



IN THE SUPREME COURT OF BERMUDA

DIVORCE JURISDICTION

2024: No. 116

BETWEEN:

D

Applicant

- and -

J

Respondent

REASONS FOR RULING OF 31 DECEMBER 2025

Before: **Hon. Alexandra Wheatley, Assistant Justice**

Appearances: **Georgia Marshall of Marshall Diel & Myers Limited, for the Respondent**

Adam Richards of Richards Limited, for the Applicant

Dates of Hearing: 22, 23, 24, 25, 26 and 30 September 2025,
1 October 2025

Dates of Submissions: 6, 7 and 8 October 2025

Date of Decision: 31 December 2025

Date Draft Reasons Circulated: 17 February 2026

Date Reasons Issued: 20 February 2026

INDEX

Leave to Remove Children from the Jurisdiction; Welfare of the Children the Paramount Consideration Only Legal Principle in Relocation Cases; UK Welfare Checklist as Guidance; Primary Carer Status Not Determinative; Credibility Assessment of Parents; Lucas Direction Principles; Purpose of Fact-Finding Hearings; Role of the Court Appointed Social Worker; Social Inquiry Report Findings and Their Weight

REASONS of Assistant Justice Alexandra Wheatley

INTENTIONALLY LEFT BLANK

TABLE OF CONTENTS

1.	INTRODUCTION	5
2.	THE IMERMAN RULING	9
3.	PRELIMINARY APPLICATION	11
4.	THE LAW.....	13
5.	THE INDEPENDENT EVIDENCE.....	22
6.	THE PARTIES' EVIDENCE AND POSITIONS	26
6.1	MOVE TO BERMUDA	28
6.2	MOTHER'S EMPLOYMENT POSITION	31
6.3	HISTORIC CARE OF THE CHILDREN/MENTAL HEALTH CONCERNS	35
6.4	PROMOTION OF CONTACT WITH THE OTHER PARENT.....	41
6.5	FINDINGS OF THE CASW	44
6.6	CREDIBILITY	51
6.7	APPLICATION OF THE UK WELFARE CHECKLIST.....	55
6.7.1	The ascertainable wishes and feelings of the children (considered in light of their age and understanding).....	55
6.7.2	Physical, emotional and educational needs.....	57
6.7.3	The likely effect of any change in circumstances.....	60
6.7.4	Age, sex, background and relevant characteristics	62
6.7.5	Any harm the children have suffered or are at risk of suffering.....	63
6.7.6	The capability of each parent to meet the children's needs	65
6.7.7	The range of powers available to the Court.....	69
7.	FINDINGS AND ANALYSIS	70
7.1	THE LAW.....	70
7.2	MOVE TO BERMUDA	72
7.3	MOTHER'S EMPLOYMENT POSITION	75
7.4	HISTORIC CARE OF THE CHILDREN/MENTAL HEALTH CONCERNS	76
7.5	PROMOTION OF CONTACT WITH THE OTHER PARENT.....	78
7.6	FINDINGS OF THE CASW	81
7.7	CREDIBILITY	88
7.8	APPLICATION OF THE UK WELFARE CHECKLIST.....	92
7.8.1	The ascertainable wishes and feelings of the children (considered in light of their age and understanding).....	92

7.8.2	Physical, emotional and educational needs.....	93
7.8.3	The likely effect of any change in circumstances.....	94
7.8.4	Age, sex, background and relevant characteristics	95
7.8.5	Any harm the children have suffered or are at risk of suffering.....	95
7.8.6	The capability of each parent to meet the children’s needs	96
7.8.7	The range of powers available to the Court.....	97
8.	CONCLUSION.....	98

1. INTRODUCTION

1. These are my expanded, reasons for the Ruling I delivered on 31 December 2025 (the **December Ruling**) concerning the Respondent's (hereinafter referred to as **the Mother**) application dated 9 April 2025 for permission to remove the parties' two children, the older child who will be referred to as "A" (now aged 10) and the younger child who will referred to as "B" (now aged 6) (hereinafter collectively referred to as the **Children**), from Bermuda to live in the United States¹ on a permanent basis (the **LTR Application**) and that she be granted sole care and control. It should be noted that during the course of the hearing the Mother's position evolved from sole care and control to indicating that she was agreeable for there to be an order for joint care and control and indicating that she wished the parties to have as equal time as possible with the Children.
2. Additionally, Counsel for the Mother confirmed at the start of Counsel's final submissions that the Mother had made the difficult decision to return to the United States without the Children rather than waiting for the Court's determination of this application. The following was stated in Mrs Marshall's written submissions at paragraphs 3 to 5:

"3...I wish to advise the court that the Mother has reached an agonising but unequivocal decision that if her application for leave to remove is refused, she will return to [the City] . This is not a position she adopts lightly or without enormous personal cost. It follows months of emotional turmoil and reflection, including evidence before this Court where she expressed a sense of being trapped and overwhelmed, uncertain whether she could bring herself to leave without the children. However, the decision she has made although a very difficult one is rooted in a deep understanding of what is required of her as a parent. She can no longer remain in Bermuda - a place where she has no family, no permanent status, and no viable settled future. She has been intensely homesick. Remaining would mean losing her career in her chosen field of endeavour, which she has worked hard to build over two decades. More profoundly, it would mean sacrificing her mental health and emotional stability, which she knows are essential to being the best mother her children need.

4. The Mother's mental health has been severely impacted by the events of the past year, including the trauma of her arrest, being prevented from seeing her children thereafter for 7 days and the ongoing uncertainty surrounding her future. She has suffered anxiety and panic attacks, which her treating psychologist has described as situational and linked to her feeling trapped in Bermuda. She cannot parent from a place of isolation and emotional depletion. She needs to be surrounded by the support network that allows her to thrive - not merely survive. As she indicated in her

¹ For anonymity purposes, I have not included the City and State where the Mother is seeking relocation.

evidence, she wants to be a role model for her children. In addition to this she is separated from her parents who have been a constant both in her life and that of the children. Her father's recent stroke highlights the impact this separation is likely to continue to have.

5. This is a parent making the most painful possible decision - one forged from love and self-awareness. The Mother remains steadfast in her view that it is in the children's best interests to relocate with her..."

3. The December Ruling refused the LTR Application on the following basis at paragraphs 19 through 24:

“19. It had been my intention to issue this decision with full reasons by the end of the year; however, this simply was not possible particularly given the length of the hearing where the oral evidence alone spanned over a period of seven days. Given that I recently had to determine an interim application for holiday access/care for the Children as well as taking into consideration the nature of this application which relates to the welfare of children, I have decided to confirm my decision of the LTR Application.

20. For the avoidance of doubt, this decision has only provided a brief snapshot of the issues I have taken into consideration. My comprehensive analysis and reasons for arriving at this decision will be issued in due course.

21. It goes without saying that in reaching my decision, I have given careful and thorough consideration to all the evidence presented, including the oral evidence, all documentary materials (affidavits and exhibits), and the submissions made by Counsel on behalf of the parties (both written and oral).

22. I direct myself that the paramount consideration in determining this application is the welfare of the Children. All other considerations, including the wishes, convenience, or interests of either parent, are subordinate to that overriding principle.

23. In reality, the Court must choose between maintaining the Children's settled life in Bermuda, with arrangements that preserve meaningful relationships with both parents, and sanctioning a relocation that would fundamentally alter those relationships.

24. Having conducted a global, comparative welfare analysis and having considered, inter alia, the factors set out in the UK Welfare Checklist, I conclude that relocation to US does not best promote the Children's welfare.

The disruption involved, the loss to the father–child relationship, and the absence of demonstrated necessity outweigh the benefits advanced.”

