

NCN: [2024] EWFC 3 (B)

Case No: ZW22P01346 / WT23P00064

IN THE FAMILY COURT AT WEST LONDON

West London Family Court,
Gloucester House, 4 Dukes Green Avenue
Feltham, TW14 0LR

Date: 5 January 2024

Before :

HIS HONOUR JUDGE WILLANS

Between :

P

Applicant

- and -

R

Respondent

Joy Brereton KC (instructed by **Hughes Fowler Carruthers**) for the **Applicant**
Clare Renton (instructed as **Direct Access Counsel**) for the **Respondent**

Hearing dates: 27-29 November 2023

JUDGMENT

His Honour Judge Willans:

Introduction

1. Within private family law litigation there are few more complex decisions to resolve than the question of whether a child should permanently relocate to another jurisdiction. However, what commences as a difficult decision is made harder where (a) the relationship with each parent is acknowledged as being valuable to the child in question; (b) the proposed relocation is distant from this jurisdiction leading to an inevitably high impact on regular contact with the left behind parent, and; (c) where the family are international in character and the applicant has a strong and understandable desire to return to their country of origin. It is in that setting that I am asked to either permit or refuse a relocation application.
2. The applicant mother ("P") seeks to relocate to Australia. The respondent father ("R") opposes this plan. I have to decide this issue and consider the contact arrangements whether or not permission is granted. In reaching my conclusions I have regard to the documents contained within the hearing bundle together with the limited number of additional documents copied to me during and after the hearing; the opening notes and submissions of counsel for each party, and; the live evidence of the reporting CAFCASS Officer, Ms Taylor, and the parents. I will not refer to all of that evidence within this judgment but I will continue to keep it in mind. The hearing was conducted on an attended basis over three days with only Ms Taylor giving evidence remotely. Submissions finished after 4pm on the third day and so I have reserved judgment. Within this judgment footnote references are to page and paragraph numbers with 'SB' being a reference to the supplementary bundle. In this judgment I refer to the parties as R and P, and to the child as I. No discourtesy is intended by using their first names.

Law

3. I's welfare is my central concern and is paramount from start to finish. I approach this via the welfare checklist found within s1(3) of the Children Act 1989. It is not helpful for me to get mired in arguments as to who is the primary carer for I as a condition precedent to my decision making. However, I should give proper regard to the arrangements which are appropriate for I as a prelude to determining the relocation issue. It is only by doing this that I can conduct a proper comparative analysis of the impact on I of relocation or refusal of the same. I should not give either outcome priority over the other. To do so would be to slip into a linear analysis. The options must be weighed and balanced against other in a holistic manner by considering the positives and negatives of each. My decision will have an obvious and significant impact on familial relationships. Family members are entitled to respect for their private family life. The Children Act 1989 presumes it will in the welfare interest of a child to maintain a relationship with both parents so long as the same is safe. Decision making which has the potential to seriously impact on this

relationship must therefore be subject to a heightened level of scrutiny and a move of this nature should be subjected to a proportionality evaluation.

Background

4. I will provide an abbreviated background at this point returning to specific background features on which there was focus within the hearing before me.
5. P is aged 48 and moved to Australia when aged 13. Her close family remain living in that country. R is aged 47 and was born in Mauritius and his family remain living in that country. R moved to Australia in 1997 and the parties met in 2002; moved to London in 2004; married in 2008, with I being born in 2014. P returned to Australia for his birth and remained there for 6 months. I has Australian citizenship and leave to remain indefinitely in this jurisdiction. In 2014 R pursued a permanent Australian visa on the premise the family would relocate to Australia but R did not pursue this visa and the move did not occur.
6. I will address issues of domestic abuse within the relationship. At this point I note R was cautioned for an act of ABH against P in 2009. In 2018 he received a harassment warning notice from the police. There are other allegations and counter allegations made between the parties which remain in dispute and will not be resolved within this judgment.
7. The marriage broke down in 2017. In 2018 P and I travelled and remained in Australia for several months, with P arguing this was pursuant to an agreement that she and I would return to live there permanently whereas R disagreed and characterises this removal as an abduction. In any event P voluntarily returned to this jurisdiction in March 2018. On separation the parties considered contact and between 2018 and 2020 R was having contact every day after school and for both days at the weekend. Initial discussions reached agreement as to overnight contact but I was reluctant to stay overnight. The midweek contact took place in P's home (without P present) and the weekend contact in R's home unsupervised.
8. In September 2020 there was an incident between the parents and police were called. P raised concern as to R's mental health. At that time, I was seeing a child psychologist (Dr Slater) and P was advised to stop unsupervised contact. From this point contact continued on a daily basis but supervised by P. In 2021 R instructed solicitors who sought unsupervised contact. P agreed the same once R engaged with assistance to manage his mental health/anger issues. In June 2022, P issued this application. Within these proceedings contact has developed by consent and R currently has alternate weekend contact on a continuing basis together with holiday contact.
9. Since separation, P has sought to travel to Australia and her country of origin. In 2018 she brought an application to obtain the Court's approval for her proposed trip. P complains R has been obstructive as to travel. I has travelled to Mauritius (twice in 2018). R wanted to travel to Mauritius in 2021. P wanted to travel to Australia. P claims R obstructed her proposals. P claims travel to Mauritius was not possible at the proposed time due to her not having had vaccinations. She says she proposed a later trip that year but R did not agree. In 2023 the parties agreed for I to spend two weeks in Mauritius followed by an onward trip to Australia. On his return to this jurisdiction, he stopped over in Mauritius.

10. The parents work in regulatory compliance. R is a consultant and is currently working out of Paris. He envisages continuing to do so (or within the European Bloc given his contracts have connection with the ECB). P is employed and heads a regulatory team in London. She has been offered a job in Australia close to her family. Both are well paid.
11. I is said to be neurodivergent with both autism and dyspraxia diagnosis. I report this being claimed at this stage as there has been some evidence on the point to which I will return however, it is not clear whether this is really controversial. I is schooled within the private sector. I have considered various school and education reports relating to I and the impact that neurodivergence may have on his educational progress. However, on any account he is an intelligent child who will continue to be schooled within the mainstream (albeit private) sector.

Issues

12. I have listened to the evidence with care and identify the following matters as requiring specific consideration within this judgment. This does not mean they will each ultimately have purchase on the decision I have reached:
 - i) Has P obstructed the relationship between I and R?
 - ii) Has P obstructed a relationship with wider family?
 - iii) The nature/relevance of the domestic abuse in the parental relationship?
 - iv) The quality of I's relationship with his father?
 - v) The relevance of I's neurodivergent character?
 - vi) Does I suffer from separation anxiety?
 - vii) Did the family plan to move to Australia and the relevance of the same?
 - viii) The events of summer 2023?
 - ix) Is the Australian plan practical?
 - x) The relevance of the adult finances to my decision making?
 - xi) Is R available for contact in this jurisdiction?
 - xii) Are the relocation contact proposals realistic?
 - xiii) The impact of refusal on P / approval on R?
 - xiv) I's expressed wishes and feelings?

Witnesses

13. I make some general observations as to the quality of evidence received from each witness and my impression of each witness in turn. In setting out these views I am in part reflecting on the demeanour of each witness in giving evidence but I have found

consideration of the consistency of their evidence (both judged internally and externally) far more helpful than the manner in which they gave the same evidence.

14. I found Ms Taylor a straightforward and genuine professional witness. She dealt with all questions in a head-on fashion and there was no evasion or obfuscation in her responses. I do not hesitate to accept her evidence as being an objective and fair analysis of the circumstances on her part. I have a reservation as to the limited opportunity available to her to meet with the parties and I; the fact that her report is dated from February 2023 (and thus was somewhat out-of-date at the point of final hearing), and; my sense that a significant aspect of her evidence and conclusions were generic rather than specific in character. I specifically addressed this with her at the end of her evidence. It seemed to me the points she was making as to impact of relocation on contact was a generic observation as to the difficulties that would arise in nearly every case from a relocation of this sort rather than a conclusion which was specifically shaped by the circumstances of this case. This is not a substantial criticism as I appreciate any analysis is by its very nature based on a speculative hypothesis given the move has not yet occurred and so conclusions will be drawn from expectations and experience drawn elsewhere.
15. I was impressed by P. I will explain this view when referencing the issues in the following paragraphs. However, in summary she impressed me as a straightforward individual who was doing her best in somewhat trying circumstances. I found her evidence to be consistent and logical and thus tending towards reliability.
16. I was somewhat less impressed by R as I found his evidence at times to be inconsistent and at times unlikely. There were aspects of his evidence which did not fit with the surrounding extraneous evidence. I found his approach to be somewhat strategic in character rather than straightforward. That is not to suggest I found his evidence unreliable or that I found him to be a dishonest witness. Rather I formed the view that (in contrast to P) he had allowed his account of events to be shaped by what he was seeking whether or not this fitted with what actually happened. Sadly, I formed the view that he has allowed the adult separation to negatively shape his attitude to post separation decision making. He has not moved on from that time and this casts a shadow on the approach he takes. This is unfortunate as he has a valuable contribution to make.
17. I found (indeed the parents agreed) both parents to be committed to I and to have a strong and genuine love for him. They are both well intentioned in this regard. A challenge has been separating their own interests from those of I.

Analysis of evidence

18. I will summarise the evidence given by each party and my views and conclusions on the same. I will go on to apply this analysis when considering the welfare assessment later on within this judgment.
19. **Has P obstructed the relationship between I and R?**
20. The central dispute between the parents is whether P has been supportive concerning contact or whether she has been overbearing and acted in a manner which has limited contact.

