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Neutral citation number: [2023] EWFC 96

Case No: ZE21P01933

IN THE EAST LONDON FAMILY COURT

Hearing dates: 25th and 26th May 2023
Judgment given on: 14th June 2023

Before :

District Judge Coupland

Between :

The mother

Applicant

- and -

The father

1st Respondent

Representation:

**Mr Langford of counsel, instructed by Dawson Cornwell Solicitors
for the Applicant**

Mr Khan, solicitor of ALC Solicitors for the 1st Respondent

- 1. I am dealing with proceedings relating to A, a little girl who is soon to be six years old. These are private law proceedings concerning an application by A's

mother for permission to relocate with A to Poland. The application is opposed by A's father.

2. This has been a final hearing in the proceedings. The mother has been represented by Mr Langford and the father by Mr Khan. I have heard evidence from the CAFCASS officer who prepared the s.7 report dated 22.04.2022, Ms M, and the evidence of both parents.
3. The issues that I must determine are, firstly, whether to grant the mother permission to relocate with A to Poland and secondly, what orders in respect of the arrangements for A's care are required.

Background

4. The mother is a Polish national and the father is a Pakistani national by birth and is also now a British national. The mother moved to the UK in 2005 and then moved London in 2013. The parents met in April 2014 and very quickly decided to get married. It seems that neither of their wider families were supportive of this relationship. The parties nevertheless married Islamically in August 2014 and lived together. The marriage was legalised in October 2015 at a registry office. In the summer of 2016, the father's immigration visa was amended to a visa as a family member of an EU national. The mother discovered that she was pregnant with A in October 2016. The pregnancy and labour were difficult, with A born by emergency caesarean section. The mother reports that the accommodation that the family were living in at that time was poor and unhygienic.

5. In September 2017, the mother took A to Poland for the first time and while there, sought medical attention due to some concerns about her veins following her pregnancy, which required surgery. The mother returned in October 2017 but then returned to Poland again where she planned to have the surgery. She says that the father was not supportive of her during this time and did not want her to use their money to pay for surgery. The mother says that due to A then becoming unwell and being hospitalised, the surgery did not actually take place as planned in any event. A then underwent some medical examinations, which concluded that she had low muscle tone, linked to problems with her muscular and skeletal systems. She would require physiotherapy and paediatric care when the family returned to the UK. The father then visited Poland in December 2017 before returning to the UK, with the mother and A returning later on 31st December 2017.
6. By this time, the mother says that the relationship between the parents was starting to breakdown and in her first statement, she provides greater detail about this. She says that the father was controlling of her, did not support her and was, at times, threatening and aggressive towards her. The father denies these allegations and no findings have ever been made.
7. In October 2018, the Local Authority became involved following concerns raised by the mother that A may have been sexually assaulted by a member of the paternal family, while also reporting that she felt emotionally abused, financially controlled and generally undermined by the father. The father denied that A had been sexually abused and denied the allegations made by the mother against him. The Local Authority commenced an assessment in

respect of A, and she was the subject of a Child Protection medical. The outcome of this was that there was no evidence of A having been sexually assaulted and the Local Authority's involvement was brought to an end. Although no further action was taken, the mother did remain concerned about A's presentation. For the avoidance of doubt, A has no contact with the member of the paternal family who was accused of assaulting her.

8. In April 2019, the father was granted Indefinite Leave to Remain in the UK and says that he later obtained British citizenship. In May 2019, the mother and A were granted Indefinite Leave to Remain in the UK under the Settled Status scheme.
9. At the end of May 2019, the mother says that the father travelled to Pakistan and that she did not hear from him until he returned several weeks later in June 2019. Following this, the parties separated, and they divorced in July 2020.
10. It seems that, following the separation, the father's time with A was not consistent, although the parents each give differing explanations for this. It does however seem clear that the father spent some extended periods of time away from the UK between the end of the parent's relationship and March 2022, although there seems to be some disagreement between the parties as to how often and for how long the father was away for. It is also right to note that the mother and A have continued to travel to Poland regularly since A's birth, including a long stay around the time of the outbreak of the Covid-19 pandemic in 2020 and for shorter periods at other times. A is clearly very much familiar with visiting her maternal family in Poland.