4. Provisions for care and control and access were set out at paragraphs 25 to 27 which provide as follows:

- “25. *The welfare of the Children, considered as a whole, points clearly towards the Children remaining in Bermuda. The application for leave to remove is therefore refused. As such, the Father shall have care and control of the Children. The Children shall continue to attend Saltus until such time as the parties may agree otherwise or until further order of the Court.*
26. *The Mother shall have the following access with the Children:*
- (i) Weekend access in Bermuda, as and when the Father can facilitate, but no more than two weekends in each month.*
 - (ii) February and October half-term breaks either in Bermuda or in the US.*
 - (iii) The full Easter break either in Bermuda or in the US.*
 - (iv) The first three weeks and the last three weeks of the Summer Holidays.*
 - (v) The Christmas Holidays shall be shared equally between the parties by one parent having the first half (to include Christmas Eve and Christmas Day) and the other parent having the second half (to include A’s birthday). As the Children were in the Mother’s care for the first half of the Christmas Holidays for 2025, the Father shall have the first half of the Christmas Holidays in 2026. Thereafter, the parties will rotate this provision each year.*
27. *As it relates to audio-visual access/contact, during all times when the Children are in the care of one parent, the other parent shall have video contact with A as requested by A, up to ½ hour per day. In addition, the other parent shall have regular ½ hour zoom calls with both children every other day so as to ensure that B has contact with that parent. The Children shall be provided with an electronic device such as an iPad which shall be utilized for the sole purpose of having audio-visual contact with the other parent.”*

5. In making my decision I have considered, in addition to the *viva voce* evidence of the parties given at the hearing, Counsel's written and oral submissions, but also the evidence within the affidavits (as well as their respective exhibits) listed as follows:
 - i) The Mother's First Affidavit and Exhibit dated 1 April 2025 (**Mother's First Affidavit**);
 - ii) The Father's First Affidavit dated 15 May 2025 (**Father's First Affidavit**);
 - iii) The Mother's Second Affidavit and Exhibit dated 21 July 2025 (**Mother's Second Affidavit**);
 - iv) Affidavit of MB (who will referred to as **the Nanny**) dated 5 June 2025 (**Nanny's Affidavit**);
 - v) The Mother's Third Affidavit dated 15 September 2025 (**Mother's Third Affidavit**); and
 - vi) The Affidavit of SP (who will referred to as **the Mother's Supervisor**) dated 15 September 2025 (**Mother's Supervisor's Affidavit**).
6. Nothing in these expanded reasons changes the substance of my determination confirmed in the December Ruling. The purpose is merely to elaborate upon the factors which informed the exercise of the Court's wide discretion against the applicable legal principles given the vast amount of evidence presented to the Court.
7. Furthermore, as the LTR Application raises issues of significant importance for the Children, whose lives, routines, schooling, and relationships stand to be fundamentally altered depending on the outcome it is essential that a thorough analysis is presented. I have therefore approached the matter with the care and caution required in cases of this nature.
8. I will begin by addressing the two preliminary applications related to the LTR Application, as it is imperative, especially in highly contentious proceedings like this, to have the entire narrative presented together.

2. THE IMERMAN RULING

9. Prior to the listing of the LTR Application, the Mother brought an application for injunctive relief pursuant to the principles in the UK case of *Tchenguiz v Imerman* [2011] 2 WLR 592 (the **Imerman Application**). The basis of the Imerman Application was that the Mother contended that the Father had unlawfully accessed her confidential work email account without her consent, photographed selected emails and relied upon those images in his affidavit evidence. She sought orders restraining the use of the images, requiring their delivery up and destruction as well as an order restraining the Father's attorneys from continuing to act on the basis that they had seen the confidential material. The Mother denied ever showing the emails to the Father and alleged that the absence of metadata supported an inference of unauthorized access.
10. The Father opposed the application, asserting that during a candid discussion in mid-October 2024 the Mother voluntarily showed him the relevant emails on her own device and expressly permitted him to take photographs of them. He denied any hacking or unauthorized access and explained that the images were later compiled into PDFs for ease of reference. He further submitted that the emails were central to issues in the substantive proceedings and that, even if they had been obtained improperly, the Court should exercise its discretion to admit them in the interests of fairness.
11. One of the significant features of the LTR Application, is the Mother saying that she was no longer able to work remotely in her current role with Company A, so if she did not return to the United States by June 2025, she would lose her employment.
12. The content of these emails the Mother was seeking to exclude in the Imerman Application, the Father says, show that the Mother's current position with Company A could have moved to Bermuda as it was considered to be "*global*". Whereas the Mother says that this was not possible, and her remaining in Bermuda would be career ending. She said that she had made it clear to the Father when agreeing to move to Bermuda to assist with the advancement of his career that she was not willing to give up her career, i.e. her current role with the prospect of promotion in Company A. She explained the devastating impact this would have on her as she says the Father effectively tricked her to coming to Bermuda and she was now trapped. The Father's position is that the Mother could have retained her current position in Company A from Bermuda and that she and the Mother's Supervisor were deliberately misleading the Court as to her true employment position. The emails, the Father also says, show the Mother was in fact also dishonest with the Mother's Supervisor because the Mother informs of ongoing court proceedings at a time when neither party had filed any application to the Courts. The emails were from July 2024 and the divorce application was not filed until 29 November 2024 followed by the LTR Application on 11 March 2025.

13. After three days of oral evidence and two further days of Counsel's submissions (the **Imerman Hearing**), the Court found that the Mother failed to discharge the burden of proving, on a balance of probabilities, that the emails were obtained without her consent. The Imerman Application was dismissed in accordance with the ruling issued on 15 September 2025 (the **Imerman Ruling**).
14. The findings are set out in paragraphs 36 to 53 of the Imerman Ruling, the details of which will be addressed later in these reasons as a preliminary application was made by the Mother relating to these findings.
15. By way of summary, the Court highlighted that there was no corroborative technical evidence from the Mother's employer to support allegations of unauthorized access, unusual logins, or security breaches, notwithstanding that such material was available. Notably, the Mother confirmed in her evidence that she was in possession of a login history but did not produce it as evidence. The Court accepted the Father's consistent and coherent account that the Mother showed him the emails and permitted him to photograph them during a discussion in mid-October 2024, an account which was supported by the surrounding context and contemporaneous text exchanges.
16. The Court also rejected the contention that the absence of metadata of the images demonstrated impropriety, accepting the Father's explanation for converting the images into PDFs. The prior incident relied upon by the Mother of the Father accessing unauthorized electronic documents was deemed to be insignificant. Furthermore, assertions regarding legal advice or privilege were not substantiated in relation to the work emails under consideration. Consequently, the primary argument of the Imerman Application, namely the lack of consent, was not established.
17. Additionally, the Court found that even if the emails had been obtained without consent, it would have refused equitable relief. The emails were found to be directly relevant to issues arising in the wider proceedings, i.e. the LTR Application, and therefore their exclusion would risk unfairness.
18. The Court further found no basis to restrain the Father's attorneys from acting, noting that such relief is exceptional and unnecessary on the facts. The Father was also awarded his costs of the application on an indemnity basis, to be taxed if not agreed.
19. There were two subsequent challenges to the Imerman Ruling which will be addressed in the relevant sections hereunder².

² See '3. Preliminary Application' at paragraphs 20 to 28 below, and 'Findings of the CASW'

3. PRELIMINARY APPLICATION

20. A preliminary issue arose regarding the admissibility and weight of additional evidence the Mother sought to introduce in light of the Court's earlier Imerman Ruling.
21. The Mother filed an application which was listed on the first day of the hearing (22 September 2025) seeking permission to file further affidavit evidence, to introduce third-party evidence and to call collateral witnesses whose statements had previously been included as letters within her affidavit exhibits.
22. Mrs Marshall for the Mother argued that in the Mother's Second Affidavit, in the first paragraph she states that, "...*she reserves the right to file further evidence following the decision of the Imerman application.*". Mrs Marshall argued that the Mother had not addressed the images she had attempted to exclude in the Imerman Application because, had that application succeeded, such evidence would have been irrelevant.
23. Mr Richards opposed the application. He submitted that the Mother did not acquire an automatic right to file further evidence simply by asserting one in her affidavit. He argued that the correct procedure would have been either to obtain an order varying the existing case management directions to allow further evidence or to raise the issue during the Imerman Hearing itself. He further questioned the relevance of the new evidence, given that the Court had already made findings regarding the content of the images in the Imerman Ruling.
24. At this stage, Mrs Marshall questioned whether the Court had "*improperly predetermined these issues*", suggesting that no findings of fact had been made regarding the content of the emails. In response, Mr Richards submitted that the Imerman Ruling clearly contained findings of fact in paragraphs 37–53. Mrs Marshall then asked the Court to clarify its findings, with particular reference to paragraph 45, which states:

“45. *I do not accept the argument that internal messages can be read only as short-term employment possibilities for the Mother. The ordinary meaning of the language used in the extracts placed before me suggests that a viable Bermuda-based solution existed in that her current role could be moved to Bermuda as it was considered to be “global”, that it was discussed as a “sure thing” that could be kept in reserve, and that the Mother understood that such an option would be damaging to the position she intended to take in her application seeking leave to remove the children from the jurisdiction. That is consistent with the Father’s account of why the October discussion occurred and why the messages mattered.*”

25. After a brief adjournment, I provided an oral clarification. I began by referring to paragraph 36 of the Imerman Ruling, which sets out the basis on which my findings were made:

“36. I make my findings on the balance of probabilities, having considered the demeanour of the witnesses, the consistency of their accounts, the consistency of those accounts with contemporaneous documents, and the objective probabilities. I have also considered what material was available to be produced and what inferences, if any, should be drawn where obvious sources of corroboration were not placed before the Court.”