21. I summarise the contact regime that has taken place since separation as follows. Between 2018 and 2020 there was daily contact with the week-day contact being at P's home, albeit not supervised by her, and the weekend contact being on both days at R's home unsupervised. The contact was visiting in form not overnight. Between 2020 and 2022 the contact continued on a similar basis albeit it took place at P's home on a supervised basis on weekday evenings and at R's home or in the community at weekends. Within proceedings the contact developed to overnight weekend contact (Friday to Monday) with extended time during holiday periods.
22. This took place in the context of a background of domestic abuse in which there had been a caution for an assault against P and a police harassment warning notice. I appreciate there are other allegations made between the parties and messaging evidence from R which is wholly inappropriate in its tone and language and in respect of which R has expressed remorse before me¹. I consider it important to analyse decision making in this context.
23. In his position document P is described as a '*powerful and determined character*'² and contact is said to be unilaterally determined on her terms and without regard to what is best for I. She is characterised as being unwilling to accept he is able to 'manage matters'³ for I by reference to his own parental responsibility and is overbearing and controlling of the arrangements. He feels that if relocation is granted then he will not have a '*secure relationship [with I]*'⁴. In his statement evidence he contended if relocation were permitted then P would be assertive in changing or cancelling contact arrangements. He felt this was an inevitable consequence of her approach, an approach in which she has no respect for his input⁵. P has '*erected barriers to [R son] relationship by making unreasonable preconditions...to...contact*'⁶. He concludes that: '*it has taken more than 5 years since [2018]...to revive an ordinary relationship...*'⁷. On the theme of P being controlling he refers to the contact routine being forced on him and dictated by P which he had to accept as dictated by her. It was of P making the rules and him feeling helpless⁸. He comments on the stress of having to put up with P's self-imposed presence all the time⁹. In his live evidence he was asked as to his characterisation of P as a *powerful physical presence*. He said he felt bullied when he tried to talk to her. If he did not agree then she would have recourse to her solicitors and so he had to agree. He said she had not promoted the relationship with I since separation in 2018. He told me a number of allegations made against him were untrue and repeated an allegation he had made against P that she had physically abused I. He agreed there had been an incident when he had shown I a picture of the man with who P had an affair and told I that he was the reason R lived by himself. He suggested a 'hit man' had been hired to kill him by this man. He agreed there had been occasions when I had witnessed inappropriate incidents and had been upset and distressed but did not agree this would have led to I being reluctant to be in his care. That had been all to do with P failing to promote contact.

1 144 §3(m)

2 §15

3 §26

4 §42

5 142 §3(b)

6 142 §3(c)

7 142 §3(d)

8 153 §14

9 154 §20

24. P rejected this characterisation of her role. She references a relationship which was *difficult and punctuated by domestic abuse*¹⁰. As a result of this she considered there was a need for R to engage with anger management support and this partly conditioned her approach to contact. Following separation, she had supported contact but I was reluctant to attend overnight in part due to R inappropriately sharing adult information with I about P's affair¹¹. Nonetheless, contact had continued, including unsupervised contact until a concerning incident in September 2020 when R had been abusive and aggressive. However, even then P had not terminated contact but had permitted it to continue on a daily, albeit supervised basis¹². Furthermore, P had made I available for shared special occasions (such as Christmas) and accompanied I overseas to facilitate contact with R and wider family. In her first witness statement P detailed this case¹³. In her second statement P comments that she was willing to move forward with contact when it was clear R had engaged with the issues raised by her and she then had gone beyond those recommendations in the contact, she proposed¹⁴. P highlighted the impact on I of events witnessed during the relationship and post separation and commented upon times when R has *emotionally abandoned*¹⁵ I at times of dispute. It is these features which have caused I to be reluctant as to aspects of contact rather than any action on her behalf. She does not agree the relationship between R and I would be *hopelessly fractured* if relocation were permitted. She considers it will continue to go from strength to strength¹⁶. In live evidence P recognised the challenges of the case and told me she had sympathy for R's position with respect to overnight contact in the past but even at the most challenging times she had not blocked contact. Even when R was being extremely abusive, she concentrated on what was best for I. When it was put to her that she had never accepted having done anything wrong or that she could have done things better she disagreed and commented that she agreed she was not perfect and had always apologised when she had acted wrongly. She agreed she might have been over protective at times but R had been acting erratically and she had been doing her best to look out for I.
25. I should record that both parents were able to speak in positive terms about the other. P agreed R was *100% committed to I and loves I very much*. He has always been close to I and has always wanted the best for him. She expressed the view that *no-one will love I and want the best for him than us* (my emphasis). Equally when asked R described P as a *good mother who is caring and looks after I well*. I felt he struggled more than P to see the positives in the other.
26. For my part having considered all the evidence I have found it very difficult to accept the picture of P painted by R as an obstruction to contact. I have had particular regard to the following points:
- i) On any assessment P did not obstruct contact. From separation to the date of the final hearing I has had direct contact with R. I accept an issue as to overnight contact but it would be unfair not to recognise the continuing direct contact throughout the period. It is troubling R has mischaracterised

10 §14

11 §19

12 §23

13 112 §9-21

14 167 §7

15 170 §20

16 170 §22

himself as not having had unsupervised contact throughout the period as he reported to the CAFCASS officer¹⁷. I do not think the evidence of R that this was referable to that point in time only is a plausible explanation for this incorrect account as he repeats this notion within his statement evidence.

- ii) Further this must be assessed in the context of the surrounding circumstances. On any approach R misconducted himself towards P by assaulting her and sending troubling abusive messaging. Yet P has not sought to significantly limit contact by suggesting or requiring contact to take place in a third party supervised setting. She has not sought to weaponise the misbehaviour to restrict contact. In making this point I am not suggesting she should have done so. Rather I reflect from experience on many cases in which allegations of misconduct are relied upon to limit contact. In this case P not only agreed to contact but agreed to unsupervised contact (2018-20) and permitted the same within her home. Further, she facilitated contact sessions in which she personally supported the contact, e.g., at Christmas. Moreover, on my reading of the evidence she transported I to Paris for contact and paid for the travel costs. I find it puzzling in a case in which P might have sought to limit contact but really did not that R has become unjustifiably fixated on the point.
- iii) I reflect on the failure of contact to move to overnight contact prior to 2022. P gave an account of I's reluctance which was not challenged in live evidence. I heard evidence as to events that had taken place which were felt to have impacted on I (showing him a photo of the man P had an affair with and speaking of him being responsible for R living alone) and I have formed the view it is likely R will have failed on occasions to moderate his words and behaviour in front of I permitting his own sense of victimhood at the hands of P to come to the fore. I am troubled as to R continuing to hold to the extreme view that a 'hit man' was hired to kill him given the almost complete absence of any tangible evidence to support such a view. I do not find the same was said to I but it suggests R has a somewhat warped assessment of the reality surrounding him. R seemed to have no insight as to how such a bizarre viewpoint might come to impact on P when considering child focused decisions.
- iv) I have borne in mind the potential that P has taken a strategic approach in this regard. By this I mean I reflect on the potential within applications of this sort (applications to remove) for a leaving parent to promote contact to avoid the counter argument that a poorly developed relationship with the left behind parent should balance against relocation being ordered. However, on a fair assessment this does not appear to be the case. I have reached this conclusion in the light of the fact that much of what I describe above occurred well before the date of this application and cannot be sensibly causatively linked to this application.
- v) I deal with separate points below which are in reality a sub-set of the general point addressed under this heading, relating to the Mauritius trip and to contact with wider family. My conclusions set out below support my conclusion within this heading.

¹⁷ 219 §22

- vi) I should record the view of Ms Taylor. In live evidence she confirmed her opinion that P had not prevented contact; had done quite a lot to maintain contact, and; did not believe P was trying to prevent a relationship with R. She did not feel P had been unreasonable in suggesting R receive assistance with his mental health and agreed P had followed the CAFCASS advice as set out within the safeguarding letter.

- vii) I have been asked to consider the preconditions P set on overnight contact involving R recognising I's autistic diagnosis and engagement on his part with some form of anger management work or similar. R considers these to be inappropriate and to overstep the mark and place upon him unjustified conditions. With this in mind I observe the first point should not have been controversial in any event given it has been accepted before me as the case. I can see why P sought this recognition as it had the potential at least to shape the parental interaction with I and would likely elevate a recognised need for stability and consistency in dealing with I. But as noted this is now agreed and is agreed on the basis of evidence which existed at the relevant time. The second condition related to misconduct on the part of R; a particular event in September 2020 which led to the police attending R's home, and; a concern on the part of P as to R's erratic mental health. I was at the time seeing a child psychologist and P claims he advised the supervision of contact. R disagrees with this decision making. I note correspondence in opposition to this did not arise until the next year and I also note R appears to have recognised a need for some change on his part as he engaged with a counselling programme. P modified her position to agree to unsupervised contact building to overnight contact when R confirmed he had undertaken such work. It does not appear she delayed at that point or sought to further obstruct by raising new points. On my assessment whilst I accept a different parent may have prioritised different issues in this regard, I cannot see within this point grounds of complaint against P. It may suggest she is cautious in her approach but it is not good evidence of an obstructive mother for the sake of it.

- viii) I have been asked to reflect on the power balance between the parents as described above. For my part I do not consider the evidence supports the case put by R. It is exceedingly difficult for a Court to put itself into the actual relationship that pertained between the adults in their private sphere. However, I have struggled to accept the case of P as dominant and a physically powerful presence. On my reading of the evidence R has expressed his views in a manner which suggests he has no fear of P.

- ix) I was asked to reflect on P's unwillingness to modify contact arrangements during a period in around September 2023 when R was between contracts (on a sabbatical) and was available for additional contact. R complained this demonstrated the obstructive approach of P. P argued there was a need for consistency in the case of a child with a neurodivergent character and that contact was in any event developing during this period. I prefer P's account in that I do not find this is good evidence to support the case for P as an obstructive parent. Her explanation is both plausible and reasonable and does not suggest an ulterior motive.

27. In summary my assessment is that contact in this case has been both facilitated and promoted by P in a manner which she genuinely considers to have been child focused. I accept this may at times have reflected a cautious approach on her part and this may have caused contact to proceed slower than it might otherwise have done. However, this needs to be seen in the context of the circumstances surrounding breakdown. Viewed fairly and objectively it would be wrong to form the conclusion that she has sought to obstruct contact or to limit R's relationship with I. I do not accept that characterisation and I do not think it is likely she will take such an approach in future whatever decision I reach. I find she genuinely accepts the benefits to I of a good relationship with his father and will do her best to ensure this happens. It should be clear I consider this also requires R to make his own contribution towards this effort to make it a full success. In my assessment it is R who needs to pause and reflect on where he finds himself. In doing so I hope he will come to recognise the support P has given to contact.

