such things. This clearly had an impact on RI and created a negative narrative about R in her mind. In 2024, I recognised, as did the Guardian, that although RI had been expressing since the first part of 2023 that she did not wish to see R, there was a need to explore whether her words actually reflected her true wishes.

308. There had been a period of time when R said that she would continue to have contact with RA but stop her contact with RI because of her concerns about RI's behaviour. In fact, during the period leading in the early part of 2022 R sent various negative messages to T about her relationship with both children in which she said:

"I'm going to apply for a variation of order as (RI) doesn't want to come any more. So, I'm terminating all contact.";

"...She (RI) told me she doesn't want to come. She didn't cry at all. So, visitation will cease.";

"She (RI) doesn't want to come and I'm happy to respect that and not have her here and enter into permanent arrangement in respect of that." ⁸⁸;

"I want taking off (RA's) birth certificate. They aren't mine; I don't love them and I don't want them. Find another mug that will pay to support them." ⁸⁹;

"You asked me to make a decision about the kids. I have. I don't want to play any part of their lives moving forward. They aren't mine. They aren't part of my family, and I don't

⁸⁸ In relation to message dated 9 February 2022 in relation to RI.

⁸⁹ Message dated 7 March 2022.

want to continue to have a relationship with them. I want to come off (RA's) birth certificate." ; and

"As of this week, I no longer wish to see either of the children. This will be a permanent arrangement. This is not up for debate." ⁹⁰

However, I put these comments into context I noted:

"T is justified in being upset by the various highly unattractive statements made by R about not wanting to see or be involved with the children and one can see why T might, at that time, have questioned whether R was genuine when she renewed her contact demands and request the Court to review the provisions in the Order. However, there is no doubt that the proceedings have been emotionally draining for both parties, but they have had marked consequences on R's mental health. There are times when it is quite clear that, for health reasons, R needed to take a 'time out' away from the pressures caused by the co-parenting disputes and deeply hostile relationship between the parents. There are other times when she had changes in her employment or had to care for a relative in UK which caused her to travel to UK. I do not regard these actions, although not helpful to the children, to mean that she should no longer play a role in the children's lives. When one looks at R's comments, in the context of the surrounding events and the parental interaction, one can see that they were inappropriate emotional outbursts. A number of the comments should not have been made, they were not child centric, and the aim of some of them was to upset T."

309. I noted in the Judgment that RI's relationship with R was more complex than RA's one was with R, and this may have partly been caused by R's unfortunate statements that she did not want RI to come to contact with RA and R's absence from the jurisdiction. Although, RI had expressed to professionals that she wanted to spend time with R after that, I found that it was possible that RI in 2024 may still have been harbouring some feelings of rejection from those periods of time. The Guardian previously accepted that RI's feelings may have been confused during the periods prior to February 2023 when she did not see R (for instance June 2022 to August 2022 or before to the August 2021 report) but then compared that to when contact was taking place regularly in a stable manner between August 2022 and February 2022 when RI was clearly expressing her love for both

⁹⁰ See paragraph 288 in the Judgment.

parents. In 2024, when considering RI's expressed wishes, the Guardian's conclusion, which I then agreed with, was that RI:

"has been triangulated between (the parents) and she has started looking for a way out of the distress that she has been subjected to."

This observation would still apply two years on.

310. In the Judgment I analysed the assessment of contact that had been undertaken by the Guardian between the children and R. That contact had been positive. Having regard to that and to the expressed sentiments of RI pre-2023, I found that one must look deeper than the then recent verbal statements that RI was making about not wishing contact and place them in the wider context and adequately explore or address why such a dramatic change of view had come about in such a short space of time. In the Judgment I stated the following when dealing with RI's wishes that:

"I am not satisfied that RI, if allowed to express her feelings in a neutral and therapeutic setting detached from what she believes may please T concerning her relationship with R, has firmly decided or wishes to end all attachments with R. I am of the view, especially having regard to what the Guardian has reported, that despite the minimal levels of contact in recent times, RI remains attached to R and if allowed to freely engage with her would wish to retain (her) bond and a child/parent relationship with her. However, RI will need assistance with a transition back to recommencing her relationship with R and the support of all adults."

Unfortunately, this is not a view that I now hold and that is important as the Welfare Checklist factors must be applied to the current circumstances. Dr. Basson's observations at pages 137-139 in her report concerning the nature of RI's interactions with R at Peachwave and at Brooklyn, as well as RI's statements made to Dr. Basson at the time, show the advanced deterioration in their relationship and RI's now desired detachment from R.

311. RI, who was born before T and R were in a relationship, views T as her mother and primary carer. Due to the fact that R has been absent from Cayman and from her life for almost two years, RI now views D as being more of a parental figure than R. The negative views in relation to R that RI had expressed prior to the Judgment have since hardened and the position about her wishes is much clearer. In 2024 it was clear from what RI then told the Guardian that her then expressed wishes

about limited or no contact with RA were partly expressed out of loyalty to T. At the time RI said to the Guardian that she cared about T's feelings because T felt "upset" when RI and RA were at R's home "because she misses us". Having read the evidence of Dr. Basson, I find that RI clearly does not wish to see R and it is clear that she is even more protective of T. RI should not be compelled to see R against her firm wishes. R recognises that these are RI's current wishes, even though she firmly believes that they have been influenced by T, and, to her credit, R accepts that RI should not be forced to see her. However, that does not necessarily mean that it should be treated as being a closed book. I note that in the Judgment I shared my view that RI was then not in a position to understand the complexity of her situation and the family dynamics. Importantly I stated:

"What the Court had been hoping for many months (and still expects the parents to do) was that a child psychologist would have been engaged by the parents to help, in a neutral setting, RI work through her feelings towards R and to see if the seemingly damaged relationship could be repaired if the psychologist felt it would not be detrimental for RI for that to be done."