26. In addressing paragraph 45, I highlighted the final sentence, which refers to the consistency of the parties’ accounts. I reiterated that the Imerman Ruling was explicit: the Court considered two alternative bases for admitting or excluding the evidence. The first was whether the Mother had consented to the Father taking photographs of the emails. If consent was not proved, the second was whether the evidence was nevertheless so central to the leave-to-remove application that excluding it would be unfair.
27. I explained that findings about the content of the emails were essential in assessing the consistency of the parties’ accounts and determining the relevance and significance of that material to the substantive issues. I further explained that, even if my conclusion on consent had been wrong, I would still have admitted the images because their content was central to the LTR Application and would have been damaging to the Mother’s case.
28. I also reminded Mrs Marshall that during the three-day Imerman Hearing, I had queried the relevance of certain material, and she had responded that it was necessary to understand the state of the marriage at the time the images were allegedly taken. A significant portion of the evidentiary hearing had been devoted to competing interpretations of the emails and related text messages. Accordingly, I confirmed that paragraphs 37–53 of the Imerman Ruling were, as stated, findings of fact.
29. Mrs Marshall then sought a ruling on whether the additional affidavit evidence should be admitted. Mr Richards indicated that he did not oppose admission of the affidavits, save for any passages purporting to challenge findings already made regarding the content of the images. I permitted the Mother’s Third Affidavit and the Supervisor’s Affidavit to be admitted in full. I did not consider it necessary to extract or redact sections touching upon matters already determined. However, I made clear that I was not “reconsidering” any factual findings made in the Imerman Ruling.

4. THE LAW

30. The Court has jurisdiction to grant leave for a child to be permanently removed from the jurisdiction in accordance with section 46 of the Matrimonial Causes Act 1974 (MCA) and under Rule 65 (3) of the Matrimonial Causes Rules 2023 (MCR). In considering such an application, the paramount consideration is the welfare of the child.
31. Both parties agree that the welfare of the child is the Court’s paramount consideration when determining an application for permanent relocation. That principle, described by counsel as the “paramountcy principle”, overrides all other considerations, however powerful or reasonable they might appear. Mr Richards drew the Court’s attention to a recent Bermuda decision, *Father v Mother* [2025] SC Bda 48 Civ, which confirms that when determining an application for leave to remove the overarching principle remains “*the best interests of the child, i.e. the welfare of the child is the primary consideration*”.
32. Counsel also addressed the line of recent English authorities that stem from the seminal UK Court of Appeal cases of *Payne v Payne* [2001] EWCA Civ 166 and *K v K (Children: Permanent Removal from Jurisdiction)* [2011] EWCA Civ 793. Both Counsel also relied on the case of *Re F (A Child) (International Relocation: Welfare Analysis)* [2017] 1 FLR (CA) 979, [2015] EWCA Civ 882. *Re F (A Child)* is another UK Court of Appeal decision where Ryder LJ clarified in paragraph 15 that whilst the guidance set out in previous case law such as *Payne v Payne* may also still be useful in assisting the Court to identify factors which may be relevant to a child’s welfare in any given case, the factors ought not to be elevated to the status of legal principles or presumptions:

“15. The approach to be taken to cases where one parent seeks permission to remove a child permanently from the United Kingdom has been considered exhaustively in the three leading authorities (Payne, K v K (Children: Permanent Removal from Jurisdiction) [2011] EWCA Civ 793, [2012] Fam 134 and Re F). In Re F, Munby LJ identified that K v K is now the starting point:

“[29]. The starting point now must be K v K. Its central message is conveyed, succinctly and accurately, in the headnote in the Law Report: “...that the only principle to be applied when determining an application to remove a child permanently from the jurisdiction was that the welfare of the child was paramount and overbore all other considerations however powerful and reasonable they might be; that guidance given by the Court of Appeal as to factors to be weighed in search of the welfare paramountcy and which directed the exercise of the welfare discretion was valuable in so far as it helped judges to identify which factors were likely to be the most important and the weight which should generally be attached to them and promoted

consistency in decision-making; but that (per Moore-Bick and Black LJ), since the circumstances in which such decisions had to be made varied infinitely and the judge in each case had to be free to decide whatever was in the best interests of the child, such guidance should not be applied rigidly as if it contained principles from which no departure were permitted."

I need quote only what Thorpe LJ said (paragraph [39]):

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

33. Both Counsel emphasized that relocation cases require a comparative, holistic evaluation of each realistic option rather than a linear approach that begins with the relocating parent's plan and asks whether it should be refused. Mrs Marshall placed specific reliance on *NJ v OV* [2014] EWHC 4130 (Fam), as recognized in Bermudian authority³, for a structured but non-prescriptive set of questions that may assist the welfare inquiry in appropriate cases.
34. In *NJ v OV*, the mother sought to relocate to Sweden with the parties' 5-year-old daughter. The court granted permission, emphasizing that although the mother had unlawfully retained the child in Sweden at one point, her position in the UK had become increasingly unstable, and her ability to provide a safe, purposeful life for the child was far greater in Sweden. At paragraph 6, Mostyn J restated the key legal principles to be applied in relocation cases as follows:

"6. In my earlier decision I attempted to summarise the relevant legal principles applicable to this type of case. I referred, in para.10, to the four leading decisions of the Court of Appeal, namely Poel v Poel [1970] 1 WLR 1469; Payne v Payne [2001] Fam 473; K v K [2012] Fam 134, and Re F [2012] EWCA Civ. 1364. In para.11, having considered the principles to be derived from those four principal cases, I attempted to set out the law in the following terms:

"I have considered these four cases most carefully and, doing the best I can, I set out shortly what seem to me to be the presently governing principles derived from them for a relocation application:

³ Mrs Marshall cited *FG v HJ* [2017] Bda LR 27 as the relevant Bermuda case. Mr Richards relied on the more recent authority of *Father v Mother* [2025] SC (Bda) 48 Civ which also recognized *NJ v OV* as providing helpful guidance.

- (i) The only authentic principle to be applied when determining an application to relocate a child permanently overseas is that the welfare of the child is paramount and overbears all other considerations, however powerful and reasonable they might be.
- (ii) *The guidance given by the Court of Appeal as to the factors to be weighed in search of the welfare paramountcy, and which directs the exercise of the welfare discretion, is valuable. Such guidance helps the judge to identify which factors are likely to be the most important and the weight which should generally be attached to them, and, incidentally, promotes consistency in decision-making.*
- (iii) The guidance is not confined to classic primary carer applications and may be utilised in other kinds of relocation cases if the judge thinks it helpful and appropriate to do so.
- (iv) The guidance suggests that the following questions be asked and answered (assuming that the Applicant is the mother):
- a) Is the mother's application genuine in the sense that it is not motivated by some selfish desire to exclude the father from the child's life?
 - b) Is the mother's application realistically founded on practical proposals both well researched and investigated?
 - c) What would be the impact on the mother, either as the single parent or as a new wife, of a refusal of her realistic proposal?
 - d) Is the father's opposition motivated by genuine concern for the future of the child's welfare or is it driven by some ulterior motive?
 - e) What would be the extent of the detriment to him and his future relationship with the child were the application granted?
 - f) To what extent would that detriment be offset by extension of the child's relationships with the maternal family and homeland?
- (v) Since the circumstances in which such decisions have to be made vary infinitely and the judge in each case has to be free to decide whatever is in the best interests of the child, such guidance should not be applied rigidly as if it contains principles from which no departure is permitted.