28. **Has P obstructed a relationship with wider family?**

29. P argues that there has been a restriction of maternal family contact as a result of R's opposition to travel to Australia. For my part I cannot see this as impacting on the issues I have to decide in the light of the concession of future travel to Australia whatever decision I make.

30. In contrast R broadens his criticism of P arguing she has restricted I's relationship with his paternal family. He has particularly criticised P's obstruction of time between I and his maternal aunt whilst in this jurisdiction. Separately, I deal with the allegations relating to the trip to Mauritius in summer 2023. Having considered the evidence, I find this allegation does not stand up to scrutiny. I have reached this conclusion as:

- i) I generally prefer the evidence of P where the parents disagree. My assessment of the evidence demonstrates P has permitted contact with the paternal family. I accept this may not at all times have been to the satisfaction of R but this does not mean P was obstructive. There is clear evidence which conflicts with the account given by R.
- ii) P has taken I to Mauritius on four occasions. Twice in 2018 and then twice in 2023 (first for an extended period and then secondly on route back to this jurisdiction from Australia). This is difficult to reconcile with the case made by R. I note the visit on return back from Australia was without R and benefitted the paternal family exclusively. It is surprising in the context of this issue that R commented that P had *enforced herself on his family* during this trip. I understood this to mean she was present during contact. I cannot see how this should be viewed in a negative way in all the circumstances of the case.
- iii) I separately deal with the 2023 trip below. My findings support this conclusion.
- iv) Having considered the evidence relating to the aunt, most of which is in written form, I favour the account given by P. It seems to me the dispute is as to the format of the contact rather than the fact of the same. I accept P's account of having a good relationship with the aunt rather than R's contrary

portrayal. I question whether P would have taken any of the steps noted within her evidence absent a good relationship. I accept P has permitted I to go shopping with the aunt in London and invited her into her home. I accept this was in part at a time when R himself (for separate reasons) was not engaging in contact. I also accept I was transported to Paris where he also saw his aunt.

- v) I consider it unfortunate R felt it appropriate to tell me I did not have a good relationship with his family. Whilst this may be his opinion, I consider it an unfair assessment in the light of the efforts P has made with respect of a family that reside many thousands of miles away.
- vi) In reaching these conclusions I have had particular regard to the written evidence of P and R at [121 §28]; [156 §28], and; [175 §50] respectively. I consider the evidence of P the more authentic of the two and that which sits more comfortably with the facts (much of which are agreed in this regard) of the case. I also very much bear in mind that there is and has been no restriction on R joining his family during his contact by video messaging. He confirmed he does this on a regular basis. In my assessment in a case like this the key facilitator of contact with external family will likely be the parent associated with that side of the family. There really is no need for the other parent to be the prime facilitator.

31. In my assessment the evidence supports P. I accept her case over that of R. I find she has supported reasonable contact with the paternal family and there is no reason to believe this will change. In any event all proposals provide for R to have time with I both in this jurisdiction and in Mauritius. He will on any case have the chance to promote this relationship irrespective of P.

(iii) The nature/relevance of the domestic abuse in the parental relationship?

32. I use the notion of 'domestic abuse' to include the accepted domestic abuse; the inappropriate communications; the various counter allegations and particularly those events which have occurred in the presence of or in proximity to I and which are likely to have impacted negatively upon him. I do not need to make findings in respect of matters which remain in dispute. It is clear the ultimate child arrangements put forward by both parties will not be impacted by resolution of the matters in dispute. I am satisfied that the same are safe for I and consistent with Practice Direction 12J.
33. These matters are relevant in understanding the manner in which contact has developed to date. I have addressed this within the heading (i) above and reached a conclusion that P was entitled to take a careful approach. I consider it is relevant that she is not referencing this history as relevant to future contact. Her settled case is that she has promoted contact, to include staying contact, in the light of R's engagement with self-improvement work in around 2022. This counts to her credit and should be recognised by R.

34. The quality of I's relationship with his father?

35. Somewhat contrary to normal expectations, I heard from R as to the fragility of his relationship with I and from P as to the relative strength of the relationship between

father and child. This issue transpired to be one of two particularly in the focus of Ms Taylor. Her assessment of fragility was central to her concerns as to the planned relocation. In live evidence she told me that she had assessed the relationship as having fragility when she saw I in February 2023. At that time, he did not want to spend more time with his father and reported not having a close relationship with him¹⁸. Each of the parents reference this issue as part of their wider case.

36. R adopted the reasoning of the CAFCASS officer arguing physical dislocation will simply magnify the issues in the relationship. He argues that for the relationship to flourish I must be geographically close so as to enable regular contact. In his live evidence he described his relationship with I as being '*weak*' and likely to further deteriorate on relocation. He further told me his relationship with I was '*insecure and not very meaningful.*' R further referenced the behaviour of I when he returned from holiday in Australia in September 2023.
37. P does not accept this characterisation of the relationship set out above. She relies upon the progress in contact during the proceedings. She described the contact successfully developing to the point of three-night visiting contact. She seemed to accept there may have been issues during contact with R but felt these were simply matters for R to manage as she would do if they arose in her care. I am not sure R's description of the relations as set out above was put to P but she spoke in broad positive terms.
38. R's case appeared to be contradicted by his own statement evidence. He had throughout described a strong bond with I in the early years pre-separation. He argues a deterioration has followed as a result of the obstructive actions of P. However, in his first statement from December 2022¹⁹ he comments that despite P's actions the relationship remained a '*very strong bond*'. This led counsel for P to suggest that R had in fact latched onto a point made by the CAFCASS officer to improve his position, notwithstanding it was not his actual case as to the reality of their relationship. In his live evidence the issue remained somewhat vague. I asked him to explain when he felt the relationship had in fact deteriorated from the point of being '*very strong*' to the point at which he now describes it as being '*not very meaningful.*' In answer he said it had in fact been very strong up to the return of I from Australia in September 2023. I have to say I found this overall argument difficult to accept. For a start it plainly left the relationship as being strong at the time of the CAFCASS report yet R had sought to rely upon the CAFCASS assessment to promote his case when in fact it did not chime with his own assessment of the relationship at the very point in time. Secondly, it was clear there were very obvious reasons as to why I might have been challenging immediately following a return from Australia given there is unchallenged evidence that I wishes to relocate to that country. On any reasonable basis the assessment of presentation at that point should be viewed as consequential upon this recent trip rather than evidence of a more sustained deterioration. Finally, it is clear this behaviour has been managed and contact has continued and developed. It seems R has managed it appropriately without needing to return to P. In my assessment R has fallen into the trap of adapting his evidence to fit a proposition that improves his case but does not fit with the available evidence. As a result, this has not been sustainable when it has come into contact with reality.

¹⁸ See 215 §12

¹⁹ 142 §3(a)

39. It is clear to me that I has his primary relationship with his mother, as she accepts, and that in the presence of both parents he will naturally favour P. But the evidence also supports a conclusion that I has a secure and positive bond with R. This can be seen in the positive holiday contact and the developing visiting contact. It is also represented in R's argument for additional sabbatical time in September 2023. In reaching this conclusion I depart from the views of Ms Taylor but I bear in mind that her assessment was undertaken many months ago since which date contact has come on leaps and bounds. I also have the benefit of hearing all the evidence and some significant conclusions as set out within this section. I note the agreed proposals for contact if relocation is refused would be as to 3-nights per fortnight overnight and potentially additional mid-week and holiday time. I note that since separation I has been available to see R on almost every day of the week. It is difficult to reconcile this with a relationship which is not meaningful. I have struggled to understand how R came to label it in that manner.

40. **The relevance of I's neurodivergent character?**

41. By the end of the evidence, I was satisfied this is a matter of relevance for I but of limited relevance in answering the questions posed by this case. I will explain why. It appears agreed between the parents that I is neurodivergent and specifically located on the autistic spectrum. There appears to remain debate as to where he might be on that spectrum with R suggesting he is at the low end of the spectrum and P being unwilling to speculate as to the appropriate descriptor to be applied. Both appear to agree he is not severely impacted in his presentation and is high functioning and will remain within mainstream education. I have seen expert assessments which support this conclusion whilst identifying areas of concern and focus. There appears to be a remaining debate as to whether I is also dyspraxic. I appreciate P contends this has been diagnosed. I am unsure R accepts this to be the case. It was suggested to R that a confirmatory report exists although I am not sure I have seen it. I suspect there is some support for this additional diagnosis but again I do not think the resolution of the same is required as a condition precedent to the points placed before me for resolution.

42. In the course of the evidence mention was made of the failure to alert the school to any diagnosis at the time of admission to the school. I understand R to suggest this is material in suggesting a limited level of relevance of any diagnosis. This would perhaps fit with the argument around I being 'low' on the spectrum. In many regards the response of P fits with such an analysis. Her case was that at around admission I was not showing significant signs of the impact of the condition such as to merit it being raised but that over time as learning has become more challenging it has become more noticeable and impactful. The recent engagement with professionals does tend to suggest the notion that more challenging direct learning is placing a focus on I's areas of weakness. For my part I do not think the circumstances at admission help me in my analysis.

43. It is clear P is a strong advocate for I in respect of these issues. She has funded private resources as she has done with a child psychologist. She appears to be well informed in this regard and I see no basis for believing this will change. Any child with any form of developmental, neurological divergence or disability requires an actively engaged parent to both navigate the at times byzantine processes surrounding the availability and provision of resources and also to argue their case in circumstances where professionals are often having to distribute scarce resources. I

am confident P has this capacity. She appears wholly accepting of these issues and driven to minimise their impact on I's life chances.