11. The mother issued her application to relocate A to Poland in September 2021. Since March 2022, the father has been having more regular direct contact with A and in June 2022, an order regulating these arrangements was made, which has broadly been adhered to by both parties.
12. It is clear that since birth, A has travelled with the mother regularly to Poland, often spending several weeks there at a time. The mother reports that A has developed her relationship with the maternal family there.

Law

13. In accordance with s.1(1) of the Children Act 1989, it is clear that A's welfare is the Court's paramount consideration. In determining what it is in the best interests of A's welfare, I must have regard to the welfare checklist in s.1(3) of the Act.
14. It is now well established law that the only principle to be applied when determining an application to remove a child permanently from the jurisdiction is that the welfare of the child is paramount (K v K (Relocation: Shared Care Arrangement) [2012] 2 FLR 880, CA; Re F (A Child) (International Relocation Cases) [2017] 1 FLR 979, CA and Re C (Internal Relocation) [2017] 1 FLR 103, CA.
15. The appropriate approach is a holistic evaluative welfare analysis which is always required in any decision about a child's upbringing but the level of sophistication in doing so depends on the facts of the case. The court has to identify the available options and determine the one that best meets the child's

needs. The fact that one option might involve the child moving abroad does not require a different approach.

16. The Court of Appeal highlighted the fact that a step as significant as the relocation of a child to a foreign jurisdiction, where the fundamental interference between one parent and a child is envisaged, requires that the parents' plans be scrutinised and evaluated by reference to the proportionality of those plans.
17. In relocation cases the welfare checklist should be applied, and the child's wishes and feelings are a factor in that process. However, even with older children, their wishes and feelings are only ever one of the factors to be considered in arriving at what is in their best interests, see N-A (Children) [2017] EWCA Civ 230.
18. The court must also of course be alive to the competing Human Rights of the parties and the children. There are a number of cases in which the non-resident parent has argued that the permanent removal of their child from the jurisdiction constitutes a breach of Article 8 which guarantees the right to family life.
19. The task for the court under ECHR 1950, Art 8(2) is to balance the right of the non-residential parent to family life against the right of the residential parent to their own right to private life when the two rights are in conflict. Where children's rights are in conflict with the parents the children's should take precedence.

20. In Re O (Residence) [2014] 1 FLR 89, CA the Court of Appeal reiterated that the welfare principle and the s1(3) checklist determines the outcome.
21. In Re K (A Child) [2016] EWCA Civ 931 the Court of Appeal confirmed that the analysis of a child's best interests would necessarily involve a careful examination of the parent's wishes and their interests, and their Article 8 rights, given the potential for the impact of the decision on the parents to affect the child as well. The balancing exercise to be carried out in relocation cases was one in which each and every factor relating to a child's welfare was weighed to determine which of a range of options best met the requirement to afford paramount consideration to the child's welfare.
22. In Re L (Relocation: Second Appeal) [2017] EWC Civ 2121 it was held that when considering relocation applications, the court should not consider the future division of the child's time with each parent first, but should instead consider all of the issues concurrently and in the round as part of a holistic evaluation of the child's welfare:.
23. The case of DH v CL and Others [2014] EWHC 1836 (Fam) provides a further useful summary of the legal principles, and the holistic balancing exercise required in the determination of an application permanently to remove a child from the jurisdiction, namely that in determining the application, namely:
24. The child's welfare remains the paramount consideration and regard must be had to the welfare checklist

25. The welfare principles govern applications for relocation just as they govern other welfare-based determinations regarding children and there is no presumption in favour of such an application;
26. The court must consider the positives and negatives, the benefits and the detriments, of the proposed placement options by reference to the evidence and the welfare checklist, guarding against a linear approach and instead adopting a global, holistic evaluation;
27. In the overall evaluation of competing outcomes, particular importance is to be attached to the relationship that the child enjoys with each parent following the guidance of the House of Lords in Re G (Residence: Same-sex Partner) (sub nom CG v CW) [2006] 2 FLR 629, HL and the Supreme Court in Re B (A Child) 2010 1 FLR 262;
28. The child's Article 8 rights are engaged and these rights are not merely theoretical but real and dynamic deserving of the closest consideration;
29. Regard must be given to the extent or absence of any meaningful reciprocal enforcement regime in the foreign country, and the court must assess carefully the risk of breach of any contact arrangements and the magnitude of any breach – it is for the court to achieve what security it can for the child by building in all practical safeguards to its order.
30. In the event that the court finds that a witness has lied, the correct approach to be taken to such lies was confirmed by the Court of Appeal in **H-C (Children) [2016] EWCA Civ 136 at [96-100]**, namely –