- (vi) There is no legal principle, let alone some legal or evidential presumption, in favour of an application to relocate by a primary carer. The old statements which seem to favour applications to relocate made by primary carers are no more than a reflection of the reality of the human condition and the parent-child relationship.
- (vii) The hearing must not get mired in taxonomical arguments or preliminary skirmishes as to what label should be applied to the case by virtue of either the time spent with each of the parents or other aspects of the care arrangements.” [Emphasis added]

35. Counsel also highlighted the relevance of the statutory welfare checklist from section 1(3) of the Children Act 1989 (England and Wales) (**UK Welfare Checklist**). While not binding on this Court, Bermudian authority has recognized that it may be of assistance in structuring the welfare analysis. This was recognized in *Father v Mother* citing Helman J in *FG v HJ* [2017] Bda LR 27 with approval as follows:

“In England and Wales, section 1(3) of the Children Act 1989 (“the 1989 Act EW”) provides a non-exhaustive statutory checklist of factors which the court should take into account when deciding how best to promote the welfare of the child. As Simmons J pointed out in *Re K (Permanent Removal)* [2013] Bda LR 66 SC at para 33 the checklist is not binding on a Bermudian court. It may nonetheless be of assistance, as Wade-Miller J Found in *E v K*, unreported, 31st March 2015 SC at paras 105 – 107. I do not propose to set out all of the factors identified in the checklist, although I have regard to them. They include, among others, the ascertainable wishes and feelings of the child (considered in the light of his age and understanding); his physical, emotional and educational needs; the likely effect on him of any change in his circumstances; and 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 his needs.” [Emphasis added]

36. Ultimately, it is a matter for the Court to determine whether and to what degree the Children’s welfare is impacted by any given factor. However, the Court must exercise care to avoid placing reliance on selective or partial citation of *Payne* without wider legal analysis to avoid falling into error. The parties invited the Court to have regard to these factors where relevant, but not to treat them as exhaustive or as a substitute for the ultimate welfare judgment.
37. Mrs Marshall also relies on the UK Court of Appeal case of *Re F and H (Children)* [2007] EWCA Civ 692, [2008] 2 FLR 1667, where it was held that where a parent seeks to return to a familiar environment the bar for the level of detail in the parent’s practical plans is set

significantly lower as said by Lord Justice Thorpe at paragraph 9:

“[9] However, as my Lord, Hedley J, has pointed out, the bar as to practicalities that must be jumped by the relocation applicant is set at a wide variety of heights depending on the facts and circumstances of the case. In this commonplace category of cross-border family creation, in which the primary carer was returning to a completely familiar environment, the bar is obviously set considerably lower than in the case of an applicant who, in pursuit of some dream or ambition, is proposing to take the children to an unknown and untried environment. The bar is set particularly low where the primary carer is returning to the completely familiar home life after such a brief absence. In this instance the mother had only been in this country for 6 years in total.”

38. In applying *Re F and H (Children)* to this case, Mrs Marshall highlighted that the Mother is returning to a city where she lived her entire life, where both children were born and raised, and where she has professional roots and family support. As such, Mrs Marshall invited the Court not to penalize the Mother for not having finalized every logistical detail, such as executing a tenancy agreement, when ample options and a robust plan are in place.
39. Mr Richards emphasized that the well-established legal position is that, when determining an application for the permanent removal of a child from the jurisdiction, the welfare of the child is the paramount consideration. He submitted that the factors relevant to that assessment, and the weight to be given to each, are matters for the judge and will vary based on the particular circumstances of each case. Relocation cases are therefore highly fact-specific.
40. This approach is reflected, Mr Richards submits, in *Re F (A Child) (International Relocation: Welfare Analysis)*, where Lord Justice Christopher Clarke summarized the governing principles at paragraph 43:

“[43] ...Reduced to the barest essentials the guiding principles and precepts are as follows. The welfare of the child is the paramount consideration. That is the only true principle. In deciding, in a case such as this, where a child should be located it is necessary for the court to consider the proposals both of the father and of the mother in the light of, inter alia, the welfare checklist (whether because it is compulsorily applicable or because it is a useful guide) and having regard to the interests of the parties, and most important of all, of the child. Such consideration needs to be directed at each of the proposals taken as a whole. The court also needs to compare the rival proposals against each other since a proposal, or a feature of a proposal, which may seem inappropriate, looked at on its own, may take a difference

complexion when weighted against the alternative; and vice versa.” [Emphasis added]

41. It was further submitted by Mr Richards that English courts have been clear, beginning with *K v K* and reaffirmed in *Re F (A Child) (International Relocation: Welfare Analysis)*, that relocation applications must not be determined by assumptions or preconceptions based on a particular “classification,” such as identifying a parent as the “primary carer” or a “returning parent.” Rather, the Court must undertake a full welfare assessment grounded in the relevant factors of the individual case. Mr Richards submitted that *Re F and H (Children)*, which pre-dates *K v K*, must therefore be viewed through the modern lens of the law. Any purported “principle” suggesting that a different approach applies simply because a parent seeks to return to a familiar environment is inconsistent with the rationale in *Re F (A Child) (International Relocation: Welfare Analysis)*.
42. Additionally, and of particular relevance to *Re F (A Child) (International Relocation: Welfare Analysis)*, the Court in *Father v Mother* addressed the use of the term “global holistic approach” at paragraphs 60 to 63, where Lord Justice McFarlane clarified the proper meaning and scope of that expression:

“60. *As it relates to Mrs Dismont’s overall submission of the ‘approved holistic evaluative analysis to relocation cases’, I do not accept that the ‘holistic’ approach has been applied by Mrs Dismont in the proper manner, i.e. in the form of the Comparative Analysis. Most notably, McFarlane LJ in Re F (A Child) International Relocation Case) addressed the meaning of his use of the term ‘holistic’ in his judgment in Re G (Care Proceedings: Welfare Evaluation). It was emphasized by McFarlane LJ at paragraphs 46 through 50 that his use of the terminology ‘a global holistic evaluation’ was not meant to create a new legal test to be applied in relocation cases:*

“[46]The word ‘holistic’ now appears regularly in judgments handed down at all levels of the Family Court. This burgeoning usage may arise from my own deployment of the word in a judgment in Re G (Care Proceedings: Welfare Evaluation) [2013] EWCA Civ 965, [2014] 1 FLR 670 where, at para [50], I described the judicial task in evaluating the welfare determination at the conclusion of public law children proceedings as requiring:

‘a global, holistic evaluation of each of the options available for the child’s future upbringing before deciding which of those options best meets the duty to afford paramount consideration to the child’s welfare.’

[47] Having heard argument in this and other cases, I apprehend that there is a danger that this adjective, and its purpose within my judgment in Re G, may become elevated into a free-standing term of art in a way which is entirely at odds with my original meaning.

[48] In the judgment in Re G my purpose in using the word 'holistic' was simply to adopt a single word designed to encapsulate what seasoned family lawyers would call 'the old-fashioned welfare balancing exercise', in which each and every relevant factor relating to a child's welfare is weighed, one against the other, to determine which or a range of options best meets the requirement to afford paramount consideration to the welfare of the child. The overall balancing exercise is 'holistic' in that it requires the court to look at the factors relating to a child's welfare as a whole; as opposed to a 'linear' approach which only considers individual components in isolation.

[49] Reference to 'a global, holistic evaluation' in Re G was absolutely not intended to introduce a new approach into the law. On the contrary, such an evaluation was put forward as the accepted conventional approach to conducting a welfare analysis, as opposed to a new and unacceptable approach of 'linear' evaluation which was seen to have been gaining ground.

[50] In the context that I have described, it is clear that a 'global, holistic evaluation' is no more than shorthand for the overall, comprehensive analysis of a child's welfare seen as a whole, having regard in particular to the circumstances set out in the relevant welfare checklist (CA 1989, s 1(3)... "

61. Therefore, it is evident that the terms 'comparative analysis' and the 'global holistic evaluation' relate to those factors set out in the UK's Welfare Checklist rather than the factors Mrs Dismont addressed in the Comparative Analysis. UK's Welfare Checklist factors can be summarized as follows:

- (i) the ascertainable wishes and feelings of the child concerned (considered in the light of his age and understanding);
- (ii) his physical, emotional and educational needs;
- (iii) the likely effect on him of any change in his circumstances;
- (iv) his age, sex, background and any characteristics of his which the court considers relevant;

(v) any harm which he has suffered or is at risk of suffering; and

(vi) 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 his needs.