44. My sense is that R is less engaged with the same. This is not to say he has entirely opted out of the process and in making these observations I appreciate it may be entirely natural for him to defer to P given her primary role and the issues between them. Yet my sense from the written and live evidence is that he has degrees of scepticism around the issue. An example is his justification for not seeking to pursue professional support in preference to the suggested opinions of the head at I's school. Examples can also be found in his categorisation of I as low on the spectrum and in the manner in which he recently engaged with the professional assessing I. He appears to approach this issue from the position of some minimisation. This may flow from an unwillingness to accept the challenges his son faces or may be due to the comparative limited role he has played in I's life in the last period when it appears these issues have started to come to the fore. In making these points I do not lose sight of R's strong wish for I to achieve and his willingness to provide and fund practical support around tutoring and indeed the funding of private education. However, in conclusion I find P is the lead in these matters and will continue to be. In this sense I doubt anything material will change whatever decision I reach.
45. I have been asked to reflect on the comparative educational opportunities that might be offered whether in this jurisdiction or in Australia. In this jurisdiction there was a focus on the availability of the current school for I for the next two years before a change will be required. It is argued the current school is a good match for I in providing small class sizes and is an environment familiar with his needs. School reports are positive and the teaching staff know I and the family. It is agreed there will be a change at age 11 and the possibility of a further change at 13. The natural sister school at age 11 will have larger classes and P noted the parents had some reservations about that campus when the parents came to select the current school. I heard some evidence as to I's peer group being somewhat unstable and I having a small and focused friendship group (although he is popular) and I was told about changes that have occurred as other children have moved on with their families. In contrast I heard and read about a specific proposed school in Australia and about the NDIS²⁰ system of provision that would be available for I were he to relocate. I also heard P would have ongoing health insurance that would be available if required. I heard that this school was both selected and a deposit paid at the time of the aborted change in jurisdiction in 2018 (see below). The school appears to have larger class sizes but there appears to be general good levels of provision.
46. The reality of the situation is likely to be a level of scarce resources available within the mainstream to some extent. However, it is clear that these parents have both personal resources and motivations to obtain what is needed for I irrespective of the same. I consider it both unhelpful if not impossible to provide a meaningful comparative analysis of the two systems available in UK/Australia. However, I consider whichever comes to be the system relevant to I, the parents will supplement it as necessary to maximise the chances for I. It is for these reasons that I have reached the conclusion this is not a particularly weighty feature in my analysis.

47. **Does I suffer from separation anxiety?**

²⁰ National Disability Insurance Scheme

48. R argues this is the case and it is relevant. My understanding is that he considers the presence of the same will mean any relocation will likely lead to a deterioration in his time with I as I will become more not less willing to separate from P. P disputes I has any such condition and contends it has no relevance to the case. She accepts a tendency on the part of I to gravitate to her and some issues in the morning getting I into school (both her and father) on occasion but denies there is any separation anxiety. The evidence for this contention is found on a lengthy questionnaire²¹ provided by the school where the question of separation anxiety was ticked and a mark of 4 out of 5 was applied (with 1 being no concern and 5 being a serious concern). I have to observe this is very much the extent of the evidence in this regard. It does not amount to a psychological diagnosis but seems to identify difficulties when separating. Against this I have the fact of ongoing significant unsupervised contact with R including whilst overseas and I attending school all the time (whether occasionally late or not). I am struggling to see how I can safely reach a conclusion of separation anxiety as a concept which is materially impacting on or likely to impact on the relationship between father and child. Overall, I am willing to accept there will have been occasions when I has struggled to leave a parent and particularly in the context of the start of the school day. However, I do not consider this is a matter of real concern when addressing the issues in this case.
49. **The extent to which the family previously planned a future in Australia and the relevance of the same?**
50. I can deal with this in relatively short order. In summary it is suggested that this is the third time P and child have been on the cusp of a relocation to Australia. The first time being in 2014 and the second in 2018. In relation to the 2014 plans this appears to be essentially agreed and there is supporting evidence in the form of R's application for a permanent visa²². Neither mother nor child required the same in the light of their status as Australian citizens. Within the documents the rationale for relocation were given as being: (i) reuniting with wider maternal family; (ii) for I to be able to have a proper family life around his family; (iii) to spend time with grandparents, and; (iv) for I to be educated in a stress-free environment. It is agreed this plan was never completed as R had a change of mind as to the proposed plans. I note the application was made almost immediately after I was born.
51. The situation with regard to the 2018 plans are more controversial. It is agreed P and child travelled to Australia in late 2017 for a family event. However, she contends that whilst there it was agreed between her and R that they should remain and live there. She relies upon messaging from R in support of this suggested agreement²³. In the months that followed P made trips to this jurisdiction leaving I with family and whilst here she was living with R. She further relies upon R providing funds (c. £2,500) to enrol I into a school (the school referred to above). P agrees that by March 2018, R was no longer agreeing to this plan. She therefore returned with I without the need for litigation. R disputes this account and continues to refer to the events as being an abduction. He complains P purchased one-way tickets (she denies this and evidenced that she purchased return tickets in November 2017 in her second statement) and he explains he was at the time devastated about P's action (a reference I assume to her affair) and agrees he sent the messages relied on by P and that he paid the school fees. He points out that he continued paying fees for the

21 SB 741

22 SB 3-19
23 111 88

nursery in this jurisdiction to maintain the place. He explains he made clear his opposition by the end of January 2018 but that it took legal letters to get P to return in March 2018. The parents maintained their positions in live evidence.

52. On balance I accept the case put by P in this regard although in reality my finding is largely based on agreed matters. In 2014 the parents did see a future in Australia following the addition of I to their family. The benefits of the same were set out in clear terms in the application process. R had a change of mind and the parents did not follow through. In 2018 I find R did acquiesce in P staying in Australia. He clearly accepted the positives of the plan in his messaging. I do not find this could be accurately described as an abduction. It may be he was in a poor mental state at the time given the relationship was falling apart (or had done so) but this does not change the views he expressed. It is clear that when he made his opposition clear P returned.
53. What if anything can I draw from this? It seems clear P has previously taken a conciliatory approach to the issue and not forced the point when opposed by R. It is also clear R could see the merits of relocation albeit at a time when he was part of the relocation plan (2014). It is clear the parties recognise Australia has positives for I on any neutral assessment. Beyond this I am not sure very much more can be drawn from these episodes.
54. **The events of summer 2023?**
55. At a hearing in March 2023 the parties agreed holiday arrangements for summer 2023. Under this agreement I would spend two weeks in Mauritius with his father with his mother staying locally. It was agreed I would see P midweek in each week. He would then travel on to Australia with P. R complains P interfered with this trip in a number of ways. First, she changed I's flight so that he would travel with her on the outward journey. Second, she interfered with the arrangements R sought to make as far as it concerned seeing the maternal grandmother. Third, at a point midway through the holiday P relocated to R's hotel and in doing so undermined his contact time. P denies these suggestions and makes the following points. Shortly, before the trip she was informed the maternal grandmother had become very unwell to the point where she underwent an amputation. In pre-trip video messaging I saw the grandmother and was distressed to see her in that state. Understandably family emotions were heightened by this deteriorating situation. Then R made clear he intended to take I straight to hospital on arrival in Mauritius. P communicated objecting to the same on the basis that this would be emotionally challenging for I. She did not oppose I seeing the grandmother but argued this should be managed in a different way. She argued R was not only unwilling to adjust but by his response concerned her as to emotional state. As a result, she altered the arrangements for I to fly with her. In any event on arrival I was delivered to R who proceeded to take I to see the grandmother. Unfortunately, in the course of the trip the grandmother's health further deteriorated and she died. P argued that she assisted R by looking after I to free him to deal with family affairs and rituals. Although R argued this stopped him taking I to the funeral P pointed out she asked R whether he wished her to take I to the funeral and he said not to. In any event as a result of her ongoing support she and R made arrangements for her to relocate to the hotel in which I was staying. As such this move was to give support rather than obstruct the relationship. R disputed this and said it was P who had changed the arrangements.

56. As I have noted above following this holiday P and child travelled on to Australia. On the return journey they stopped over in Mauritius so that the paternal family could have time with I. R was not present during this trip. R contended P imposed herself on his family. In their live evidence each party stood by their written accounts without significant departure.

57. I have considered the respective evidence and reached the following conclusions:

- i) It is important to recognise the trip proceeded as agreed and P ensured I was available for contact in Mauritius. It seems agreed R spent 9½ days with I out of 14 as opposed to 12 of 14 (P having 1 day each week).
- ii) It is clear I was able to spend time with the paternal family including the grandmother before her death. R says this had to be arranged to see her out of hospital but it is agreed she was able to see her grandson. It is also clear the wider family also saw I.
- iii) There is no doubt the deteriorating health and ultimate death of the grandmother had a serious impact on the plans for the trip. R unexpectedly had to be involved in funeral and other rituals and prior to this in spending time with his mother in hospital.
- iv) I have considered the disagreement between the parents surrounding the plans on arrival in Mauritius. It is clear P felt it was not a good idea for I to travel with his father on an extended journey for the first time and on arrival to immediately travel into a potentially emotionally charged situation in hospital. She relies upon the distress experienced by I on seeing the state of the grandmother in video messaging. It is clear R found this view to be one which sought to override his own parental decision making and in correspondence he appeared unwilling to modify the plans as suggested by P. It is clear this discussion arose at the very last moment and this restricted the time available for reflection and discussion. P then acted unilaterally changing the flight details only.

I can find room for sympathy with both positions. R had an obvious desire to enable his mother to see her grandson (and importantly she did). These feelings were likely strongly held and understandable. P worried how this would impact I and thus the trip. I can see the foundation for this worry having regard to all I have heard about I. I cannot find a basis for criticising P in these circumstances. It is perhaps easier for me to identify the way in which this should have been resolved. I consider R should have been more open to P's views. He could have travelled with I and then visited his mother alone so that he could fully assess the situation before arranging a more considered opportunity for I to visit. I consider he lost sight of the best way forward in the moment and in the light of the ongoing disagreement with P. But I do not wish to be unduly critical in all the circumstances of the case. This was a situation that could have been avoided but it was not. I have the benefit of emotional and temporal distance.