'A family court, in common with a criminal court, can rely upon a finding that a witness has lied as evidence in support of a primary positive allegation. The well-known authority is the case of R v Lucas (R) [1981] QB 720 in which the Court of Appeal Criminal Division, after stressing that people sometimes tell lies for reasons other than a belief that the lie is necessary to conceal guilt, held that four conditions must be satisfied before a defendant's lie could be seen as supporting the prosecution case.'

31. Put simply, the effect of Lucas is to serve as a reminder to the court that people lie for all sorts of reasons; the fact that a person lies about one specific thing does not necessarily mean that they have lied about another matter.

Evidence

The section 7 report

32. Ms M is the author of the section 7 report dated 22.04.22. It was clear from her report and her oral evidence that she believes the mother has A's best interests at heart. Ms M does not doubt that the mother's reasons for wanting to relocate to Poland are genuine and are not motivated by any attempt to frustrate or cause difficulties for the father's relationship with A. Ms M accepts that the mother genuinely believes A's life will be improved by relocating to Poland. Ms M was clear that the mother provides A with a good level of care, meets all her needs and that A is thriving. Other than some previous concerns about A's level of school attendance and her developmental progress, which the mother says was due to illness, there do not appear to be any other concerns relating to A's welfare. The mother has worked with the school to address the attendance issues and is supporting A with her education.

33. Ms M applied the CAFCASS ‘Distinguishig Domestic Abuse and Harmful Conflict’ tool and did not consider there to be evidence of coercive or controlling behaviour on the part of the father towards the mother. Ms M assessed that there would be risk to A of harmful conflict between the parents but felt any risk of domestic incidents were mitigated by the parents now being separated and not living together. The risk is therefore assessed as low.
34. Ms M agreed that the mother is able to support A in understanding her background and supporting her identity, including her Pakistani heritage. Ms M agreed that if the Court granted the mother’s application, the mother would do everything she could to ensure a smooth transition for A and agreed it was positive that the mother planned for the move to take place before the new school year starts in September 2023. Ms M agreed that the proposed new school in Poland seems to have a focus on teaching English.
35. Ms M accepted that communication had improved between the parents since her report was filed but remains concerned about the impact of relocation on A’s relationship with her father. While accepting that Poland is not a huge geographical distance away from the UK when compared to other countries, Ms M was clear that a reduction in contact from twice a week on a Friday to Sunday, would be a significant reduction for A. Ms M accepted that the father could travel to Poland for contact and acknowledged the mother’s offer to contribute to his travel costs but remained concerned about the impact on A of what will inevitably be a significant reduction in the frequency of contact even if the father does travel to Poland from time to time. Ms M accepted that separated parents often have to have a degree of flexibility over contact

arrangements but felt that was much more difficult and complicated when the parents are living in different jurisdictions.

36. Ms M agreed that if the father was to spend lengthy periods of time away from the UK, the mother is likely to feel isolated and that this would likely be detrimental to A's welfare. Ms M did however point out that there is likely to be an order for contact in place and the father must understand that he is expected to comply with that order unless it is unavoidable. Ms M further made it clear that she has not seen any evidence and is not concerned that the father is planning to spend a significant time away from the UK. She said that he had told her that he wants to play "a vital role" and an "active part" in A's care. Ms M said that she would have preferred for more progress to be made with contact between the father and A progressing to overnight stays but was not concerned about his commitment.