62. *Furthermore, many of the factors compared in Mrs Dismont’s Comparative Analysis are entirely subjective. For example, I cannot see how I can accept that the ‘Climate’ of one jurisdiction is more favourable than another based on temperatures such that I can conclude that it would be in A’s best interests to be in the warmer climate. Similarly, I question the relevance and weight expected to be applied to the other categories such as, ‘Transportation’, ‘Culture’, ‘Travel’, ‘Extra-Curricular Activities’ and ‘Health’. Whilst the headings may seem to speak for themselves, the detail included in the relevant sections is unhelpful.*

63. *Generally, the Comparative Analysis neither provides the Court with an indication as to how each of the issues should be weighted, nor how each of these components are applicable to the individual factors of the UK Welfare Checklist.” [Emphasis added]*

43. The passages emphasize that a “global, holistic evaluation” in relocation cases is not a new legal test, but simply a shorthand description of the long-standing welfare balancing exercise that courts must conduct. As clarified by McFarlane LJ, a holistic approach requires the Court to consider all relevant welfare factors together, rather than assessing issues in isolation or relying on subjective comparisons between jurisdictions. The proper framework for this evaluation is the UK Welfare Checklist. Analyses based on subjective lifestyle preferences, such as climate, culture or travel convenience, do not provide meaningful assistance to the Court. Any comparison between the parties’ proposals must be grounded in the statutory welfare factors and must show how each option promotes the child’s best interests.

44. Lastly, Mrs Marshall also relied on *Re F and H (Children)* as recognizing that the refusal of a relocation application can have an adverse impact on a primary carer’s wellbeing, and that such impact may, in turn, affect the Children’s welfare. Lord Justice Thorpe stated as follows at paragraphs 11 and 12:

“[11] ...With her fiancé in that context, the judge dealt with the effect of refusal impeccably, thus:

'The mother says "I will be very upset if I have to stay here. I want to go home. I will be happier there. I think I can make a good home for my children there'.

'The CAFCASS officer also said that in being upset it would take a bit of time for the mother to settle down, to adjust to stay here. That would take time. If you have an unhappy primary carer, in this case a mother, it impacts upon the children. An unhappy mother often means an unhappy child. I have to consider what is right for the children. I have to ask myself what is best for them bearing in mind that there are several thousand miles between two homes, the travel, the cost of travel, and the loss of the regular weekend contact that the children are enjoying with their father and their grandparents. I formed a clear view. The mother has made reasonable and proper plans. She has considered when she can go. She is going to her homeland which she knows and only left six years ago. She wanted to go home and feel more at home.'

[12] In summary, Miss Hay has not demonstrated the least misdirection on the part of the judge. Here, the judge, with extensive knowledge of the family gained from prior contested proceedings, was exercising a broad discretion and came to a conclusion which is simply not open to criticism or challenge in this court."
[Emphasis added]

45. Mr Richards submitted that *Re F and H (Children)* does not assist the Court. He emphasized that while Mrs Marshall relied on several additional relocation authorities, those cases do not extend beyond the settled principle that the welfare of the children is paramount. As fact-specific decisions, they merely illustrate how that principle was applied on different facts by other courts. They offer little assistance in identifying or weighing the considerations relevant to the two children in the present case, and the Court should therefore be cautious not to treat their outcomes as determinative or persuasive guidance.
46. The case of *Re M* [2016] EWCA Civ 1059 (as cited in *FG v HG*) was relied on by Mr Richards for the proposition that the proportionality of placing so many cases before the Court, ought to be questioned. Paragraph 13 of *FG v HG* references Lord Justice King's emphasis on this principle:

"13. The overriding principle is that the welfare of the child is the paramount consideration. This principle was stated forcefully by King LJ in the recent case of *Re M* [2016] EWCA Civ 1059 at para 34:

"There is only one principle in relocation cases and that is that the welfare of the child is paramount.... It is unnecessary and inappropriate to trawl through the myriad of authorities in relation to relocation cases; after all in how many

different ways is it necessary or helpful for it to be said that the welfare of the child is the paramount consideration?”” [Emphasis added]

5. THE INDEPENDENT EVIDENCE

47. By way of an order dated 19 April 2025 a social worker (CASW) was appointed by the Court to compile a SIR as it relates to the Mother’s LTR Application. The Court ordered that the SIR be completed on an expedited basis by 31 May 2025. The SIR was submitted to the Court and to the parties on 16 September 2025.

The Mother’s Account to the CASW

48. The Mother provided an account of the family history, the marital relationship, her role as a parent, and the basis of her application to relocate the children to the United States.
49. She reported that she is a United States citizen, born and raised in the United States, and has spent the majority of her adult life there. She described a close relationship with her parents, notwithstanding periods of tension with her mother, and indicated that she maintains a broad network of family and friends in the United States. She outlined her educational background, including attendance at Columbia University and Harvard Law School, and her current employment as a senior legal professional with Company A, working remotely from Bermuda.
50. The Mother described herself as the primary caregiver throughout the Children’s lives, supported at various times by a nanny and extended family. She stated that she has historically managed the Children’s medical appointments, schooling and extracurricular activities. She acknowledged a longstanding history of anxiety, for which she has been under psychiatric care and prescribed medication for several years.
51. In relation to the marital relationship, the Mother alleged that the Father was emotionally distant, financially controlling, and insufficiently engaged in the emotional and logistical aspects of parenting. She described the marriage as deteriorating over time and referred to incidents that she found distressing and frightening, particularly those occurring around January 2025. She reported that these events were upsetting for both her and the Children.
52. The Mother stated that the family’s move to Bermuda was intended to be temporary and contingent on her satisfaction with living and working there. She identified her lack of permanent employment status in Bermuda, the risk to her career progression, and concerns about her health and support systems as central reasons for seeking to return to the United

States. She asserted that remaining in Bermuda places her at risk of losing her employment and, by extension, her ability to support herself and the Children.

53. In support of relocation, the Mother outlined proposed schooling arrangements for the Children in the United States, describing the educational environments she considered suitable to meet their academic, emotional, and creative needs. She also set out a proposed access schedule intended, in her view, to preserve the Children's relationship with the Father through extended holiday contact and regular electronic communication.
54. In discussing co-parenting, the Mother stated that she supports the Children maintaining a meaningful relationship with their Father. She expressed concerns regarding communication difficulties between the parents and reported that these challenges have required recourse to legal representatives. She described efforts she has made to improve consistency and structure in her parenting and identified areas in which she believes the Father could improve, particularly in emotional responsiveness and the management of screen time.

The Father's Account to the CASW

55. The Father provided his account of the family history, his parenting role and his opposition to the proposed relocation.
56. He reported that he is a British citizen who grew up in the United Kingdom and Belgium, attended boarding school, and later pursued higher education at Cambridge University. He described his upbringing as structured and disciplined and disputed characterizations of his childhood as abusive. He outlined his professional background as an actuarial consultant and described his employment in Bermuda as stable, specialized, and flexible, allowing him substantial involvement in the Children's day-to-day care.
57. The Father says that, particularly from late 2023 onward, he assumed a significant caregiving role due to the absence of a nanny and the Mother's work commitments. He reported spending extensive time caring for the Children, transporting them to school, medical appointments, and extracurricular activities, and being closely involved in their routines.
58. He disputed the Mother's assertion that the move to Bermuda was temporary, stating that it was understood to be a longer-term relocation, supported by his employment contract and immigration arrangements. He indicated that discussions regarding permanent relocation occurred prior to the family's move and that decisions were made jointly.

59. The Father described the breakdown of the marriage as marked by escalating conflict, allegations and threats concerning custody and relocation. He referred to incidents in late 2024 and early 2025 that, in his account, caused him significant distress and concern for the Children's emotional well-being. He reported that he sought counselling support for the Children following these events and expressed frustration at what he perceived as unilateral decision-making by the Mother in relation to therapy and schooling.
60. Additionally, the Father expresses concern that relocation would substantially reduce his parenting time and impair his ability to participate meaningfully in the Children's education and activities. He proposed alternative parenting arrangements should the Mother remain in Bermuda and, in the alternative, arrangements should she choose to return to the United States without the Children.
61. In relation to co-parenting, the Father says that he believes Children benefit from the daily involvement of both parents. He described the Mother as a loving and committed parent but expressed concern that, following the breakdown of the marriage, the Children had been exposed to adult matters and conflict. He identified the end of the marital relationship and issues of trust and communication as the primary obstacles to effective co-parenting.