Alas, the parties failed to engage a psychologist within a time frame that would have better assisted RI. We are now almost two years on. Dr. Basson has now made a recommendation, which I agree with, that there should be indirect contact by R writing to RI coupled with therapeutic input to enhance RI's reflective and emotional capacity and assist her with her relational history. Even if this does not assist RI to be in a place for direct contact to take place prior to her sixteenth birthday, or thereafter, it is still imperative for RI's healthy development into adulthood when she forms her own relationships. The passage of time without any therapeutic inability of R to take up the opportunity that the Order tried to provide in 2024 sadly may well have caused irreparable damage to any prospect to any re-establishment of a relationship that otherwise might have been sensitively nurtured.

312. In relation to relocation, it is clear that both children wish to move to New York and have expressed excitement about what a move will entail⁹¹, whether that be about their home there or schools. It is also clear that they would not wish there to be a situation whereby D moves to New York and they remain in Cayman with just T. Dr. Basson noted that:

"Both children have expressed excitement at the idea of moving to New York."

⁹¹ Paragraph 857 Dr. Basson's Report.

I could not find any evidence from the Guardian meaningfully exploring with the children what their wishes were about relocating to the US.

313. RA, unlike RI, was a planned child born during the parents' relationship. In the Judgment which was delivered in 2024 I stated that I was satisfied that, at that time, if able to express it freely without having a concern about how others may feel, RA would want to retain a relationship with R. I still hold that view, although how that is to be done must be based on the present circumstances and therefore the ordered contact structure set out in 2024 in the Order cannot now apply. RA is confused and torn. I repeat what I earlier set out herein, namely Dr. Basson's view that:

"On a day-to-day basis (RA) is a happy little 6-year-old. In home with T and D, that creates safety for him. Underneath that he has confusion and that needs to be repaired, regardless of the outcome of this."

and her comment:

"RA likely to say I do not want to do a call or I am not sure. My in-depth assessment of RA shows that he is incredibly confused about his relationship with R. He has a true belief that R is his mother, but deep confusion that he has been told that she is not. In my report I say that he was told by T and D that not see R as his mother."

This means that the development of contact must go hand in hand with therapy rather than at the pace being suggested by the Guardian which places over reliance on the contact schedule set out in the now dated Order made in 2024.

314. I have considered **each child's physical, educational and emotional needs**. R is quite correct when she says that that they need stability and predictability. That is something that T, with assistance from D, has been able to give to them during R's long absence from Cayman.
315. I am satisfied that the children's **educational needs** are being met and would remain met if they were at their school in the Cayman Islands. This is dependent upon them remaining at their current school, which is in turn likely dependant on the arrears in school fees being paid or a special fees agreement being reached with the school. The history of arrears due to non-payment by R

introduces a significant degree of present uncertainty concerning their education in Cayman. However, R continues to assure the Court that she is about to be on her full salary and that she has been in negotiations with the Cayman School, and she states that she would make an arrangement with the school to enable the children to stay in the school if they do not permanently relocate. At the time of the hearing, no formal school place had been allocated in the US. I accept that, until a child lives in the relevant district, a school cannot formally confirm a place or enrol. In an email sent by R to the Court on 14 April 2026, she told the Court that she had received a communication from Ms. Bridges informing her that the children had been enrolled in a school in New York. R attached that communication to her email. If T had sought to present that post-hearing communication to the Court without the consent of R, I would have had to carefully consider whether I should have mentioned it in this Judgment. However, as it was R who has presented it to the Court, I do comment upon it herein. In the communication Ms. Bridges stated that:

“Both children have now been enrolled in the public schools identified in the relocation affidavit, which Ms. Clemens reviewed and previously noted were good schools. Today was their first day. They will continue to attend pending any further direction or order of the Court.

My client took this step in the interests of the children’s education and welfare. It is not known how long the family will remain in New York pending the Court’s determination, and my client was not prepared to allow the children’s education to be interrupted for an undefined period. Children cannot simply pause their schooling indefinitely without consequence, and my client’s priority was to ensure they could continue learning and maintain normality during this uncertain time.”

Although the school arrangement that T has set up is one which she recognises may only last until the delivery of this judgment, it is apparent that the children’s short term and long-term needs would be met at this school.

316. The children have no unusual **physical needs**.

317. In relation to the children’s **emotional needs**, it is evident that the children remain detrimentally affected by the ongoing feud between their parents. Although the children are said to be thriving in T’s care and, on the surface, may appear to some to be emotionally stable, I find that the children’s emotional needs are still not being fully met. To cure this both parties will need to embrace the

recommendations made by Dr. Basson concerning therapeutic intervention and recognise the changes that they themselves must make. I need only repeat Dr. Basson's following comments:

"(RI's) developmental history reflects early exposure to parental conflict, inconsistent emotional attunement, and divided parental loyalties. During her formative years, she experienced confusion around her family structure, believing (R) to have been present since birth. (R's) later withdrawal, combined with (T's) protective positioning, contributed to (RI's) internalised sense of rejection and confusion. Over time, she has learned to mask her emotional responses and align with (T) for emotional security. Her apparent resilience masks underlying anxiety and emotional suppression. (RI) currently functions well academically and socially, but her responses to discussions about (R) remain marked by distress and discomfort.

(RA's) attachment development has been shaped by early exposure to emotional volatility between his parents. His understanding of family identity has been distorted by competing narratives regarding his relationship with (R), leading to internal conflict and guardedness. He experiences ambivalence, wanting connection with (R) but fearing disloyalty to (T). He shows signs of hypervigilance and emotional inhibition, typical of children exposed to high-conflict environments.

The parental system is defined by reciprocal psychological defences: (R's) fear of abandonment and emotional dysregulation intersect with (T's) control and defensiveness, creating a circular process of rejection and retaliation. Each parent, in turn, enlists the children into their emotional sphere for validation, leaving both (RI) and (RA) psychologically triangulated. The children have developed adaptive but defensive strategies: (RI) through masking and compliance, and (RA) through appeasement and vigilance. Both children have been left managing parental emotions beyond their developmental capacity.