- v) As to the change in hotel location I prefer the evidence of P. It is quite clear P was required to journey between hotels to support R at this challenging time by caring for I. Sadly, R has now lost perspective on what was happening and

does himself no credit by failing to recognise the help P was providing. I accept the evidence of P as to the quality of the roads between the hotels and the issue this raised with late evening travel. I find the account of P plausible as a likely solution to the issue. It is also noteworthy that R, as a Mauritian national, might have been better placed to negotiate this change given the circumstances. On the evidence available to me I prefer her account and find accordingly.

58. Is the Australian plan practical?

59. In my experience there are two forms of application of this sort. The first concerns a party who seeks to start a new life in a country with which they have little or no connection. The second relates to cases in which a party effectively seeks to return to their country of origin. The first form of application will often raise significant issues as to the practicalities of the planning whereas in the majority of cases in the second category this is not the case. Here P seeks to return to Australia having left in 2004. Whilst Australia is not her country of birth it is where she grew up and it is where all of her family continue to reside. She left the country in support of R's career progression. She is a national of that country as is I and she returned there to give birth to him. She continues to hold a strong connection to the country and has a right to return there without restriction. On the facts of the case her planning is to live with her parents in a property with which she and I are familiar. I did not hear any meaningful argument as to the suitability of that property. She would school I at the same school as was subject to the 2018 admission process. I have dealt with this above and notwithstanding the argument as to the 2018 trip it is clear the parents co-operated to an extent in such an admission. On any objective analysis the school would appear to be a good one. P has been offered a new job with her current employer working from Australia. As such she has a readymade post to assume were she to relocate. Issues of health care and ancillary matters were not relevant. Language is plainly not an issue. I did not hear any significant, if any, challenge to the practicality of the planning (I deal separately with contact planning below) and the arrangements that would be in place were P to relocate. I am satisfied the plans are sensible and realistic. Were I to give permission I am in no doubt the key arrangements necessary to make daily life workable would be in place and would be sustainable.

60. The relevance of the adult finances to my decision making?

61. Within the evidence each party considered their own and the others financial circumstances. The key focus of this assessment was to consider their respective ability to make contact work should relocation be approved. It should be recorded that both parents have a good level of net earnings. P has net earnings of around £95,000. I understood her evidence to be that this would be maintained if she relocated but she would hope to improve this over time. R is a self-employed consultant with a net income of about £110,000. My understanding was that he intends to continue working in the same manner and it appeared his income is likely to be stable at about that level. This has permitted both parties to successfully run separate households whilst living in an expensive capital city. They have additionally funded private schooling (R) and financed professional support for I (P).

62. R appeared to question whether he could financially maintain a relationship with I were I to relocate²⁴. In his written evidence R comments on the cost to him of a trip to Australia each year as being £12,000 for 2-weeks. This includes a £6,000 business class return flight. In contrast P accepts she would be largely responsible for the costs of contact facilitation and proposes funding travel to London (or Mauritius if preferred) on three occasions per annum based around the Christmas, Easter, and summer holidays. She argues this will be within her financial capacity as she will make savings in moving to Australia (accommodation costs principally) and will be able to travel for work when she travels with I to London. She appears to estimate the cost at no more than £12,000 per annum (3 return trips) and has set the same aside. In evidence she also told me that her brother has offered to make a property available to R when he comes to Australia.
63. I will turn to contact proposals generally below. However, it seems clear there are sufficient resources available to enable the facilitation of contact should relocation be approved. The costs to P are likely to be significantly less than the savings accruing from the relocation. The costs for R are within his resources. In reaching this conclusion I bear in mind R may no longer pay school fees but may be responsible for equivalent child support. I appreciate P may be responsible for school fees but she may receive child support (which she does not currently). For my part I can see no reason why R would need to travel business class when visiting Australia. In my assessment the budget he sets for 2-weeks could fund close to two separate trips per annum.
64. **Is R available for contact in this jurisdiction?**
65. This was an issue of concern raised by Ms Taylor which were balanced against her concerns with respect to the proposed relocation. It arose out of concerns as to whether R would in fact be available for I to the level contended for were permission to relocate be refused. R works in Paris and will likely continue to do so into the foreseeable future. His consultancy role is likely to continue with respect to agencies of the European Union and as such contracting parties will be located within that economic bloc. R provides consultancy services in respect of various projects activated from time to time. These appear to proceed over fixed periods of between 3-12 months or so. They tend to commence at particular times of the year, for instance after the Easter break or the summer period and then run for the stipulated period. Engagement with the contract and the necessity for attendance in the office (or the availability for remote working) is difficult to predict and has on occasion been seen to be a whim of the individual in charge of the project. R also accepts the remote element is a function of the extent to which this facility is made available to employees linked to the contract; is a hold-over from Covid times, and; is therefore susceptible to political issues around return to the workplace. As such the future working patterns may be unpredictable but may or may not require enhanced time in the office. In November 2023, R was required to be in the office for most of the time leading to him being in Paris Monday to Friday. He expects this to change. He tends to take time off when his employee colleagues are themselves on national holidays and so currently this mirrors the French school vacation plan.
66. Within these proceedings in March 2023 a plan for mid-week contact was negotiated and agreed. Under this R was to have contact each Wednesday night. It

²⁴ See CAFCASS 222 §31 and father 200 §37-8

then transpired he could not in fact be available for mid-week contact as he would be out of the country. As noted above R contends this will not be the case in the near future. This has led to questioning as to his availability to assume contact. When Ms Taylor was questioned about this, she expressed some concern that P was being asked to live in a country in which R was not himself living. She was left worried as to R's availability. P echoed these concerns. R argued that his unavailability was temporary and he would soon be available for midweek contact. He challenged the notion of the centrality of Paris as his base making a case for it simply being a workplace with availability for him to work from home in the future. I think on any case there was no question of R being unavailable at weekends and holidays.

67. R also raised a different point in respect of availability were permission given. His argument was that his availability in such circumstances reflected the European school vacation periods which did not entirely overlap with those in Australia. As such whilst P might be proposing extended stays at given vacation times that would not necessarily be periods when he could be available. He also asked me to reflect upon additional features which included reduced availability at times close to the conclusion of contracts (when he would be expected to be fully available to ensure a successful completion of the contract) and periods between contracts when he was able to take some time off work pending the next contact – an example of this being the sabbatical opportunity in September 2023. As I understood the evidence these periods would generally occur in about September; December; Easter, and August – when they did occur bearing in mind contracts are often for more than 3 months.
68. My conclusions in this regard take account of the evidence but also a certain level of uncertainty as to the exact details of R's future contractual relationships. On balance I have concluded as follows:
- i) There is no real question that R would be available for both weekend and holiday contact periods within this jurisdiction were relocation refused. I am less confident as to his availability for regular midweek contact as a result of the recent circumstances. His availability is dependent on the decision making of third parties who have no obligation to his family commitments and are not his employer. He has sought contracts working out of Paris and will continue to do so. He will remain vulnerable to being expected to be in Paris to service the contracts.
 - ii) I am wary about the evidence as to future remote working. As above this is vulnerable to a host of varied factors including political reappraisal of the benefits to the employer of a workforce working from home. The employer has a different relationship with R and he will not necessarily benefit at all times from social and workplace conventions which might benefit employees. He is dependent on the same being voluntarily applied to him. Having said this, I do accept there will likely be some scope for remote working going forward to reflect his role as a self-employed consultant.
 - iii) I accept the likelihood of R basing his own holiday breaks around those available to those he works alongside. I did not understand this to be a contractual requirement but it seems likely he will look to fit in so as to be available when key workers are also present. I envisage there will some flexibility.

- iv) I am less willing to accept R will be able to fully commit to midweek contact on a settled basis. I consider it is likely he will be available from time to time but that there will be regular periods of non-availability.
- v) I accept a combination of his self-employed status and working around local holidays will enable him to make himself available for close to 8-9 school holiday weeks per annum. In reaching this conclusion I assume he will have some commitments during such periods such as attending meetings and working from home. I accept his evidence that when he does work from home this can be undertaken from other jurisdiction so long as the same does not raise obvious security issues. His case is that were relocation refused he will be available to cover half of the 19 weeks of school holiday.
- vi) As to the relevance of Paris I consider R has rather understated the significance of the same to him. In his statement evidence he refers to it as being his 'second home' and elsewhere refers to wishing to be able to see I in Paris so he can come to understand the culture there. The strong sense is that Paris is a centre of long-term importance for R. However, I have no reason to believe he wishes to sever his connections with this jurisdiction.

69. Are the relocation contact proposals realistic?

- 70. Following on from the above it is clear I consider continuing contact within this jurisdiction would be practical and likely to continue without substantial difficulty. It would likely be founded on recurring fortnightly weekend contact and holiday contact with irregular midweek contact as and when.
- 71. However, I also consider the proposals for contact post-relocation are practical and capable of being managed without real difficulty. I have commented on the financial resources available to the parties. It is clear to me that the 'at least' four contact sessions identified by P could be facilitated without practical difficulty. I do not comment in this regard as to whether R would in such circumstances prefer his travel to be to Mauritius rather than Australia, but either would be possible. Indeed, I consider there should be no fundamental reason as to why R could not accept the suggestion of an additional contact under which he travelled. In my assessment it would be entirely practical and consistent with my findings elsewhere within this judgment for R to travel to Australia and Mauritius on one occasion per annum each. In Mauritius I would imagine he would have family accommodation available should he want it. I therefore envisage the possibility for 5 sessions of contact each year with three in this jurisdiction and two divided between Australia and Mauritius.
- 72. I observe the periods of contact proposed by P largely arise around the potential fallow (sabbatical) periods noted by R. The four contacts identified by P break up the year evenly with a period each 3 months (with around 2 months between each period). Were there to be a further contact period then this would have to occur within one of these interim periods. I have no views as to when this would best be.
- 73. Having heard R's evidence, it would seem practical for him to fit his required travel into the September period when he might be between projects and for the other three offered by P to be in this jurisdiction with R arranging his availability by reference to holiday periods and/or working from home. A fourth trip could be organised at a convenient time with R combining leave and working from home. I

observe that this totals around 10 weeks on P's case (the four trips) which is broadly consistent with R's case of being available for half the current school holiday (around 9 weeks). Were a fifth trip agreed then this would equate to around 13 weeks per annum (25% of the year).