CASW's Observations and Findings

62. The CASW reported on information gathered through interviews with both parents, the children, professional collaterals, extended family members and through home visits and documentary review.
63. The CASW described the Children as settled in full-time education in Bermuda, engaged in a range of academic and extracurricular activities, and supported by both parents since their relocation in 2022. School and medical professionals reported that both parents attend appointments and school functions and that the Children present as well cared for, appropriately dressed and supported in their learning.
64. Home visits were conducted at both parents' residences. The CASW described each home as suitable and appropriately resourced for the Children. Observations were recorded of the Children interacting with each parent in their respective homes, including engagement in play, conversation, and routine activities.
65. The CASW reported that A is performing well academically, demonstrates resilience and is engaged in ongoing therapeutic support to assist her in processing the parental separation. B was described as energetic, creative, and benefiting from structured support at school, including an individual learning plan.

66. Professional reports from medical practitioners, therapists and educators were summarized, noting the Children's physical health, emotional supports in place, and ongoing therapeutic interventions. Reports concerning each parent's mental health were also outlined, describing treatment for anxiety and situational stressors, without attributing conclusions as to parenting capacity.
67. The CASW further reported on extended family involvement, including the roles of maternal and paternal grandparents, and the differing accounts provided regarding the availability and nature of that support.
68. In reviewing the proposed relocation, the CASW set out the practical implications identified in the evidence, including changes to schooling, daily routines, travel time, extracurricular participation and the distribution of parenting time. The CASW also recited concerns raised in the evidence regarding communication between the parents, exposure of the Children to adult matters, and the potential impact of relocation on the Children's relationships with each parent.
69. The report concluded by setting out the following recommendations:
 - (i) The LTR Application be dismissed at this time.
 - (ii) Should the Mother decide to leave the jurisdiction, the Children shall be in the care and control of the Father and continue to attend the school they are currently enrolled in and participate in their regular activities.
 - (iii) Should the Mother decide to remain in Bermuda, the Children shall share continue with a shared care plan that would increase to alternate week.
 - (iv) They shall exercise daily electronic access to their mother.
 - (v) The Mother shall exercise the following:
 - (a) Weekend access in Bermuda, as and when the Father can facilitate, but no more than 2 weekends in every month.
 - (b) February and October half term break.
 - (c) Easter holiday (2 weeks)
 - (d) Summer holidays are approximately 10 weeks long; the initial 4 weeks with the Mother, then two weeks with the Father and the remaining four weeks

with the Mother.

- (e) Alternating Christmas (two weeks) one parent has them for Christmas and the other parent will have them for the second week when A's birthday occurs.
- (f) Video calls every day with the non-residential parent.
- (vi) The Mother is encouraged to change her current Psychiatrist in order to begin afresh.
- (vii) Parents shall engage in Co-parenting Education.
- (viii) Parents may consider participating in Mediation with a Private Mediator.
- (ix) The Children shall have electronic access to the non-residential parent at least once per day.
- (x) The Children shall engage in therapeutic services; Counselling, Play Therapy, Art Therapy, etc, to provide emotional support to them.
- (xi) Both parents shall participate in taking the Children to their Counselling appointments.
- (xii) Parents are to refrain from involving the Children, particularly A in adult matters.

6. THE PARTIES' EVIDENCE AND POSITIONS

70. The Mother is asking the Court to make the following orders:

- (i) That the Mother be granted leave to permanently relocate the Children to the United States, as soon as practicable.
- (ii) That the parties be granted joint care and control of the Children, with each of them having the power to make emergency medical decisions whilst the children are in their care subject to notifying the other parent as soon as possible of any such medical emergency.
- (iii) That the Father have access, including:

- (a) Long weekends during term time as and when feasible (either in the United States or Bermuda) with the Father offered use of the Mother's residence, i.e. the jointly owned US property where they resided prior to moving to Bermuda (**the US Property**), for long weekends to minimize disruption to the children.
- (b) The full Easter holiday break.
- (c) Four weeks at the commencement and four weeks at the end of summer holiday.
- (d) Alternating Christmas holidays, with each parent receiving one week of the two-week break, alternating who has Christmas vs A's birthday/New Year's week.
- (e) Video calls every two days, as suggested by the Father, with the Mother remaining amenable to daily calls if the Father wishes.
- (f) Additionally, one week per month in the United States during term time when the Father is not otherwise exercising holiday access set out in (b) to (d) above. The Father may stay at the US Property should he wish to do so, which she will vacate temporarily and stay with her parents to minimize disruption to the children's routine.

71. The Father is opposing the LTR application and is seeking that the LTR Application be dismissed with the care of the Children be one of the two options:

- (i) His preferred solution is that both he and the Mother remain in Bermuda in which they will have a shared care arrangement on an alternating weekly schedule.
- (ii) If the Mother is residing in the United States, that the Children remain in his care in Bermuda with the following access:
 - (a) The Mother can have weekend access in Bermuda, as and when the Mother can facilitate, but no more than two weekends each month.
 - (b) February and October half-term breaks.
 - (c) Two weeks for the Easter Holidays.

- (d) Summer divided into the initial 4 weeks with the Mother, 2 weeks with the Father and the last 4 weeks with the Mother.
 - (e) Alternating Christmas holidays with each parent has the Children for the first week of Christmas break and the other parent has the Children the second week.
 - (f) Audio-visual access every two days.
72. The Father expressed generally that he remains amenable to consider more flexible access as proposed above if it were workable given that his position has always been that he and the Mother should share care of the Children.

6.1 MOVE TO BERMUDA

The Mother

73. Mrs Marshall emphasized the Mother's position that the parties' move to Bermuda in 2022 was, she says, intended to be temporary. The Mother's evidence is that discussions about a possible move to Bermuda began several years before the relocation ultimately took place, i.e. in 2017. She says that, from the outset, the Father presented the move as a time-limited opportunity, lasting no more than one to two years, to advance his career. Although initially opposed, the Mother states that she agreed to the relocation only after repeated assurances from the Father that the family would return to the United States if she was unhappy after the first year.
74. The Mother relies on a number of objective factors said to support this understanding. The family retained their home in the United States and leased it for a fixed two-year period, preserving the option of return. The Mother notified A's school in the United States of her temporary withdrawal and took steps to facilitate re-enrolment. The Children's medical care and treating physicians in the United States were retained to ensure continuity. The Mother entered a remote working arrangement with her US employer (referred to as **Company A**) on a temporary basis, which was subsequently extended due to what she says was the Father's refusal to leave Bermuda. The family placed their household belongings into storage, furnished the Bermuda property modestly, and secured a one-year lease notwithstanding opportunities to enter a longer arrangement. The Mother also retained her US bank accounts and credit facilities, which she says reflected her belief that the move was short-term.

75. Reliance is also placed on communications with educational and immigration professionals from the time of the move. The Mother contacted A's school in February and June 2022 to state that the family's time abroad would be temporary and connected to a short-term international assignment. She also refers to correspondence from United States immigration advisers who anticipated that the family would return to the United States after the assignment in Bermuda ended. The Mother says that the Father told her that his decision to give up his United States permanent resident status was based solely on tax considerations and would not affect a future return.
76. According to the Mother, once the family had relocated to Bermuda the Father began to shift his position, initially asking her to commit to one further year. She says she agreed reluctantly, in the hope of preserving the marriage. By 2023, the Mother says it became apparent that the Father had no intention of returning to the United States. Although the parties engaged in a collaborative process with a view to the Mother returning with the Children, no agreement was reached and discussions broke down.
77. The Mother's evidence is that her ability to remain in Bermuda is constrained by her professional circumstances. She is a US-qualified attorney who cannot practice law in Bermuda and has no independent immigration status. Her employer has made clear that long-term remote working is not available and that her return to the United States is required otherwise she would lose her job. She says that she has become increasingly isolated and professionally restricted in Bermuda.
78. Finally, the Mother rejects the Father's suggestion that she deliberately misrepresented the relocation as temporary. She maintains that she was consistently reluctant to move and agreed only in reliance on the Father's assurances. She points to her actions before and during the relocation as being consistent with that understanding, and denies any attempt to mislead friends, schools, or professionals.