37. Ms M was hopeful that overnight stays could happen soon, hopefully within three months, once he has suitable accommodation that the mother believes is acceptable. In the meantime, Ms M supported the mother's suggestion that overnight stays could take place in hotels and that more frequent contact, perhaps on alternate days, could take place during the forthcoming school holidays to prepare A for overnight stays beginning. Ms M agreed that the progression of arrangements to overnight stays will promote A's relationship with her father as it will allow him to undertake tasks such as preparing her evening meal and getting her ready for bedtime. Ms M has no doubts at all that A loves spending time with her father, as evidenced by her wish to speak with him on days when she is not seeing him. Ms M also commended the parents

on how they have worked together to agree additional time for A to spend with her father and how they have gone out together with A on occasions for family celebrations. Ms M felt that this is all very positive for A.

38. Ms M was clear that she does not support A being relocated to Poland but agreed that if the Court did grant the application, then the proposals put forward by the mother for A to spend time with her father were acceptable, although she did wonder how realistic and sustainable they would be given the travel and planning that would be involved. Ms M was therefore very clear that she feels A should remain in the UK so that she continues to have the opportunity for a close and consistent relationship with both parents. Ms M was concerned that relocation to Poland will lead to A missing out on the bond she has now developed with her father.

The mother's evidence

39. The mother's position is set out within her two statements. In summary, her case is that life will be better for A in Poland. The mother says that she will be better off financially and already has a job offer there. She says that she really struggles financially in the UK, whereas in Poland, she would have more disposable income and her parents will provide her and A with a flat to live in. The mother says that A will have the opportunity to further develop her relationship with her extended maternal family and they will be able to support the mother in caring for A, which is something she says that she lacks in the UK, where she often feels isolated, particularly when the father has travelled abroad. The mother has no family in the UK and says that she has a limited network of friends, with her closest friends living around five hours away. The

mother says that she has found a good school for A, which has a vacancy in September 2023, and where there is a focus on teaching English, which will enable A to retain and improve her English language skills. The mother says that there will be very many opportunities for A to visit new places and to participate in a wide range of different activities in Poland, which she feels A will very much enjoy and benefit from.

40. The mother accepts that a move to Poland will impact on the frequency of contact between the father and A. She accepts that contact has been taking place at least twice a week since June 2022, on Fridays and Sundays for at least three hours on each occasion, with additional contact being agreed between the parties. There have also been regular video calls, mostly initiated by A. The mother fully accepts that contact is a positive experience for A. She said that she really looks forward to and enjoys the time she spends with her father, and it is clear that the mother regards it as important for A to maintain this relationship. She told me how she encourages A to celebrate important dates in the father's culture and religion, such as when all three of them went out for dinner together to celebrate Eid. The mother, however, does not feel that a move to Poland is necessarily a barrier to this relationship continuing. She says that she has offered generous contact by travelling to the UK with A on alternate months, so six times a year, for A to see her father. This will be at weekends but with additional time in the school holidays and on Polish bank holidays. The mother has also suggested that the father travels to Poland at least three times a year to see A, and the mother has offered to pay half of his reasonable travel costs for such trips. Additionally, the mother has offered her agreement to the father reducing his monthly maintenance payments from

£200 to £100 a month to assist him in funding these trips. While to mother accepts that the frequency of contact will inevitably reduce, she was of the view that the quality may improve under her proposals. If the father secures more suitable accommodation, the mother fully supports contact taking place overnight, which may mean that the total number of hours that A spends with her father in a year would not actually reduce very much from what it is now, although the frequency of the contact clearly will.

41. As regards the current arrangements for A to spend time with her father, the mother says that she is fully agreeable to overnight stays once the father has obtained more suitable accommodation that is not shared accommodation with other people, and which is appropriately clean and hygienic for A to stay in. In the meantime, the mother suggests overnight stays could take place in hotels, and has suggested it take place at the seaside, which A very much enjoys visiting.
42. The mother does retain some concerns about the father's commitment to A. She points out that following their separation and prior to these proceedings, the father spent a lot of time in Pakistan and had limited and inconsistent contact with A. It is only during the course of that proceedings that contact has really become regular and consistent for A. The mother is however still concerned that the father might relocate outside of the jurisdiction permanently, either to Pakistan, where his family are building a house, or to Canada, where the father has previously told the mother that he might relocate to. In the mother's view, any such relocation would make contact very difficult between the father and A, as well as leaving the mother and A

isolated in the UK again. The mother does therefore retain some concerns about the father's commitment to A and when asked whether she thought he was a good father, the mother said that he "is trying" to be one.