The evidence suggests that both children have been adversely affected by prolonged exposure to interparental conflict and by the inconsistent emotional availability of both parents at different times. While (T) currently provides the more stable caregiving environment, her insight into the children's internal experiences remains limited. (R's) current psychological functioning continues to be compromised by unresolved attachment insecurity and difficulties in emotional regulation. Both parents' vulnerabilities remain significant risk factors for the children's emotional stability if unmanaged."

I also note her evidence that:

“From a psychological perspective, (RI) and (RA’s) continued development depends upon stability, predictability, and insulation from further parental hostility. Sustained exposure to conflict or attempts to reintroduce contact without careful therapeutic preparation would risk further emotional dysregulation and identity confusion, particularly for (RI). Each child requires sensitive handling of their relational history to prevent further psychological harm.”

318. Having heard from T, I am not as pessimistic as the Guardian is about her complying with any contact orders that may be made and engaging herself and the children in the therapy process. In T’s evidence and the submissions made on her behalf it has repeatedly been said that Dr. Basson’s recommendations can be implemented in Cayman or New York. T’s case is now put on the basis that she is committed to implementing Dr. Basson’s recommendations for contact. She views that as being contact by letter for RI and supervised contact for RA with any progression being developed in accordance with professional guidance. Of course, the orders that I make would take into account my interpretation of the recommendations made not T’s, R’s or the Guardian’s differing interpretations.
319. I am satisfied from the unchallenged written opinion of Mr Morley, a New York Attorney with experience in international family law, that the law of New York enables the registration and enforcement of orders concerning child custody and parental responsibility issued by foreign courts. This evidence was produced by T who submits that any contact orders made in the Grand Court can be registered in New York and enforced with the same legal authority as a New York court order. T also submits that if parental responsibility exists, then that would be recognised in New York. The approach suggested and agreed to by T, namely that a condition could be placed on a permanent relocation order that T must register any relevant Children Act orders that I make in the Family Court in the County in New York state where T will be living, is something I agree with.
320. When considering the **likely effect on the children of any change in their circumstances**, in most relocation cases the most significant change usually is the fact that the children’s time with the ‘stay behind’ parent is greatly reduced from the level that it was at prior to the relocation. That is not the case here. Although it is not strictly a change of circumstance, I accept that a move would

mean that the tremendous hands-on assistance provided by the Guardian hereto would cease as the proceedings would not be viewed as still ongoing in Cayman. There are no therapists working with the children at this time, so there would be no change in that provider. Relocation would be irreversible to the extent that the children would likely become US nationals and have their futures mapped out there. I can see benefits to the children and T having dual UK and US nationality with the accompanying right to reside, education and later work in those jurisdictions, especially when compared with T's highly precarious immigration status in Cayman. I accept that the children could be placed as dependents on R's work permit, but that would still be subject to what, on the evidence before me, is an uncertain roll over date for R and subject to the fact that their primary carer, T, would not be able to remain.

321. I remind myself about Dr. Basson's observation that the children are thriving compared to their unhealthy emotional state which existed 18 months ago and her advice that contact must be:

"child-led, gradual and supported by therapeutic input for all parties."

She warned that:

"If the children go back to the situation that they were previously in, going back and forth between homes, experiencing the impact of mental health challenges with (R) and experiencing alienation, guilt and responsibility with (T), the children are likely to return to being emotionally unwell."

Dr. Basson also said that if the relocation occurred that would remove the children:

*"from the local context of ongoing litigation, community awareness of conflict, and the physical reminders of past family distress" adding that this "could help reduce anxiety and hypervigilance. It would allow the children, with (T) and (D), to form a fresh family narrative, less anchored in the conflict with (R)."*⁹²

322. If the children do not relocate and if the parents then living in the same community did not take on board the concerning observations made by Dr. Basson, and if they did not meaningfully engage in the therapeutic input in a timely fashion, there is a risk that RA may revert to the state that he was previously in. The same can be said about RI. If there is no relocation, then ordinarily one might

⁹² Paragraph 859 Dr. Basson's Report.

expect the introduction and operation of the required therapeutic input to be less complex if everyone is in Cayman. However, the illustrated inability of the parties to set up the recommended therapy since December 2025 when they have all been here is an indication that that may not actually be the case. There appear to be very few therapists located in Cayman who are able and/or willing to provide the required therapy for this family. Adding to this equation is the fact that these parties repeat their previous conduct making them unable to agree in a timely manner the setting up process for the therapy. As it currently stands, there is no clarity about whether the therapy will also occur on island if there is no relocation. I am unable to deduce from the information provided to me what therapy would be available in the US. R may be able to find the personal therapy she seeks in Cayman. T may be able to find the personal therapy highlighted by Dr. Basson in the US. It is highly uncertain whether T could fund her therapy if she remains in Cayman without employment whereas, if employed in the USA, she would likely be able to do that there. It may well be that the therapy for the children could be sourced in New York where there would be a larger number of child therapists and, if T was in employment there, both T and R would be in a position to fund that if not covered by health insurance. When considering the change of circumstances, I accept that the therapy sessions, especially if it required RA to be in the company of R, would be easier to facilitate if they were all in Cayman and if there were appropriate therapists located here.