The Father

79. The Father's position is that there is no reliable evidence that the move to Bermuda was intended to last only one or two years, and there is no independent support for the suggestion that the Mother was deceived or 'trapped' into remaining here. Her account depends on statements from third parties who simply repeated what she told them, rather than on contemporaneous or objective documents.
80. In contrast, the Father relies on evidence that supports a longer-term relocation. He received a three-year work permit, and both parties obtained legal advice together and agreed that he would surrender his United States Green Card. Emails show that both parties participated in those discussions and were informed of the steps required to keep his permanent

residence status. They chose not to take those steps. The Father says this is inconsistent with a plan to live in Bermuda for only a short period, especially given the difficulty of applying for a new Green Card if the stay had been intended to be temporary.

81. It is further noted that no evidence has been produced of any attempt by the Mother to initiate a new Green Card application for the Father, nor of any request by her that he do so, or any refusal on his part, despite her assertions to that effect.
82. The Father also relies on the Mother's tax returns, which recorded her as a bona fide resident of a foreign country. He contends that these documents reflect her true intention to make her home in Bermuda for an extended and indefinite period, as opposed to a short-term stay, and that this undermines her present account. The explanatory notes to those returns are relied upon as demonstrating that such a declaration would not have been appropriate had the move been intended to be temporary.
83. Mr Richards highlighted the Domestic Violence Protection Order proceedings, which he says further undermine the suggestion that the Mother was trapped in Bermuda. While it is accepted that the Mother expressed dissatisfaction and at times discussed returning to the United States, the evidence is said to show that she nonetheless remained in Bermuda by agreement and was fully involved in decisions to continue residing here. The Father also relied on evidence showing the Mother's participation in renewing the lease of the former matrimonial home in 2023, her expressed relief that it had been extended as well as her involvement in discussions about the Children's schooling, including plans extending into future academic years.
84. Reliance was also made by the Father on contemporaneous text messages which he says demonstrate that the Mother expressed unhappiness in Bermuda shortly after arrival and repeatedly threatened to leave with the Children during periods of conflict. Those messages are said to show that she regularly raised the prospect of returning to the United States in a manner which would significantly reduce his time with the Children.
85. Taken together, he contends that the evidence demonstrates dissatisfaction rather than entrapment, and a pattern of ongoing joint decision making rather than deception.

6.2 MOTHER'S EMPLOYMENT POSITION

The Mother

86. The Mother's position remains that she is unable to retain her current role in Company A if she were to remain in Bermuda and therefore this would be fatal to her career. In turn, she says this will drastically impact her ability to provide for the Children. The Mother's Third Affidavit as well as the Mother's Supervisor's Affidavit was admitted into evidence and the Mother relies on the evidence therein to support this position.
87. Additionally, the Mother wished to introduce email evidence in her re-examination from an employee of Company A's Human Resources Department, Mr G. Mrs Marshall argued that this evidence should be admitted as it is critical in considering the Mother's true employment position.
88. As it relates to the Mother's Supervisor's Affidavit, Mrs Marshall submits that this affidavit is unequivocal in its effect. The Mother's Supervisor states that the Mother's continued employment depends upon her return to the United States at the conclusion of the LTR Application. Mrs Marshall further highlights that this outcome would mirror what occurred in the case of a former employee who was also required to relocate to the United States and who lost her position when she did not do so.
89. Mrs Marshall highlighted paragraphs 28 and 29 of Mother's Supervisor's Affidavit that state as follows:

"[The Mother] is an extremely valued and critical member of my team. As I noted previously, the lawyers on my team have complete flexibility in their jobs when it comes to managing their cases, including being able to pick up children from school, spend time with them in the afternoon, and generally be available to them when needed."

90. She continues:

"[The Mother] has a very promising legal career ahead of her in [the United States] but her role and her team are all based in [the United States]. She has already been away for a very extended period of time, but given her difficult circumstances, we have pushed as far as possible to be flexible. Ultimately, however, if it is the case she is forced to remain in Bermuda permanently, she will lose her job and need to leave [Company A]."

91. Mrs Marshall also refers the Court to an email dated 24 September 2025 from Mr G which confirms that if the Mother does not return to the United States she will lose her employment. It also confirms that Company A will not permit her to continue working remotely from Bermuda.
92. The Court was additionally taken to a letter dated 15 September 2025 from Ms Y, who is the Head of Human Resources for Company A's Bermuda Offices. Mrs Marshall says that this letter makes clear that Company A's Bermuda Offices has not offered the Mother any employment, whether permanent or temporary.
93. The Mother's evidence is that she is passionate about her work and has devoted considerable effort to progressing in her career. She states that remaining in Bermuda would permanently damage her career. Mrs Marshall submits that this evidence demonstrates a significant and credible consequence for the Mother, which must be taken into account in the Court's evaluation of the welfare implications of refusal.
94. The Mother, through her evidence and through the submissions of her Counsel, Mrs Marshall, challenges the Father's reliance on the disputed emails that were the subject of the Imerman Application. She also contests the way those emails have been used throughout the proceedings. Mrs. Marshall maintains that in the Mother's Second Affidavit, the Mother expressly reserved her position to respond to the Father's evidence about the emails once the injunction application had been decided. She submits that the Court's findings at paragraph 49 of the Imerman Ruling should not be viewed as resolving the wider concerns raised by the Mother about how the disputed material was obtained and used.
95. The first dispute presented by Mrs Marshall is that the Court's analysis in the Imerman Ruling did not progress to the discretionary stage required by the applicable legal framework. She submits that the Court should have considered the prejudicial effect of the documents, including the manner in which they were obtained. It is further argued that, even if the contents were relevant, the Court should have applied the established principles governing the admission of improperly obtained material and the potential unfairness that may result from its use.
96. It was confirmed by Mrs Marshal that the Mother maintains that the emails in question were taken out of context and that the Mother's Supervisor ought to have been called to be tested on her direct, first-hand evidence of her conversations with the Mother as well as the import of her emails.

97. Mrs Marshall also directs the Court to paragraph 50 of the Imerman Ruling, where the Court stated:

“Even if the images had been obtained without authority, I would have refused the relief sought. The content of the emails are central to the issues the Court must resolve in the wider proceedings... On these facts exclusion would risk obscuring the true picture and impede a just outcome.”

98. She submits that this assessment should not be interpreted as validating the use of the disputed material for broader purposes beyond the discrete Imerman Application.
99. According to the Mother, the overarching effect has been that the proceedings have become improperly dominated by issues of alleged dishonesty, contrary to the welfare-centred approach endorsed in *Re K (Children: Placement Orders)*, and to the detriment of a balanced and child-focused inquiry.

The Father

100. The Father submits that the Court has already made clear findings regarding the Mother’s employment circumstances and that the email evidence in the Father’s First Affidavit, which the Mother sought to have expunged, confirms the true position. He notes that the Mother presented her need to return to the United States and the risk of losing employment as a central element of her case, describing it in the emails as *“the lynchpin of her case”*.
101. Mr Richards also highlighted paragraph 170 of the Mother’s First Affidavit which states as follows:

“I will lose my job with [Company A] in the United States]...I must return to [the United States] to retain my role.”

102. It was therefore submitted by Mr Richards that these assertions have been shown to be untrue. The Court found in the Imerman Ruling that the Husband had not hacked into the Mother’s email and that the Mother had shown him emails on her work laptop and allowed him to photograph them, leading to dismissal of the Imerman Application.
103. Moreover, the findings of the Court in paragraph 45 of the Imerman Ruling was reiterated by Mr Richards, in which it was found that the internal communications could *“be read as short-term employment possibilities for the Wife”* and that their plain meaning indicated a viable Bermuda-based solution, given that the Mother’s role was *“global”* and could be moved, but that she understood this would undermine her position for the LTR Application.