The father's evidence

43. The father's position is set out in his two statements. His case is that A relocating to Poland will seriously damage his relationship with her. He says their relationship has flourished over the past year and told me about all of the things that he and A do together such as going swimming, to the cinema, to activity centres, to the park and out for pizza. He said that A really enjoys seeing him twice a week and is always very excited. The father says, and the mother accepts, that he buys lots of things for A, often based on what the mother tells him that A needs. He also pays £200 per month maintenance and has done so for some time now. The father agrees that contact should progress to overnight contact and had given an assurance that he will look to find such accommodation within three months, although thinks he may be able to do so sooner.
44. The father does not think that the mother's proposals for contact are sufficient for him to maintain his relationship with A and to allow this relationship to continue to flourish. The father says that only seeing A around nine times a year is a significant reduction in the frequency of time they spend together, and this will be a huge loss to A. The father said that if the application is granted, he would travel to Poland for contact, although he has concerns about how he has been treated there in the past, including by the maternal family.

45. The father is clear that he has no plans to relocate outside of the UK. He says that A is his world and his priority. He says that the house in Pakistan will simply be a holiday home for all of his family to use and that while he does have family in Canada, he has no plans to move there, although during his evidence, he did say that "no decision has been made", before later clarifying that he has no plans to move. The father accepts that he did previously spend extended periods of time in Pakistan. His explanation for this was somewhat vague, with him citing medical issues that he travelled to Pakistan for treatment for, and then Covid-19 travel restrictions. In any case, it is clear that he was away from the UK for significant periods of time.
46. The father says that he has now enrolled on the Triple P parenting course, although he has only done so in the last week or so. This is despite the s.7 report, which recommended it, being filed in April 2022. The father says that he has had medical issues, which have prevented him from attending sooner, although, again, the explanation was rather vague.

Analysis of the evidence

47. I found Ms M's evidence to be fair, balanced and realistic. There was clearly no doubt in her mind that the mother is an excellent mother to A and has her best interests at heart. Ms M was clear that the mother's reasons for wanting to relocate to Poland were genuine. Ms M had, however, also very carefully considered the impact on A of what would be a very different relationship with her father to the one that she enjoys so much now. It was clear to me that Ms M had weighed all of the facts in favour and against relocation in the balance and had ultimately concluded that, for A, the emotional upset of the

significant change to the relationship with her father outweighed the benefits that she would gain from moving to Poland. It was clear to me that Ms M had carefully considered all matters relating to A's welfare carefully and while she accepted that the mother was still proposing regular contact with the father, this was nothing like the same as what A is used to now. In those circumstances, Ms M did not support the mother's application.

48. I found the mother to be honest and straightforward in setting out her reasons for wanting to move to Poland and I have no doubt that her desire to relocate is genuine and that she truly believes this would be best for A. I have no doubt that the mother has always done her best for A and I have no doubt that she will continue to do that in the future. I did not gain the impression that the mother holds any resentment towards the father and the evidence suggests that she has done as much as she can, particularly over the past 12 months, to promote A's relationship with her father.

49. I found the father to be open and honest when talking about his relationship with A. He talked about their relationship with warmth and I found him to be truthful when telling me about how important A is to him and about how much they both enjoy the time they spend together. I found him to be honest in his concerns about how a move to Poland would damage the relationship between him and A as a result of them not being able to spend as much quality time together as they do now. I am confident that the father is now committed to A and wants to continue to develop his relationship with her, including a progression to overnight stays.

50. I do not think the father showed the same level of commitment to A prior to these proceedings when he spent a great deal of time outside of the jurisdiction and his explanations about the Covid-19 restrictions and medical issues were rather vague and lacking in detail. While these matters perhaps played a part in him being away from UK, I do not accept that they were the primary reason for him being out of the jurisdiction and away from A. In my view, the father was keen to play down the reasons that he spent so much time away from the UK because he thought this may harm his case.
51. Fortunately for A, the father has, for more than a year now, been able to maintain and sustain his commitment to A and their relationship has flourished as a result. I accept that the father's approach and commitment has significantly improved, and having heard the evidence, I accept that he has no plans to relocate outside of the jurisdiction. I think it would be devastating for A if he did so.