323. If the children remain here, they would be able to remain at their present school if the arrears of fees are paid or if a negotiated arrangement in relation to them is reached with R. If they stay here, they would likely have the disruption of moving into a new home, T has said that she has given up the lease. The only proposals that R makes is that they move into her rental property and she would vacate. This is not something that she suggested to the Chief Justice at the temporary removal hearing at the end of March and on 1 April 2026. It is also evident from the Chief Justice's ruling that R's financial position is more precarious than she outlined to the Court, especially as her rent is over \$5,500/month. If the children stay here, due to T's employment situation, the financial position of the children's household with T would be highly unstable and insecure. It is likely that D would have to leave to work and live in the US due to immigration and financial factors and that would have a negative emotional impact in the children. Another change of circumstance to that which persisted shortly before the hearing would be the uncertain and unstable immigration status and fact that T's and the children's (as T is their primary carer) ability to remain here would depend on unpredictable decisions to be made by the Immigration Department. Therefore, if they remain

in Cayman, there would also be considerable change in the circumstances that existed just before the hearing commenced, save possibly in regard to their education. With that in mind, if the children were relocating it may arguably have been better for the move to take place at the end of this school year. In fact, in her earlier evidence, that seems to have been plan that T had suggested, but that was before she became aware that her employment was ending in late February 2026. However, this is not feasible due to T's financial position and R's inability to adequately financially support T and the children, I agree with the Chief Justice's findings in that regard. In any event, the children are now at a school in New York and that has minimised any disruption due to the change of circumstances arising from a permanent relocation and this means that they are more settled for the start of the next academic year.

324. The Guardian stated in her evidence that she had no reason to say that the relocation plans are not well thought out and realistic. It appears that the children, even before their very recent temporary removal to New York, have some limited familiarity with the US. There would be a change of home, albeit one which is held within D's family and presumably is the one they have temporarily relocated to. By all accounts it is a suitable home in good residential area. There would of course be a permanent change of school. The children do not seem at all concerned or unsettled about that. In fact, RI has expressed excitement. There would not be a change in the amount of time that they would be spending with the other parent as a result of R's long absence from Cayman. However, it would impact the developing frequency of the contact that has been taking place between RA and R since her fairly recent return to the jurisdiction in December.
325. Save for taking into account the **children's age and sex** when reviewing this case, there is no need for me to additionally comment on the same or on their **religious persuasion**. When considering the **children's background** I recognise that RI, unlike RA, was born to T prior to the T and R meeting and being in a relationship. There are no **other characteristics** of the children which I consider to be relevant.
326. Above, I have already touched upon matters relating to **how capable each parent, and any other person is of meeting the children's needs**. As I was in 2024, I remain satisfied that T and R can both meet the children's educational needs. I find that D can also assist in them being met. Although there are presently substantial arrears which are of concern, R has commendably continued to be willing to partly fund their school fees despite her being in UK and in effect out of the children's

lives. R has continued to show a very keen interest on how they are doing at school and has been anxious to ensure that the schools provide her with all child related communications.

327. At the time of the hearing, when T was still in employment, the children's physical needs were being met by T in her household. However, if T and the children are forced to remain in Cayman with T unemployed and with a highly insecure immigration status, even if D were to separate from the settled family unit to work in New York so that she can be used to send funds back to them, there is a real possibility that T would struggle to meet their physical needs to the level that she has hitherto been able to do. If D was compelled to move to the US to financially support the family, it would also have a detrimental impact on the children's emotional wellbeing.
328. Previously R had been able to meet their physical needs when the children were in her care. Although she has not cared for them for over two years there is no evidence before me to lead me to believe that R would not still be able to meet RA's physical needs if contact visits became unsupervised.
329. As already set out earlier in this checklist review, there are serious issues concerning the parents' ability to meet the children's emotional needs. These concerns are also fully addressed by Dr. Basson and in my above dissection of her evidence.
330. I have considered **any harm that the children have suffered or are at risk of suffering**. I have already observed above in this judgment about the risk that these children have suffered and that they are at risk of suffering in the future. I earlier raised such concerns in the Judgment in 2024 when highlighting the negative impact upon them arising out of them being drawn into their parents' long running dispute and inability to properly co-parent. Post the Judgment, the children have thankfully been somewhat shielded from the feud until December 2025 due to R's absence from the country. T has been their primary carer for at least three years with the support of D. Dr. Basson rightly recognises that they have thrived over the last 18 months plus⁹³. Now that the children have been drawn back into the fall-out that surrounds these proceedings, they, and especially RA, continue to be put into a position in which they must take sides in the dispute and also take on a protective role for T. In 2014 the Guardian correctly labelled the situation to be one

⁹³ Between June 2023 until December 2025, save for two supervised contact visits set up between either child and R for the purpose of the Guardian's Report and two sessions with Dr. Basson.

of “*conflict of loyalty*”, something that Dr. Basson has recently stated and elaborated upon in much greater detail. In 2024, I highlighted that this continues to put a child at a real risk of emotional harm, harm which was then already emerging for RI and for which I said that both parties should have her assessed to ensure she receives assistance to enable her to understand that it is not her fault and that she should be able to concentrate on being a child. They did not do that until Dr. Basson’s report was belatedly commissioned.

331. Dr. Basson concisely summarised her concerns about emotional harm the children have suffered and will continue to suffer. If the parties fail to provide the children with the therapeutic assistance they require and if T and R fail to seek the help they need to address their flaws which in turn impact the children, as set out herein, Dr. Basson has made it patently clear what the risk to the children’s emotional and mental wellbeing would be. The emotional and mental risks for the children are not only relevant to their wellbeing here and now and to contact, but also when dealing with long term factors, whether or not there is contact, to address the children’s identity and for the healthy development of their future relationships with other persons.
332. **The range of the powers available to the Court in these proceedings.** I have the jurisdiction to make a wide range of orders including but not limited to a relocation order, variation of a residence order, contact orders and specific issue orders to restrict the exercise of parental responsibility. When making my determination I have considered whether such orders would be in the best interest of both children (considering them separately) in the unusual circumstances of this case. I have also considered whether any other orders might better meet the best interests of the children.