74. This and the last paragraph are not intended to be a commentary as to the relative merit of each but simply a statement as to whether, if this were the situation, I consider contact could be successfully maintained in the light of the outcome. It can be seen I answer the question in the affirmative.
75. **The impact of refusal on P / approval on R?**
76. In previous case authorities one can see a keen focus on the impact on the leaving parent of a refusal of otherwise reasonable relocation plans. Many cases engage in an assessment of the psychological impact on the mental health state of that parent. There are cases in which the Court is asked to distinguish between simple upset and profound emotional harm. With the recognised ascendancy of welfare these cases seem not to be so common place. Plainly if one is considering the welfare of I then the impact on the parent will only have indirect relevance on the basis that refusal negatively impedes the ability of that parent to meet the welfare needs of I. In this case I have received competing views as to what a refusal might mean for P. To be clear she does not argue a likelihood of psychological harm. She does though make points as to the impact that being compelled to remain in this jurisdiction is having upon her. The sense of her evidence is that she is being worn down and although not at breaking point is moving in that direction. Part of her case reflects the argument that she has now on two occasions been at the point of relocation only for the same to be snatched away. She argues that she has no support in this jurisdiction and no real social network. She is alone and feels lonely. The difficulties in the parental relationship do not make this situation any easier to bear. In contrast R disagrees and paints a picture of P as a socially engaged and energetic individual. He disputes her relative isolation as suggested by her. In any event he addresses the sense of displacement from her family by arguing he would accept P travelling to Australia with I on two occasions per annum for a period of 3-weeks on each occasion. This would address the sense of being home sick.
77. I prefer the evidence of P as to the issue of her perceived social isolation. She is of course best placed to give this account. I found her evidence to be genuine and credible. From her perspective the relationships she has maintained are superficial school gate relationships. I accept this evidence. I also accept her evidence as to feeling increasingly worn down. I certainly do not understate the challenges of being a single parent whilst holding down a challenging career. I also (see my findings) accept that this is made more burdensome when it is associated with a co-parent who is at times oppositional in his approach and has been personally abusive. Further, I recognise the sense of unfairness that exists in circumstances in which P finds herself in this jurisdiction based on a choice to prefer R's career and now fixed here even though he is free to pursue his career in another jurisdiction. Lastly, I appreciate the feeling of isolation from family which is found within P's case. I am in no doubt that whilst these impacts fall short of impeding P's ability to meet the needs of I, they are such as to make her daily life much harder than it need be. Over time this has the potential to have a more negative impact on P. Having heard the evidence, I cannot envisage a meaningful improvement in the attitude of R to P. In reality if she remains she will do so in an atmosphere of challenge and conflict.

78. For R there are obvious benefits in P remaining local. This has permitted daily contact through the previously challenging period. It allows for generous regular contact. I do not overlook the significant impact upon him were approval to be granted. I have noted above the practical potentials of P's proposals but this would be materially different in scope from that which would arise but for the relocation. There would undoubtedly be a significant period of at least 8 weeks without direct contact. I am in no doubt R would find this situation hugely upsetting in its diminution of his relationship with his son. I acknowledge the real potential for video messaging to bridge the periods of direct contact and accept that in this day and age children of I's age are adept at maintaining a range of communication tools through instant messaging that can keep alive a relationship at a distance. Still, this does not compare with a direct relationship. I bear in mind many of R's concerns as to the capacity and willingness of P to support the relationship and what this might mean if a distance is added to the situation but I do not lose sight of my conclusions in this regard as set out above.
79. In summary, and as referenced at the outset of this judgment, the outcome will be extremely hard to take for whichever parent is unsuccessful as to the end result. I find it invidious and in reality, impossible to seek to conduct a comparative balance of these respective heartaches. I simply record that either parent will be bitterly disappointed.
80. **I's expressed wishes and feelings?**
81. I has expressed a strong and consistent wish to be able to live in Australia. In her position document P narrates how this wish has been stated to a range of different individuals and has been a consistent theme for some time now. She argues that I is expressing this view with an understanding of life in Australia (having visited) rather than through an idealistic prism. At the same time, P did acknowledge in evidence that I will not fully understand the implications of what the trip will mean for him given his age and characteristics. In the position note it is referenced that he tends to fixate on matters. P is concerned as to the possible implications for R's relationship with I if permission is refused and I comes to resent R for this decision. R does not challenge the suggestion that I has strong and clear views on this subject. However, he questions whether this wish is simply a mirror of P's own wishes and feelings. As such he questions whether the views held are ones which should carry weight in the Court's balancing exercise. In his position ²⁵ note he argues the 'mirror' point and further suggests that the wishes flow from positive holiday experiences in Australia. The sense is that the wishes are not ones based on daily life in that environment. Further he draws upon the argument of separation anxiety (see above) and I take this to be a facet of the 'mirror' argument with I's anxiety compelling him to make a case in support of what P wants. For her part, P denies any coaching or encouragement on her part. As to I's experience in Australia P relies upon this experience as being one which has reinforced any feelings held by I.
82. Ms Taylor addressed this issue as part of her reporting process. She described I as a '*an intelligent little boy who [was] articulate in his discussions with [her]*'²⁶. Ms Taylor discussed the issue and commented that P wished to move to Australia. In response to this I responded, '*it's not my mum who wants to move to Australia, I want to*

²⁵ §13(a) [second (a)]

²⁶ 215 §11

move to Australia.’ He explained that he had been expressing this view since 2018 and went on to explain his reasoning which was based on the fact his extended family live there. He was able to consider the impact that this would have in respect of his relationships in this jurisdiction and commented that he would miss his father and friends but his father could visit him there and he could visit his father here. He told Ms Taylor he would be *very upset* if permission were refused and made clear, when it was suggested, he would be able to visit, that he did not want to visit – he wanted to live there.

83. I wrote a letter for me²⁷. I am asked to note he crossed out the word ‘move’ and replaced it with ‘go to Australia.’ The letter explains he wants to go there because he misses his family. I have received a follow up letter which came to me via P’s evidence. R questions the potential for maternal influence over this letter²⁸. In substance this repeats the earlier letter expressing a clear wish to move; explaining this by reference to wanting to be with his family and noting his father can still see him if he moves. I will return to these views within my welfare analysis but I pause to make some observations:

- i) I am bound to reflect on the age and understanding of I and his personal characteristics. He is aged nearly 10 and has some neurodivergent characteristics. I do not say this to suggest he lacks understanding as a result. I do not have a clinical foundation for reaching such a conclusion. But I do note P’s position as to his tendency to become fixated on matters. When a Court is considering wishes and feelings children can, it seems to me fall into three categories, with the boundaries between the three being somewhat fluid. There are young children who may express wishes but lack any real ability to fully understand the consequences of those wishes. Then there are older (teenage) children who are approaching quasi-independence whose wishes would deserve particular respect given decisions contrary to their viewpoint may simply be ignored. In between one has a group of children who are developing increasing autonomy and understanding but are still dependent and will lack full understanding. I consider I falls into this category.
- ii) I bear in mind I is an Australian citizen and has experience of time in Australia. His views around family life are understandable and based on his own experience. However, inevitably these have been shaped through limited time in that jurisdiction.
- iii) I consider he will be aware of his mother’s own views. He knows she has applied to relocate. I accept he is close to her and they have a strong and positive bond. To some extent her feelings are likely to impact on his own irrespective of intended influence. But this does not mean he is unable to have his own views.
- iv) I will have to consider the relationship he has with his father and how this may factor into his feelings and whether this relationship (which is of value) has been lost in I’s own rationalisation of the situation or whether I has an unrealistic belief as to the ability to maintain the relationship post move. I do note I is not expressing opposition to his father and whilst he expresses

²⁷ 217

²⁸ SB12

some negatives as to time with his father, these are reasoned with I expressing views as to how things might be improved. He separately makes clear he will miss his father and envisages his father continuing to be part of his life post move.

- v) I will have to factor into my analysis the potential for unintended consequences of my decision making. I will need to consider whether (as P suggests) a refusal to permit relocation with the aim of maintaining the paternal relationship may have the opposite effect in distancing I from his father. In this context I reflect on R's evidence as to September 2023 after returning from Australia. R describes I as being challenging during this period. Whilst R did not see it this way there are good grounds for considering that this was a consequence of I being distressed at being brought back from Australia. I bear in mind this has settled and this might suggest any difficulties will be temporary. But I will need to consider whether a refusal, which will be final, may have longer lasting negative implications.

Welfare Analysis

Wishes and Feelings

84. It is very clear I has a strong and settled view to move to Australia. His reasons for doing so are genuine and plausible from the perspective of a child of his age. He enjoys the lifestyle there and has a particular wish to be around his maternal family. I bear in mind the undisputed evidence that there are no family (on either side) living in this jurisdiction. These wishes are based on experience rather than speculation as to what Australia might like. On the evidence I have received there is little support for the notion that these views are simply I mirroring what his mother wants. I accept the views are his own. I accept there will be a degree of entwinement between the mother's and child's feelings although I see this as the inevitable consequence of a shared wish and a close relationship rather than anything more troubling.
85. This is not a wish to be away from the father. Alienation is not raised directly in this case and I have elsewhere considered the question of obstruction on the part of P. It is clear I values the relationship with his father even though there have been periods of difficulty and episodes of challenge. I accept the reports from Ms Taylor as to I's views around '*missing his father*' and his suggestion that the relationship can be maintained. I will need to consider whether this is realistic but I do find the child sees a future in which his father is an important component.
86. I am assessing this case in the context of a near 10-year old child. A move to the other side of the world is a profound change and the actual implications of the same may be beyond an adults full comprehension. Many adults engage in such a move only to find the grass is not as green as they anticipated. I appreciate this move is to a jurisdiction to which there are strong ties and I am in no doubt P is able to predict what the future will look like. However, for I the situation will be less clear. He will likely focus on the positives and avoid the negatives. This is of course human nature but is particularly so for children when considering things they want. I bear this in mind.