Welfare analysis and conclusion

52. I again remind myself that A's welfare is my paramount consideration.
53. There are a number of matters that need to be analysed in the context of this application and no one matter should be prioritised above the others. These matters can be summarised as follows:
54. The geographical distance that will put between her and her father, and the impact of this upon contact between them. I accept that when compared to other countries, Poland is arguably not a significant distance from the UK but it is nevertheless a flight of more than two hours away. As I have set out later

in the judgment, I am very concerned about the emotional impact on A of what will be a significant reduction in the frequency of her contact with her father if she relocates to Poland. There will be a substantial change and reduction in the frequency of that contact. I accept the views of CAFCASS that this will be a significant loss for A and while it is right that arrangements for contact to continue could be made, it is unlikely to be realistic for that to take place any more often than once a month at most and, in reality, the reduction in the frequency of direct contact is inevitably going to impact upon how close A feels to her father. I accept Ms M's evidence on this issue.

55. The mother's commitment to promoting contact between A and her father and how realistic the mother's proposals for contact are. A's mother is committed to ensuring A's needs are met and I accept that she would be committed to promoting contact between them, even if A does relocate to Poland. There is, however, no doubt in my mind that even with that commitment, the relationship between A and her father will significantly change. I also accept the evidence of Ms M that while the mother's proposals for contact are certainly well-intentioned, there does remain an issue over whether the proposals are sustainable in longer-term, particularly as A grows up when her needs and her own wishes and feelings are likely to change.
56. The mother's improved capacity to provide for A financially in Poland compared to the UK. I accept that the mother is likely to be in a financially stronger position in Poland than in the UK. She has a job offer there and accommodation that will be arranged and funded by the maternal grandparents. The accommodation is suitable and appropriate for the mother

and A to live in and is likely to be of a better standard to the accommodation than they currently live it. It is likely that A will benefit from her mother being in a stronger financial position and may mean that A can experience activities and trips that she cannot experience in the UK. Having said that, it should not be suggested that A has a poor quality of life in the UK. Her father works and contributes £200 a month towards her care, and I have heard in evidence from both parents that A enjoys many activities such as going to the cinema, to the park, swimming, visiting play centres and going out for dinner. While I accept that the mother is not in a strong financial position, she is clearly providing for A, with some support from the father, to a good standard.

57. The improved support network that the mother has in Poland from her family and friends, and how this will impact upon A's welfare. The mother says, and I accept, that she has a limited support network in the UK. She has some friends, although it appears they live many miles and hours away. She has no family here. The mother has made the point that when the father has previously been abroad, she has been left with no support network. There is no doubt that the mother would have a greater support network in Poland to assist her in caring for A and I accept that A would benefit from spending increased time with her maternal family members, particularly her grandparents who she is clearly already close to, while there are many other family members and friends that she will develop her relationships with further. If A remains in the UK, there is an expectation on the father that he will remain a consistent figure in A's life and will be able to support the mother, both financially and practically, in looking after A as he has done for the past twelve months.

58. The impact on A's education of moving to Poland. A is settled at school in the UK. She is doing well there and she has friends. She also goes to Polish school on a Saturday, which would clearly be advantageous to her if she was to move to Poland but is also important for her now in understanding her background and identity. The mother has identified a school in Poland for A that appears to very much promote the use of English and which has a place for her in September 2023. It therefore does not appear that A's education would suffer if she was to relocate to Poland. It seems to me that the school identified by the mother would ensure that A continues to receive a good education and will be able to maintain her use of English. Likewise, there is nothing to suggest that A will not reach her educational potential if she continues to attend school in the UK. A has of course completed all of her primary education to date in the UK.
59. The father's commitment to contact with A. The mother has raised doubt over the father's commitment. In my view, this was an issue previously when the father would travel out of the jurisdiction for extended periods of time. It seems that during these periods, his contact with A was limited. For at least the last year however, the father has undoubtedly shown clear commitment to A. He has attended for regular contact on a Friday and a Sunday, and for additional time as agreed between the parties. Telephone contact has also taken place at A's request. In my view, the father's commitment has perhaps been questionable in the past but that has not been the case for over a year now and having heard his oral evidence, I am satisfied that he is committed and will continue to be committed to the very important role that he plays in A's life.