Conclusions

333. Having carefully considered all the evidence and applied the Welfare Checklist I have come to the conclusion that the welfare of these children is better met by leave being given for them to permanently relocate with T to New York. I recognise that this decision will be devastating for R who has only very recently returned to Cayman to take up employment primarily driven by her wish to rebuild her fractured relationship with RA and hopefully also with RI.
334. Every case must be decided on its own facts and in the highly unusual and extreme circumstances in this case, I have decided that relocation is in RA and RI’s best interests. It has been an incredibly difficult decision to reach as I accept, when balancing the welfare pros and cons of the two options,

there are some that weigh against a relocation. I recognise the concerns forcefully expressed by the Guardian and R about whether T will, as she has promised to do at various stages of this hearing, actually facilitate contact and the recommended therapeutic intervention. As I mentioned, I do not consider the post hearing events (which I deliberately set out in great detail above herein) to be evidence supporting the Guardian's contention that T would not. I accept that T has challenged the Guardian's view about the practicalities of the recent contact visits and that this has been frustrating to the Guardian. However, I do not find that this is due to a desire to be obstructive, but it arises because T has a more restrictive interpretation about Dr. Basson's recommendations which differs from both R and the Guardian's interpretations. In fact, the Guardian takes a different view about the progression of contact to that held by Dr. Basson, primarily based on the emphasis the Guardian places on my 2024 conclusions and the recent contact sessions she has observed. With the greatest of respect to the Guardian, despite the fact that she has dedicated an extraordinary amount of time to the children and family, I am more persuaded by the opinions reached by Dr. Basson which are grounded on accurate psychological clinical conclusions resulting from any extremely thorough and well conducted assessment. When I make this remark, I am conscious that there are areas of Dr. Basson's psychological assessment of R which has questioned and which may not be as inclusive as observations about the children and their needs.

335. If R had not returned to Cayman in December 2025, it would be fair to say that the relocation decision would have been an easier one to make than it has been. R's recent return and the recent mostly positive contact visits with the resultant potential to develop contact with RA have made the decision less clear. Similarly, if T had not lost her employment through no fault of her own and was seeking to leave to the US solely for a lifestyle choice in circumstances where R had returned to Cayman, again the decision about relocation would have been less clear. The fact that T is not a Cayman national, the fact that any immigration status she has or would have would only be a temporary visitor one, the fact that she has no employment and local income, and the lack of clarity about R's ability to financially maintain the children all give a different complexion to the case and the decisions this Court must make. In reality, the relocation is now one of necessity rather than purely preference. This is especially so when T has been the parent with day-to-day care and control of these children to the exclusion of R who has not lived in the Cayman Islands for almost 2 years. T would have a settled immigration status in the US and meaningful employment prospects for her and D.

336. The Relocation Order is made on the basis that T will need to adhere to the orders made by his Court, something she has stated she would do. Any permanent relocation order, as agreed by T in her Written Submissions, is conditional on T registering the relevant orders I make arising from this judgment in the Family Court in the county in the New York State in which she and the children reside. Proof of that registration must be provided to R and to the Guardian.
337. When I consider the issue of shared residence, I look at each child separately. I am conscious of the observations made by Baroness Hale at paragraph 44 that in *Re G*. T is the natural mother of both children in every sense of that term, while this raises no presumption in her favour, it is undoubtedly an important and significant factor in determining what is best for them now and in the future.
338. The Court must also take into account that RA was born when the parties were married and therefore, although not a biological parent, R is regarded as being a person who automatically acquires parental responsibility. The latest evidence of the Guardian, albeit provided after a few short contact visits and despite the long period of separation between R and RA, illustrates that RA still retains a connection with R.⁹⁴ RA should not be prevented from having the opportunity to have R play a parental role his life. This will require therapy not only for him but for both parents to assist them to learn how to conduct themselves in such a way that RA does not feel conflicted or feel that there is a need for him to be concerned about conducting himself in a way that is seen to loyal and not disloyal to either of them.
339. The Shared Residence Order came about by the 2022 Order. Although T may now seek to argue that she did not understand what a shared residence meant and what consequences of such an order were, it would have been an appropriate order at that time the rest of the order was designed to reflect T and R's active inclusion in both children's lives. Such an order underlined the importance of the role of each of T and R in their lives. Such an order, at that time, should have promoted the cooperation between the parents and reinforced the importance of the relevant child spending time with each of them. The order should have also ensured that all important decisions in the children's lives were to be taken jointly, in effect emphasising that both T and R were equal in the eyes of the law. It was a reminder that each needed to consult with the other matters concerning the children

⁹⁴By the March 2026 hearing before Ramsay-Hale CJ it appears that there had been 8 supervised contact visits between RA and R since 19 December 2025.

Although, the arrangements of the parties in the 2022 Order very soon broke down and there were already periods of absence from Cayman by R, when the matter came back before me, at a time when the circumstances were very different to those existing in the lead up to the present hearing and now before me, I extended the shared residence order for the very reasons stated earlier in this paragraph.

340. Having regard to the current arrangements in circumstances relating to RI, a shared residence order would be an artificial order. **Having regard to that and to my above Welfare Checklist observations, I discharge the Shared Residence Order made in R's favour in relation to RI.** RI has for a considerable time had no contact with R, and at this time I cannot see a significant change in these circumstances in the foreseeable future. When I make the order to discharge the present Shared Residence Order, I recognise that the parental responsibility that R first acquired in 2022 when RI was eight years old would now cease. I want to make it clear that by that I am not saying that there should not be a process offering R and RI therapeutic assistance with an aim of reintroducing R into RI's life or at least educating about where R fits in in family dynamic. T should not regard this discharging order to be an indication from the Court that R is to be excluded or whitewashed as being a potentially significant person for RI.
341. I have to consider RA's situation separately. Same as I concluded in relation to RI, the surrounding family circumstances are different to what they were in 2022 when the Shared Residence Order was first made by consent and in 2024 when that order was extended, not by consent, but by the Court. It is evident that RA's ties with R, although severed by the passage of time over the last two to three years, are not as severely damaged as RI's are. There is a difference in the type of familial relationship RA has with R due to the fact that he was born during the marriage and was a child of the marriage from birth. For the reasons stated in my analysis of parental responsibility, RA would retain parental responsibility for RA even if the Shared Residence Order is discharged. This is important because if parental responsibility did not exist, the impression might be given to third party, including to another Court, that R should be treated as being a figure existing on the periphery of the family with little or no rights. So, even if there is not a shared residence order, the fact that R has parental responsibility for RA, coupled with contact provisions, means that R has rights that could be enforced under the Hague Convention if there was an abduction.