87. I bear in mind that over the next 3-5 years I will mature and with it seek growing autonomy. Many parents in litigation of this sort find that their children are no longer willing to be held to child arrangements set down for them when they were 'children'. Flexibility is required and the parents will often have to mould the plans around the willingness of the child to engage. I consider there is a risk that I will identify R as the reason why he could not have what he wanted and he may as a result be less willing to engage with his father. I do not think this feeling will readily dissipate. The proposed move is central to I's thinking and he may take time to adjust although there is a real possibility he will not come to terms with a refusal.
88. I have considered whether these wishes are equally consistent with frequent holiday periods in Australia. Plainly, this would be preferable to no opportunity. However, I am not convinced this would solve the issue. I consider it is likely to elevate the feeling of unhappiness of what has been lost on return from any trip, as I sense was the case in September this year.
89. But this is only one factor in the analysis and this is far from a case in which wishes and feelings are determinative of outcome.

Needs

90. I's needs encompass emotional, physical and educational needs. I have previously provided an analysis of the comparative merits of the educational opportunities for I whether here or in Australia with particular focus on his personal characteristics. I have concluded in all the circumstances of the case there are no real grounds in isolation for favouring one over the other. As to his physical needs he is fortunate to have two parents who are each well placed to meet his basic needs and beyond. There is nothing in this case to cause me to dig deeper into this feature.
91. In this case as in most, emotional needs will be the central need under consideration. I shares with all children the need for stable, consistent and predictable care. I am required to assume and readily accept that his welfare is consistent with and requiring of a relationship with both parents. It is emotionally important for his identity to understand and be accepting of the dual nationality that underlies his make-up. Although there is no evidence to suggest the same it would be harmful for him to be rejecting of his paternal family identity. I have dealt with his wishes above but I also accept there is an emotional need for him to understand that his voice is heard although this does not equate to his views being followed. Were I to disagree with his wishes then it may be important that the reasons for refusal are ones that he can understand and hopefully respect.
92. On the particular facts of the case I find that he has a strong sense of family with a focus on his maternal family. His consistent reference to wanting to be part of his family and physically close to relatives is hardly unexpected in a child with nonexistent family connections local to his place of residence. It is easy to understate the significance to many children of a place within a family and the role of family in giving them a solid grounding. It seems clear that for I his place within the maternal family is very important. Yet this is not to say he rejects his paternal family. He has spent time in Mauritius and it appears enjoyed time with them. There is no reason to believe they will not continue to be a part of his life whatever decision I make.

93. I bear in mind the decision making of the parents in this regard and consider what it says about their own assessment on this topic at a time when they were not before the Court. In 2014 both were alive to these very issues and placed family connection as the focus of the planned move. Once again in 2018 the messaging suggested an acceptance that there was significance and benefit to I of moving to Australia. I note this understanding fits with the points I have made whilst recognising the earlier planning incorporated R into the plans.
94. I's emotional needs will benefit from his parents accepting my decision and supporting it, whichever decision is made. It will be contrary to his welfare for his parents to continue a conflict around this issue once resolved. If I refuse the application then parental reinforcement of the decision may be required to address I's disappointment. If permission is granted the parents will need to be respectful of the impact this has on the other and will need to show I that they will make this work despite their previous opposition. Irrespective of the issues examined in this case I has an emotional need to feel attached to both parents. If permission is given it will be crucial for the relationship with his father to be seen as valuable to I and for it to be consistently promoted as such by the maternal family. Were R's fears to materialise then I would undoubtedly suffer welfare harm. I have addressed these issues in considerable detail earlier in this judgment. I have formed the view that P has shown herself to be an active and genuine promoter of contact and I have noted I's wish to continue to see his father were he to move. I have no reason to reconsider these views.
95. I have commented as to the impact of refusal on P and visa versa on R. The evidence suggests that P has the predominant daily role in ensuring I's welfare needs are met. I do not intend to diminish R's role in making this observation but there is not doubt it is upon P that central care duties fall. I see no basis for believing this will change. I consider I's welfare is closely aligned with P's continued emotional availability and resilience. Whilst not seeking to exaggerate my concerns I do consider there is a risk of P reaching a point where she is impacted by the continuing inability to return home and by the conflict in the separated parent relationship. I consider her care of I risks suffering without falling to a point where it is not good enough. Children are adept at picking up on adult difficulties and downturns in emotion. I do not believe P would consciously show the same to I but I worry he might become aware of her unhappiness and this would negatively impact him in turn.
96. I consider I's needs are strongly opposed to enduring parental disagreement. This is a case in which I has experienced this conflict first hand on a number of occasions. I have commented on information being shared with him in a most unhelpful way. It is the duty of separating parents to prioritise the emotional needs of their children however they personally feel. This can be a very challenging expectation when emotions are high or raw. The evidence tells me that R has struggled in this regard. This is positively harmful for I and I will need to assess to what extent this will likely continue and whether or not relocation may temper the worst elements of this behaviour.

Likely effect of change in circumstances

97. This is a central consideration in any relocation application. How will I likely be effected by a removal? This encompasses the impact on his relationship with the father if approved. I have outlined my observations and conclusions as to the

practicality and workability of the plans and the commitment or otherwise of the parents to such plans. I have concluded the plans are workable and the mother has shown commitment to making contact work whilst at the same time recognising that such a change would have a profound effect on the time the father enjoys with I.

98. I would experience a real change in circumstances given he currently sees his father regularly on a number of days each fortnight. This could not be maintained post move. Following a move there would be sustained periods during which he would not see his father at all other than remotely. R is concerned a combination of related features will lead to contact withering on the vine. That the mother would continue to be obstructive and should I not want to travel then it simply would not occur. I have to assess this suggestion in the light of my findings. I do so in the knowledge that P would be able to travel to this jurisdiction for work purposes. There was a level of dispute in this regard but P was clear (and I accept) that her employer has agreed she will be able to spend some time in the London office and this can be dovetailed with contact visits. I accept her evidence that she will retain a team here and will visit (as do other managers) on an occasional basis. This would be a significant force in favour of I travelling as well. I bear in mind I's expressed wish to carry on seeing R. I do not consider I have an evidential basis for believing this is other than genuine on his part. I also accept there is at least a risk of I having competing wishes during holiday period which may conflict with seeing R but this could arise wherever he were located. The question is whether a combination of P's commitment; bond to R and the reality of the mother planning the trip and travelling herself would counter these concerns.
99. Would this form of contact be such as to damage the relationship between R and I? I note it would likely amount to contact every 8-9 weeks for periods of between 2-4 weeks. Taken over the course of the year, were 5 trips possible this might total some 12-13 weeks (or 25% of the year). Whilst this is significantly lower than that which would be expected were I in this jurisdiction it remains at a level which one would expect to maintain the father-son bond. I would expect interim periods to be filled with remote contact. I bear in mind the significant changes in this medium that have occurred in recent times and the familiarity of many children with contact by online video calls. I remind myself I is familiar with the same with respect to both his Mauritian and Australian families. Whilst I accept this is not the same as direct contact it is a very valuable form of contact to bridge periods of separation.

I's personal characteristics

100. I have commented elsewhere in detail as to I's personal characteristics and will not repeat the same here.

Any harm suffered or at risk of suffering

101. This is not a case in which one is considering direct risk of harm. Elsewhere I comment as to the emotional impact on I of my decision making.

The parents individual capability to meet I's needs

102. I have considered this issue with care and comment as follows with respect to each parent:

- i) P has in challenging circumstances shown herself to be a resilient and proactive advocate for I. She has notwithstanding significant issues in the parental relationship demonstrated a commitment to promoting contact. I am persuaded she recognises the importance to I of a continuing relationship with his father. I am confident there have been times when she has facilitated contact even where this is difficult for her personally. She is open to and responsive to the professional views expressed and is keen to ensure his educational progress. She meets I's needs to a high standard and will likely to continue to do so.
- ii) R loves I and is committed to him. He values his relationship with his son and wants it to continue and develop. He has allowed his issues with P, which in my assessment are not warranted, to colour his approach to matters. He is less flexible in his approach and I find somewhat less accepting of the potential impact on I of his neurodivergent character. He is not so open to co-operative coparenting as is P and at times appears to have favoured conflict over co-operation. I sense he has struggled to accept the circumstances in which the relationship ended. He needs to put this behind him and move on. He has the capacity to be a valuable contributor to I's life. I have no doubt he can meet I's needs for extended periods in his care. At this time I believe he would struggle to affectively co-parent with P to the level that I should be able to expect. As with P he places a high premium on educational achievement and has shown a commitment to funding the same.

The range of powers available to the Court

103. I am engaged with section 8 and 13 of the Children Act. This is not a case in which the Court can conclude it is better for the child not to make orders at all. I need to decide whether or not I give permission to relocate and if I do an order is required to confirm the same. In any event I need to set out the basic spending time arrangements whether or not permission is given. At one time R was advocating for a shared care arrangement however that was not actively pursued before me. It is accepted I will find his main home with P and will have unsupervised staying time with his father. There is no longer an active dispute as to overseas trips but were I to refuse permission there would be sense in formalising this entitlement to avoid future litigation.

Proportionality assessment

104. An order permitting relocation engages article 8 ECHR. Whilst not amounting to an absolute severance of family relationship it will have a significant impact on the same. It needs to be justified having regard to proportionality, reasonableness and necessity. The Court cannot carry out such an assessment without engaging in a balance sheet analysis of the competing options and assessing how they compare and contrast having regard to the respective positives and negatives of each.

If Permitted

105. The positives of this option include: (a) It is consistent with the child's expressed wishes; (b) It would enable I to develop and enjoy his wider family relationship; (c) It would enhance P's caring role in reducing stress and anxiety associated with

remaining in this jurisdiction; (d) It might permit easier access to the paternal family in Mauritius although this is a modest positive; (e) It does not prevent a relationship with the father and would encourage extended periods during which the relationship could be developed in a meaningful manner; (f) The child is familiar with the proposed location; (g) the planning is practical and realistic.