60. The mother's concerns that the father may, in the future, relocate outside of the jurisdiction and the potential impact that this may have upon A's contact with her father. The father has previously spent extended periods of time in Pakistan. He says this was for medical reasons, although this was not mentioned in the statements he has filed in the proceedings. In my view, while the father may have had some medical treatment in Pakistan, this was not the only or primary reason for him spending time there. This would have mentioned in his statements if that was the case. The father has family in Pakistan and gave evidence that his family are building a house there, which the whole family can use as a holiday home. He maintains that he has no plans to relocate to Pakistan. The father accepts that he has also previously discussed the possibility of relocating to Canada because he has family there. During his evidence, he suggested that he had not made a decision on this but then later said that he had no plans to move there. On balance, I accept that there are no plans on the part of the father to move to Canada or to Pakistan. It seems to me that while, in theory, the father could explore the possibility of moving to Canada, there is very little chance of him doing so at present and no steps have been taken by him in respect of such a move. The father told me that A is his priority, and he wants to continue playing a big part in her life. I accept that evidence.
61. With reference to the welfare checklist in s.1 of the Children Act 1989:
62. (a) the ascertainable wishes and feelings of the child concerned (considered in the light of their age and understanding);

63. A is too young to express her views about relocating to Poland. She has little understanding of the application before the Court. What is clear from the section 7 report and the evidence of both parents is that A is very happy and very settled in the care of her mother, which is where she has lived for her entire life. Likewise, over the last 12 months, A's relationship with her father has flourished because of the consistent spending-time with arrangements that are in place. It is agreed by all parties that A very much enjoys and looks forward to spending time with her father at least twice a week, and sometimes more frequently. I entirely accept that she loves spending time with her father and would be upset if that was to change.
64. (b) physical, emotional and educational needs:
65. At the age of almost six, A is dependent upon her parents to meet all of her needs when she is with each of them. She has all the needs that one would expect a six-year-old little girl to have. This includes her basic physical needs but also her emotional needs and her educational needs too. A's school attendance was previously a concern due to some reported health issues and there was some concern that her educational development was delayed but she does not meet the criteria for special educational needs support. As A is of mixed heritage, it is important that she is supported to understand and embrace that by both of her parents. A attends primary school and also Polish school on a Saturday where she learns about Polish language and culture. A is encouraged to celebrate Eid and did so this year by going out for a meal with both of her parents. It is agreed between the parents that A should continue to

be encouraged to understand and embrace her Pakistani heritage and her Polish heritage.

66. (c) the likely effect on the child of any change in circumstances;
67. This is a significant consideration for A. It is undoubtedly the case that a move to Poland will be a significant change of circumstances for A. She currently lives in England, goes to school in England and has friends in England. She speaks English and Polish. A move to Poland will therefore be a significant change for A, although the evidence, which I accept, suggests that the mother would be able to carefully manage this transition for A. The evidence shows that the mother is attuned to A's needs, and I am confident that if I was to grant the mother's application, she would do everything she could to ensure a smooth transition for A.
68. There is, however, also a need to consider the impact on A of the geographical distance that relocation to Poland would create between her and her father. At present, the father lives locally to A and sees her at least twice a week on a Friday for three hours and a Sunday for three hours. It is common ground that additional contact also takes place some weeks as agreed between the parties and that, from time to time, contact takes place with both parents and A all in attendance. It is agreed by all parties that the current frequency of contact would inevitably reduce if A relocates to Poland, although the mother does propose contact every two months with her bringing A to the UK, and on another three occasions each year with the father travelling to Poland. There would also be additional contact during the Polish school holidays and on Polish bank holidays. Whilst these are generous proposals, it is, in my

judgment, nothing like the same as what A experiences now and what she is now familiar with. At present, A sees her father very regularly. It is an arrangement that she has become familiar with over the past 12 months and all of the evidence suggests that this something she benefits hugely from. If the mother's proposals were adopted, there would still be a significant reduction in the frequency of contact and, on balance, the number of hours overall that A and her father would spend together. In my view, this will be a significant loss for A. She has spent the last year establishing and developing her relationship with her father, which has flourished. I accept the evidence of Ms M that, on balance, this relationship will be diminished by a significant reduction in the frequency of contact, and this will be a very significant loss for A.