342. Despite the difference between the relationship which R has with RI and RA, the continuation of the Shared Residence Order relating to RA would still be an artificial one. As it currently stands, the underlying reality is that RA will not be spending considerable time in both T and R's homes. Despite that, if R's parental responsibility was not in place for RA due to the birth circumstances, recognising that any decision must relate to the specific facts of each case with the judge exercising a discretion when deciding what is best for the child in that particular case, I would have carefully considered whether an exception could be justified on the facts of this case if I had felt that the retention of parental responsibility to be in the best interests of the child and if the only avenue for that was a shared residence order.
343. That unusual approach in a case that does not reflect the reality is something that unfortunately I do not have to adopt. I acknowledge that the state of affairs in the present case are not the same as seen in ***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 US 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.”*

I recognise that shared residence orders are no longer considered to be exceptional orders, even 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. However, having regard to the circumstances of this case and the reality of the

reduced interaction R has had with RA for a considerable period of time primarily due to her extended absence from the Cayman Islands, it would not be appropriate to continue the Shared Residence Order. **Accordingly, whilst also having regard to the Welfare Checklist analysis carried out above herein, I discharge the Shared Residence Order in relation to RA made in favour of R. That said, I reiterate that R's parental responsibility for RA remains.** From the 'green shoots' seen in the recent contact visits assessed by the Guardian, I am firmly of the view that it is integral for RA's wellbeing that the parties work together to try to restore and nurture RA's relationship with R. Similarly for RI, T and R must actively strive to put RI in a position to recognise the place that R has played in her family network and hopefully the role that R might be able to play in the future.

344. As I previously stated, it would not be in the children's best interests for there to be a 'no contact order' and thereby permanently remove R from their lives. T rightly no longer seeks a no contact order. There is an agreement that the contact for RI should be limited at this time to the aforementioned letter contact. It is hoped that with therapy for RI and the parents that at some stage this could progress. However, that will not be easy. Even if contact cannot be progressed for RI it is very important, as stated by Dr. Basson, that the therapy is undertaken for her own long-term psychological wellbeing. The reasons are similar to the observations made by Wall LJ at paragraph 68 *In re L (Shared Residence Order)* [2009] 1 FLR 1157:

"Children, moreover, learn about relationships between adults from their parents. In twenty years' time it will not matter a row of beans whether or not L spent x or y hours more with one parent rather than the other: what will matter is the relationship which L has with her parents, and her capacity to understand and engage in mutually satisfying adult relationships. If she is given a distorted view of adult relationships by her parents, her own view of them will be distorted, and her own relationships with others."

345. The approach to contact between R and RA will proceed differently to RI's contact and should be considered separately. There is no agreement as to that approach. The Guardian and R seek a structured timetabled approach which preferably should occur at the same time as therapy but not necessarily be governed by the therapy or by the advice of the therapists. The proposed timetable suggested by the Guardian and R to the Court only deals with the situation if there is no relocation. There were virtually no submissions made about what orders the Court could or should make if the Court permitted a relocation. This is a feature of the way that the parties have addressed some issues

and not others in this case as R and the Guardian do not appear to have felt that relocation could possibly be permitted and in which T could not see there being a scenario where leave to relocate could possibly be refused.

346. Dr. Basson's more cautious approach is the one that has been adopted by T. When cross-examined, it was very clear that Dr. Basson was sticking to her view that her recommendations about contact were the ones that met the children's psychological and emotional needs. I was struck by Dr. Basson's demeanour and how firm she answered when cross-examined about the Guardian's different views concerning contact. Although I agree with Dr. Basson that contact should be linked to/guided by what arises during therapy, it is apparent that the recent contact visits between R and RA have been more advanced and positive than Dr. Basson had projected in her report. The Guardian's suggested level of contact set out in the report may have been so low because, at the time the report was being prepared, R had not returned to Cayman and indirect contact was being considered.

347. I accept that permanent relocation means that R's contact with RA will not be able to proceed at the level and develop in the way that it would if they were both in Cayman. As highlighted by R and the Guardian, this is a significant factor which leans against the relocation and against the best interests of RA when applying the Welfare Checklist and has been a major consideration for me when I have conducted the balancing exercise concerning whether or not leave to relocate should be granted. I am conscious of what Mostyn J said in *Re C (Abduction: Residence and Contact)* [2006] 2 FLR 277 when commenting upon the impact of Article 8 of the European Convention on Human Rights on applications for residence and contact, namely:

"..... If one were to draw up a hierarchy of human rights protected by the Convention I would have thought that very near to the top would be the right of a child, while he or she is growing up, to have a meaningful participation by both of his parents in his upbringing. Although this is (strangely) not explicitly spelt out in the text it must be implicit in the notion of the right to a family life. Recognition of the existence of this very obvious and critically important right is sometimes, so it seems to me, lost in the relocation cases."

If T, as a UK and not Caymanian national, still had stable Cayman immigration status (work permit/permanent residence) and reasonably paid employment in Cayman, then this factor, coupled with the added complexity that raises from the provision of therapy having to taking place in two

countries, may have resulted in the relocation application being refused, at least in the short-term. There is a possibility that in such circumstances, despite some of the highlighted and accepted short and long-term positives to the T family unit and children that a move to US would provide, the Court may have denied relocation, or have decided that it could take place but at a later date after a reasonable opportunity had been given: (i) to further develop the contact; and (ii) for therapy to have been engaged and progressed. T is the primary carer, the children are thriving in her care, T is unable to remain and meet the children's needs if compelled to remain in Cayman, and in the absence of any realistic alternative, although not ideal, leave to relocate is granted.