106. The negatives of this option include: (a) It would impact on regular contact; (b) It could create an emotional distancing of the relationship; (c) It has less inherent flexibility and it would be harder to provide replacement contact were there to be an emergency close to a period of contact; (d) It would limit spontaneity in the relationship; (e) It might suggest the father is a less important individual in the mind of the child; (f) It would limit the ability of the father to fully exercise his PR given the distances involved. There is a risk of him becoming a second level parent; (g) It requires an expectation of continued financial availability without which the contact would become harder or impossible to maintain.

If refused

107. The positives of this option include: (a) Contact could be maintained at a higher level; (b) It is an option with enhanced flexibility and would be resilient to last minute changes; alterations in the father's working arrangement and financial change; (c) It permits spontaneity; (e) It would keep the father present in the child's life; (f) It would enhance the ability of the father to fully exercise his PR, for instance by engaging with school at a full level; (g) It would maintain the equivalence of both parents; (h) As the status quo it is a known proposition.
108. The negatives of this option include: (a) It is inconsistent with the child's wishes; (b) there is a risk it might lead the child to become oppositional to the father with a significant impact on contact; (c) It has the potential to impact on the mother to the point where her parenting suffers and is not as good as it might otherwise be; (d) It leaves the mother to continue to navigate a difficult relationship with the father whilst feeling isolated and often under attack (e) It has the potential to lead to a continually conflicted relationship which will negatively shape the child's appreciation of the parental relationship; (f) It does not remove future change, e.g. school and housing changes, and the conflict that may come with the same; (g) It is on balance a financially harder outcome for the mother as she is compelled to continue to live in an expensive capital city which places strain on her resources. This leaves less available to enhance the lived experience of the child.

Conclusions

109. This remains a very difficult decision for the Court. I am not determining what is best for P or R, if I were the outcome would be easy. The question for me is what is in the welfare interests of I. As can be seen from the balancing exercise there are points which are important and which point in opposite directions. It falls on me to assess and balance these factors. I do not simply add the points up and decide which has most in its favour. This decision is not a simple discretionary decision but is a reasoned decision based on a qualitative analysis of all the evidence in the case.
110. I have reached a balanced decision but one which I am confident is the right outcome for I. I have determined it is better for him to relocate as proposed by P and for him to enjoy significant and reasonably regular contact with R. On balance I

consider this is a better outcome for I and is the outcome which best promotes his welfare. In reaching this decision I do not underestimate the disappointment this will cause to R, indeed any less than I would have done in the case of P if I had refused permission.

111. These are my reasons for reaching this decision:

- I have given some weight to I's wish to relocate. At 84-89 above I provide an analysis of these wishes and I conclude they are not to be viewed as determinative of the application. But this does not mean they should be put to one side. They are settled and deeply held and I am additionally concerned that the relationship between R and I will suffer in the fallout from a refusal. Whatever P may do to limit the impact I consider it likely I will blame his father and act accordingly. I note what happened in September but bear in mind that this would have the additional impact of being a final decision. I consider it realistic to predict a deterioration in the relationship based on resentment and blame. Comparatively speaking I consider I will be better attuned and open to a relationship with R if relocation is supported.
- With caution I have also reflected on P's position (through the prism of I's welfare). I am satisfied it is challenging for P to maintain a positive approach notwithstanding the history she shares with R and his difficult approach to her, which continues. She has continued to be positive and supportive but I am now considering the likely prospects over the future years of I's minority. I consider there is a real likelihood that over time this will become increasingly difficult to bear and this will impact on P and thus on I. I consider that whilst she is able to remain engaged as a positive supporter of contact now this may become a harder proposition in the face of I's response to refusal and in the light of her own significant disappointment at the decision. I assess this in the context of a likely continuing level of adult disagreement with R being unnecessarily conflictual.
- I consider family is of real importance to I. He knows his wider maternal family and wants them in his life. He has a strong emotional loss by being separated from them. He is a child with characteristics that impact on his social engagement to an extent. Given this there is a premium in him having good access to family he seeks to be part of his life. It is problematic if a relationship he craves is largely kept from him.
- I consider there are significant practical benefits associated with relocation that will enhance I's welfare. Having considered the parties financial positions I can see that a move to Australia will positively improve P's financial position and give heightened stability in terms of accommodation. She will no longer be subject to the vagaries of the rental market in London or the associated high costs of living. In Australia she will have significant family support including accommodation and emotional support. These are very valuable commodities and will improve I's lived experience.
- I do not lose sight of the decisions taken in 2014 and 2018. On my assessment both were occasions on which the parents recognised (either wholeheartedly or otherwise) the clear benefits to I of relocation. I

appreciate the father on both occasions modified his position as he was entitled to do. But this does not alter the underlying recognition of the benefits to I of the move. The rationale for the same reflected points raised above to include family life. In my assessment little has changed particularly since 2018.

- At this time I do not see an end to the conflict in the parental relationship. It can be seen I have not found grounds for criticism of P despite wide ranging criticism levied by R. Whilst I have sought to take a moderate approach to enhance future parental engagement it is fair to say I have largely identified the challenges as coming from R. Whilst he accuses P of obstruction the reality is that it is R through his actions who has created instability in the relationship as separated parents. The Court regularly hears that separation is not itself a fundamental issue for children. The challenges arise when the parents fail to sensibly manage the relationship post-separation. It is when separated parents end up oppositional and all decisions become points of conflict that children become caught up in the conflict and damaged. Having listened to the evidence my sense has been of R finding areas of complaint in pretty much everything P does. I have been able to assess this objectively and have concluded he has lost sight of objectivity and I's needs in an attempt to prove his case. I do not consider this is likely to change were I to refuse permission. This is likely to continue to impact on I in a significantly negative fashion.
- I have not lost sight of the impact this will bring to contact. I accept contact from Australia is inferior to that which can be maintained if permission is refused. There is no doubt this is a negative, indeed the key negative of permitting relocation. It is a weighty balance against the points noted above. This will undoubtedly impact on the relationship enjoyed between I and his father yet it is not such as to outweigh the points in favour of relocation.
- Importantly, I consider contact can be made to work from Australia on a relatively significant basis given the distance. I consider the combination of support from P, commitment from R and the parties respective financial position mean I can expect contact to endure successfully. In contrast to being told he cannot go I envisage I will also be more open and responsive to contact into the future.
- In my assessment a contact regime can be established under which there is regular weekly video contact with extended visits every 8-10 weeks. I endorse the proposal for a long visit at Christmas each year (rotating to include Christmas Day and to start just after Christmas). The proposal of around 32 days is a significant 5 week period for I and will have real annual meaning for him. There would then be a period of around 8-9 weeks before I sees his father at Easter for 2 weeks. This may well often synchronise with a post contract sabbatical for R and will enable quality time to include events which would not otherwise fit easily within a weekend schedule. The next visit will be in early July and could take place in Mauritius if R wished (otherwise in London). If it is Mauritius this will permit wider family contact. I note there is the potential for this to be 3 weeks duration. The next would be September/October for 2 weeks at least. I approve the suggestion of this being in Australia and I note this has the benefit of being associated with the

period when R may well be on sabbatical. The gap between the July and September contact is just over 8 weeks. I note the gap between the Easter/July and October/Christmas gap is slightly longer and I agree there is both opportunity and available finances to permit R to undertake a second journey to Australia. This could well be up to 2 weeks bringing the potential annual time to almost 14 weeks.

- I consider this routine will meet I's needs insofar as a continuing relationship with his father is concerned and will at the same time rest comfortably with the many positives in support of the relocation. I judge it will also provide the parents some healthy distance which should permit them the space to rebuild their separated relationship. I judge this will fortify P and give her both the support and space to maintain her ongoing commitment to contact. In my judgment this is best placed to create a long term viable relationship through contact.
- I can see no reason as to why R for his part cannot make this work. He places real value on his relationship with I and he has the capacity to facilitate what is required of him under this plan. It appears to me he can make this work alongside his working commitments as there will be significant time between contacts when he can focus exclusively on his obligations thus permitting himself to be more accessible for I during visits.

133. I have carefully scrutinised the alternative of refusal. This has the attraction of appearing to preserve the status quo and permits more extensive contact. But I have questioned whether this would in fact materialise given the impact on I directly and medium term impact on P (and thus on I). Moreover, I consider it will maintain a likely continuing conflict which will colour I's relationship and place unacceptable pressure on his home life.
134. I appreciate I have departed from the recommendation given by Ms Taylor. In doing so I note her final position was more balanced than matters first appeared in her written evidence. I have reached a different conclusion and in doing so note: (a) the somewhat dated nature of her report. Time and events have moved on considerably since that time; (b) I have the benefit of hearing the evidence and have reached conclusions on aspects of the case which Ms Taylor could not bring into her assessment. I have also made findings which conflict with some of the evidence given to her; (c) I have been able to undertake a far more child specific assessment. In contrast I found Ms Taylor's assessment to be more general in nature. This is not to say I did not benefit from her evidence or her assessment. There were significant elements which can be found in my analysis.
135. I therefore give P permission to permanently remove I from the jurisdiction. This is effective from an identified date after 22 January 2024. I make a lives with order in favour of P and a spending time order in favour of R as set out above. The costs of travel for I are as set out within P's position document.
136. I will forward this judgment to counsel for both parties. I thank them for their high quality argument and the manner in which they put their clients case. Both parents can be assured their cases were fully explored and all valid points put before me.

137. This judgment can be shared with the parties (it is not subject to embargo pending handing down). I would wish to hand this down as soon as possible but a combination of Christmas and my sitting arrangements means this cannot be done until the New Year. I will hand the decision down at 10am on 5 January 2024. Can I have any proposed corrections; requests for clarification and additional steps to anonymise the judgment (in addition to those contained within the anonymised version copied with this judgment) by 4pm on 4 January 2024. Can I have a draft order by the same time. If all matters are agreed then subject to their wishes I release the parties and counsel from attending the handing down. The hearing will in any event be held on a remote basis with a time estimate of no more than 30 minutes.
138. If I do not see the parties I would wish them the very best for the future. This is now in their hands and with goodwill to each other I am confident they can make it work for I.

HIs Honour Judge Willans