69. (d) age, sex, background and any characteristics of the child which the court considers relevant;

70. A is a little girl of mixed Polish and Pakistani heritage. It is highly relevant and indeed important for A's sense of identity that she grows up not only knowing about her cultural background but also being encouraged to embrace it. She is already doing that in respect of her Polish heritage, and I have no doubt that both parents will commit to doing so in respect of her Pakistani heritage too. I note, for example, that the parents jointly celebrated Eid with A. All of the evidence suggests that A is a happy little girl who enjoys spending time with both her parents and benefits emotionally from the relationship that she has with each of them.

71. (e) any harm which the child has suffered or is at risk of suffering;

72. There is no evidence that A is at immediate risk of harm in the care of either parent. Her mother provides her with a very high level of care and consistently meets her needs. The father has been spending unsupervised time with A for almost a year now for three to four hours on each occasion. There is no suggestion that A has been harmed or placed at risk of harm with her father. A has no contact with the member of the paternal family that concerns were raised about previously.
73. As I have already set-out, I do find that A will experience a sense of loss from a change in the relationship that she has with her father if she does relocate to Poland.
74. (f) how capable each of his parents, and any other person in relation to whom the court considers the question to be relevant, is of meeting the child's needs;
75. There is no question that the mother can meet and is meeting A's needs. She provides her with a high level of care and irrespective of whether they relocate to Poland, I am confident that the mother will continue to care for A to a good standard.
76. There is nothing to suggest that the father cannot meet A's needs during contact. The mother accepts that he is trying to be a good father and confirmed that contact with her father makes A happy. He contributes £200 per month towards her care and he buys items for her as requested by A or by her mother. I am confident that the father can meet A's needs during the time that he spends with her and all of the evidence suggests that A enjoys and looks forward to spending time with her father.

77. (g) the range of powers available to the court under this Act in the proceedings in question
78. I have considered all of the factors in favour and against relocation to Poland very carefully. I accept there would be some benefits to A in relocating, particularly an improved support network for the mother, the opportunity to develop a closer relationship with the maternal family and the mother likely being in a stronger financial position than she is in the UK. These must however be balanced against what I consider will be an incredibly significant loss for her in the quality and consistency of the relationship with her father. The reduction in the time they spend together from at least twice a week down to once a month or so will be significant and I accept Ms M's evidence that this will be significant for A.
79. Having considered all of the factors and having analysed these in the context of the welfare checklist, I am not satisfied that it is in the best interests of A's welfare to relocate to Poland. In my judgment, the huge loss to A of frequent contact with her father and the inevitable adverse impact of that on how close she feels to him, cannot be in her best interests. The mother's proposals, while generous and carefully thought through, simply cannot replicate or replace the relationship that A already has with her father, which has clearly flourished over the past year. As I have already acknowledged, there are benefits to A of moving to Poland but when balancing all of the relevant factors, the harm to A that will be caused by the inevitable change in her relationship with her father outweighs the benefits to her of relocating. I therefore refuse the mother's application for permission to relocate A to Poland.

80. I will make a live-with order for A to live with her mother and am quite satisfied that such an order is in the best interests of A's welfare and accords with the reality of the current arrangements. This will provide security for A as her contact with her father increases, and will of course allow the mother to take A out of the jurisdiction for up to 28 days at a time, thus allowing her to continue to visit her family in Poland regularly during the school holidays. Given how well these parents have been able to work together, I am confident that they will be able to agree those arrangements between themselves.
81. I will also make a spend-time-with order for A to spend time with her father and will hear submissions from the parties in respect of the wording of such an order with a view to the arrangements progressing to overnight stays.

District Judge Coupland

14th June 2023