348. I accept that the level and nature of the contact that is possible under a relocation order is going to be different and more limited than it would have been if the children were in Cayman. At this stage it is not feasible for me to make a defined direct contact order in relation to RA, something which I would have been able to do if leave to relocate had been refused. As I have already commented, this is a regrettable negative consequence that flows from my Relocation Order and the Court's expectation is that T and R must actively work with the therapists to make arrangements for RA and R to have direct contact as soon as that is possible. The development of the recent direct contact which was ably organised and operated by the Guardian, must be the goal for RA as it would be in his best interests, but in this family's circumstances, it will have to be, as Dr. Basson suggested, gradual and supported by therapeutic intervention by all parties. It is vitally important that at the very least, indirect contact (i.e. Zoom/Facetime) is immediately set up between R and RA. It should take place twice a week and at least 30 minutes should be set aside. There may be any other additional contact recommended by RA's therapist.

349. When it comes to ensuring that RA's contact with R is developed and nurtured post-relocation, I forcefully remind the parties about Dr. Basson's very clear warning given at paragraphs 866-877 in her report, namely that:

"866. The most significant psychological risk is the further erosion of (RA's) relationship with (R), who already has limited and fragile relationships in both the physical world and the internal one.

877. Relocation risks solidifying a one-sided family narrative, in which (R) becomes psychologically "written out" of (RA's) sense of self. Over time, this can create identity

fragmentation, especially as he continues to experience confusion about his early life and relationships.”⁹⁵

I also remind them of Dr. Basson’s observation made at paragraph 858 in her report when she wrote:

“The proposed move is not inherently detrimental; However its psychological impact depends on how it is managed, particularly the degree to which the children’s attachment to (R) is protected, acknowledged, and emotionally integrated into the narrative.”

350. The parties are in agreement about the therapy that the children need. As I have determined, and the parties have agreed, that this is not a no contact case, T and R have been informed, at paragraph 893 of Dr. Basson’s report, about the therapeutic interventions which they both require to enhance family function and which Dr. Basson views as being of the “*utmost importance*”. This importance is patently clear having regard to Dr. Basson’s views. T agrees with the recommendation made by Dr. Basson about the therapy she should personally be seeking. R, for reasons set out earlier herein, including R’s challenge about Dr. Basson’s methodology used when compared to the approach adopted by other practitioners who have assisted R, does not agree with all the recommendations concerning the personal therapy that Dr. Basson has recommended for her. Under the Children Act, I cannot compel T or R to undertake the highlighted personal therapy. However, if matters relating to the children were to later return before a Court, that Court will highly likely have expected them to have embarked upon that therapy recommended by Dr. Basson or failing that recommended by any relevant therapist they may choose to engage post this judgment.

351. Although more difficult to arrange when R is residing in Cayman and the children residing in the US, Dr. Basson reported that the therapy involving the children that she recommended would still be feasible. That therapy had not commenced in Cayman prior to T and the children’s temporary removal. There is no evidence to show when the required therapy could have started, even if willing provider(s) could be found on island. The Court may make specific issue orders about the provision of medical care for children. Having regard to the uncertainty about its availability, whether that be in Cayman or in the US or in both, and about the time frame for the commencement of any therapy, I only feel able to direct the parties to use their best endeavours:

⁹⁵ My emphasis by underlining.

- (i). To arrange Theraplay engaging T and RA to improve boundaries for T, and for RA to start describing more his own internal world;
- (ii). To arrange Dyadic Development Psychotherapy for T and RI to repair some of the past incidents that have happened to her;
- (iii). To arrange Theraplay engaging R and RA if this is possible having regard to their different locations. There is no need for there to be a 3-month contact delay requirement before it commences. As indicated by Dr. Basson, this therapy should help R to learn how to put RA's needs first and for RA to express himself; and
- (iv). To ensure that RA and RI have regular sessions with their school counsellors.

Such an order should make abundantly clear to any Court that may have to deal with issues concerning these children in the future what this Court's expectations are of the parents and what therapeutic input it found was required to meet the best interests of the children. The parties should of course cooperate with the setting up of any other therapy that the engaged therapeutic professional involved reasonably suggests as the therapy moves forward. Even though the Court's expectation is that contact should take place and hopefully meaningfully develop, it is open to T and R to also consider the relevant parts of the therapeutic intervention recommended on page 133 of Dr. Basson's report.

Orders

- 352. The orders that I now make are freestanding and they replace the provisions set out in the 2022 and 2024 Orders.
- 353. Leave is given to T to permanently relocate with the children to the US. A condition to that leave is that T must forthwith register the Orders I make that arise from this judgment in the Family Court in the county in the New York State in which T resides. Proof of that registration must be provided to R and to the Guardian.
- 354. The Shared Residence Orders for both children are discharged. Having considered the 'no order principle' set out at s.3(5) of the Act, for the avoidance of doubt and to give certainty to this family at the time of transition to a new jurisdiction, I make Sole Residence Orders in relation to RA and RI in favour of T.

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355. Contact between R and RI will initially be by letter. R may send a monthly letter to RI as well as cards and presents for her birthday and Christmas. As the Guardian will no longer be involved in the case, these will have to be sent via T unless another means is suggested by RI's therapist. If RI decides that she wishes to reply, T must promptly send those communications to R. Any development from that level of contact must be led by RI and supported by the therapeutic intervention for her, T and R.
356. Because R and RA will be in different countries contact between R and RA will initially have to be by unsupervised indirect contact (i.e. Zoom/Facetime). It does not need a therapist to be involved with that contact, and it would be uncomfortable for RA to have T or D in the close vicinity of the call due to his loyalty to them and his understanding interpretation about how they feel about R.⁹⁶ This should be set up immediately. There should be two visits of at least 30 minutes every week. However, this Order should not be seen as the Court considering that indirect contact is the ideal order that meets RA's interests, it is not. Unfortunately, R's long absence from Cayman means that the restoration of her relationship with RA is still at a fairly early stage and, due to the relocation, I am not able to order freestanding direct contact which does not form a part of the therapeutic intervention. I accept that there would have been direct contact if RA remained living in Cayman and that has weighed heavily on my mind when granting the leave to relocate. The parties must actively work with RA's therapist to set up arrangements for direct contact. The parties are expected to comply with RA's therapist's guidance in that regard.
357. In circumstances where R only retains parental responsibility in relation to RA and not RI, I make the following Specific Issue Orders in relation to RA:
- (i). T is to provide R with full details about RA's New York School.
 - (ii). T is to provide RA's New York school with R's contact details.

⁹⁶ When I state this, I have regard to the previously mentioned herein internal conflict that RA experiences due to his loyalty to T and the Guardian's report of his positive interaction in the supervised contact with R. I also note the Dr. Basson's following telling observation found at page 140 in her report: "*I asked (RA) why he didn't want to go (to see R). (RA) said "It's hard because they hate each other". I asked him, would it be easier for you if they got back together. (RA) nodded. I asked him, would you maybe want to see (R) if she and (T) got together. He nodded. I commented, it must be hard that they hate each other. (RA) nodded. I asked him, did you feel like you had to choose between them. (RA) nodded.*"

- (iii). T is to inform RA's New York school that R has parental responsibility and that they should provide her with all the normal parental communications that emanate from the school to parents.
- (iv). T may make the decision about which pediatrician practice RA is to be registered at and treated by. The order is made on the basis that: (a) T is to promptly provide R with the details of the practice; and (b) that the practice is to be made aware that R has parental responsibility, that the practice may communicate with R concerning RA's medical issues and records and the practice should reply to R's reasonable communications made to them.
- (v). T shall hold all of RA's passports. T and R, if required, shall promptly sign the passport renewal application forms prior to the expiry of a passport. If R fails to sign and return the passport application form within 21 days of it being provided to her, the need for her signature in the relevant passport application for RA is dispensed with.

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

358. The parties have leave to share the pleadings filed, orders made and Judgments made from the commencement of these 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 RI and RA. If Dr. Basson and the other medical experts agree, their reports filed in their proceedings may similarly be shared.
359. If requested by any of the therapists, and if Dr. Basson agrees, her report may be shared with that therapist. If requested by the therapists, the Orders made by the Court and the Judgments made by the Court may be provide to them.

Observations – 'This Judgment'

360. This has been an extremely difficult long running case involving unusual factual circumstances. One in which some might say there can be no right answer. There are very finely balanced reasons for granting and refusing relocation that I have had to grapple with. This Judgment and the orders contained therein could not be regarded as being perfect, no order made in the circumstances of this case could be. The orders made are grounded on the unfortunate reality of the situation confronting this dysfunctional expatriate family, and in particular T, who has the insecurity that comes with being such a family in the Cayman Islands. This Judgment is much longer than I would

have desired. That is partly due to the large number of diverse issues (some of which are novel for Cayman) that the parties have raised. Due to my relocation decision, I felt that it was important for me to set out my analysis of the evidence in much greater detail than one might ordinarily expect. I did that as I felt that this Judgment and the Judgment made in 2024 should be read together and be treated as providing a very full record of the background to this family's history and of the reasoning of the Court. If future disputes arise concerning these children, they will likely be heard in a different court system, and I believe that any future tribunal will greatly benefit from being able to refer to the two judgments as being a comprehensive source to enable them to accurately understand: (i) the family's factual background; (ii) the procedural background in these long running proceedings; (iii) this Court's findings; (iv) this Court's reasoning; and (v) importantly, what the expectations this Court places on the parents for them to properly meet the children's needs and best interests, and this includes the considerable work required relating to their future relationships with R as well as with others.

361. In closing, when recognising the consequences for the parties, and especially R, of the orders I now make, I share the following observations. Firstly, Mostyn J's made at paragraph 4 in ***Re AR (A Child: Relocation)*** [2010] EWHC 1346:

"Applications for leave to relocate are always difficult for the court and distressing for the parties. They involve a binary decision – either the child stays or he goes. There is no scope for any middle way. If the decision is that the child goes, then the left behind parent inevitably suffers a disruption to his relationship with the child, at the very least in terms of quantum and periodicity of contact. If the decision is that the child stays then the primary carer, if not invariably, then frequently will suffer distress and disappointment in having what will normally be well reasoned and bona fide plans for the future frustrated. So the decision, whichever way, is bound to cause considerable trauma."

362. And secondly, Thorpe LJ's following observations made in ***Re G (Leave to Remove)*** [2007] EWCA CIV1497:

"These 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.”

Footnote

363. R's Summons filed on 14 April 2016 has not yet been issued. In that Summons R seeks repayment of the CI\$5,000 paid on 27 March 2026 which she says was made for a specific purpose which did not materialise. The \$5,000 was part-payment of the \$10,000 which R had told the Chief Justice that she would pay to T to enable T and children to remain in Cayman and not temporality leave to New York. The payment was for the family's day-to-day living expenses in Grand Cayman and presumably it was not to cover T and the children's rebooked flights and relocation expenses the US. The payment appears to form a part of an order that the Chief Justice made. It appears that the Chief Justice regarded the \$10,000 payment to be a monthly payment rather than a one-off payment. If that is correct, the parties may wish to consider whether there should be a pro-rata calculation from the figure of \$10,000, taking into account the extra days that T and the children had to stay in the jurisdiction post the 26 March 2026 hearing. That figure could then be deducted from the \$5,000 paid and then the balance repaid to R. I wish to make it clear that this is only a preliminary suggestion made without hearing from the parties. As that Summons has not been issued to a date, and if agreement cannot be reached, the parties may wish to consider whether this discrete financial issue should be determined by the Chief Justice who would have a better understanding than I about the purpose of the order that she made in relation to the payment. My observations would not, of course, in any way fetter the Chief Justice's discretion in relation to the issue if she and the parties felt that she should be the Judge to consider it.



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