104. Accordingly, the Father maintains that the option to transfer the Mother's role to Bermuda remains available and would provide a permanent solution. He notes that the Mother admitted she made no enquiries about whether this option still existed and continued to assert she could not remain in Bermuda with her employment, contrary to the Court's findings.
105. As it relates to the new affidavit evidence which was admitted, Mr Richards submits that the letters and the Mother's Supervisor's Affidavit contradict the Court's findings and are largely redundant.
106. Mr Richards highlighted that the Mother admitted the Mother's Supervisor does not make employment decisions and that the Mother made no inquiries of Company A's Global HR, who would have authority over a transfer. No evidence from Global HR was produced, which the Father argues is significant.
107. It is argued by Mr Richards that the Mother's Supervisor's Affidavit carries little weight, particularly as the Mother confirmed in her evidence that the Mother's Supervisor is not a decision maker and does not address the possibility of transferring the Mother's global role, referring only to the Mother losing "*her job*," language the Father says mirrors the Mother's own statements.
108. The Father also raises concern about the letter from Company's A Bermuda Office attached to the Mother's Third Affidavit. Mr Richards notes that the letter states it was understood by Company A that the Father had alleged that the Mother had been "*offered a permanent role with Company's A Bermuda Office and that an application for a Work Permit was made on her behalf*," an allegation the Father says has never been made. As such, Mr Richards says it is troubling that Company's A Bermuda Office may have received incorrect information. He reiterates that the letter confirms Company's A Bermuda Office has not offered her a role, applied for or held a work permit, or created any position for her, which the Father does not dispute.
109. Mr Richards reiterates that the Father's true concern is that this miscommunication obscures the real issue, as the relevant emails show the transfer of her global role was discussed but that the Mother prevented it from progressing because "*a Bermuda role would destroy me from a Court perspective it is the lynchpin of my case*."
110. As it relates to the email evidence of Mr G which was elicited by the Mother's Attorneys during her re-examination, Mr Richards submits that the Court should not allow this late admission. Mr Richards argues that as this was only raised in re-examination there was no opportunity for cross-examination and was therefore, new rather than rebuttal evidence. He notes that similar evidence was excluded during his cross-examination of the CASW and

says the same approach should apply. If admitted, he argues it should be viewed with caution as the Mother's Supervisor was copied on the communication despite being a witness, and because the questions posed did not address the central issue of whether the Mother's global role could be transferred to Company A's Bermuda Office. Instead, they asked only about remaining in her role with Company A working in the United States offices or working remotely. The Father position is that the employment evidence remains incomplete and that the critical question has still not been put to Company A's Global Human Resources Department.

111. The Father maintains that the Court can be satisfied that if the Mother chooses to reside in Bermuda, it is likely she will be able to maintain her employment with Company A.

6.3 HISTORIC CARE OF THE CHILDREN/MENTAL HEALTH CONCERNS

The Mother

112. The Mother's evidence is that she has always been the Children's primary caregiver and has been responsible for their daily routines, meals, homework, medical care, emotional support, schooling, extracurricular activities and social development. She says she bore the full mental load of parenting while also working full-time, and that this responsibility was often exhausting, particularly when consistent assistance from the Father was lacking. She maintains that the Father's increased involvement began only after the marriage had broken down and coincided with the creation of records that she says were designed to support his case.
113. Mrs Marshall submits that, although labels are not usually decisive, in this case they reflect a longstanding caregiving dynamic that is relevant to the Children's welfare. She argues that the Mother has provided the majority of practical and emotional care throughout the Children's lives. On that basis, the Court is urged to consider the likely impact on the Children if they are separated from the parent who has, in the Mother's view, been their primary attachment figure. The Mother says her concerns focus on the real and practical consequences for the Children if she is absent from their daily lives should relocation be refused.
114. The Mother states that, if permission to relocate is denied, she will return to her home country alone. She accepts this is a difficult decision but says it reflects the seriousness of the issues before the Court. She argues that the Children would then remain in Bermuda in the Father's sole care without the stability of her daily presence. The Court is therefore asked to evaluate not only the refusal of the relocation application but also the realistic consequence of the Mother living abroad.

115. Mrs Marshall submits that the Court should consider the full history of the family's care arrangements rather than isolated or recent periods. She argues that the Father's portrayal of himself as the primary caregiver is inconsistent with the evidence and emerged only during litigation. She also notes that the Father's time-logs were created during a period of marital breakdown and when domestic support had been withdrawn, which she says distorts the true picture of caregiving.
116. In support of the Mother's position, Mrs Marshall relies on evidence from the long-term nanny and other third-party witnesses. She says these accounts demonstrate that the Mother was the Children's central caregiver for many years and that the Father's involvement in day-to-day care was limited. She points in particular to the early years of the Children's lives and the period of the Covid pandemic, when the Mother says she undertook significant efforts to meet B's developmental needs. Mrs Marshall argues that this evidence, which predates litigation, provides a more reliable account of the Children's routines and attachments.
117. Regarding practical arrangements, Mrs Marshall submits that the Mother can meet the Children's needs if they relocate. She notes that the Mother's employment allows sufficient flexibility, that proposed schooling is appropriate, and that the Mother will be available for the Children in the afternoons and evenings. She also emphasizes that the Mother has an established support network in the United States, including family, friends and a trusted former nanny. She argues that relying on support is a normal aspect of parenting and should not be viewed as a weakness.
118. Mrs Marshall also rejects the Father's argument that the ability to transport the Children determines who is the primary caregiver. She submits that meaningful parenting involves emotional, physical as well as developmental support across all aspects of a child's life. The Mother's position is that she has historically provided this level of care and is best placed to continue doing so. Mrs Marshall contends that the Court should focus on the Children's attachments, their emotional stability and their overall welfare rather than on logistical considerations alone.
119. The Mother further raises concerns about the Father's historical mental health difficulties and periods of withdrawal, which she says were observed by independent witnesses and reflected in medical evidence. She argues that these matters are relevant to the welfare analysis, particularly if the Children were to be in the Father's sole care for lengthy periods without her support or without a comparable network around him.
120. The Mother's evidence describes an incident in June 2023 when the Father abruptly ended the marriage, left home and ceased communication, followed by a message indicating he was in Switzerland and not feeling safe. She says that, given his mental health history and

previous self-harm, she feared he might harm himself. She maintains that concerns about his mental health have been raised consistently and noted in both affidavit evidence and communications with the CASW. She asserts that these concerns intensified during the hearing when the extent of his prescribed medications became clear.

121. Mrs Marshall asserts that the CASW acknowledged that the Father's mental health issues had not been fully explored, despite attempts to raise it earlier. The Mother disputes any suggestion that her concerns were raised late and argues that their seriousness requires careful consideration.
122. The Mother relies on medical evidence showing that the Father was treated for depression between 2013 and 2018 and prescribed antidepressants, anti-anxiety medication and antipsychotic drugs. She argues that the nature of this medication reflects significant psychiatric vulnerability. She says this aligns with the former nanny's evidence describing periods of withdrawal and disengagement and suggests a recurrent pattern of difficulty rather than isolated episodes.
123. In light of these concerns, the Mother says her proposed contact schedule allows the Father meaningful time with the Children while ensuring that they are not away from her for more than four weeks at a time. This, she submits, allows her to identify and respond to any deterioration in the Father's mental health. She contrasts this with the Father's proposals, which would require the Children to remain in his sole care for much longer periods.
124. Finally, the Mother rejects the suggestion that her oversight could be managed remotely from the United States. She argues that this would be unsafe and that welfare risks should be assessed proactively. She maintains that the Children's best interests are served by remaining primarily in her care, supported by her family, her former nanny and her flexible work arrangements, with the Father able to enjoy substantial periods of care both in Bermuda and in the United States within a structure that safeguards the Children's wellbeing.

The Father

125. The Father's position, supported by his own evidence and by the submissions of Mr Richards, is that the Mother's allegations regarding his mental health represent a significant and unjustified shift in her case. He says that the suggestion that his historical mental health places the Children at risk if they were in his sole care was raised for the first time in her skeleton argument and had never previously been presented in that way. He maintains that this development took both him and the CASW by surprise, noting that the earlier affidavits contained only brief references to past depression and did not indicate any concern about current or future risk to the Children.

126. The Father accepts that he experienced depression in the past and refers to his affidavit evidence in that regard. He also points to the medical evidence he voluntarily produced from his treating psychiatrist, which confirms that he is not currently suffering from depression and is instead experiencing moderate anxiety. He submits that the Mother's affidavits did not raise concerns about cyclical illness, bipolar disorder or manic depression, and that these characterizations emerged only at a late stage in the proceedings.
127. Mr Richards submits that the Mother's renewed focus on the Father's mental health followed the unfavourable SIR and appears to be an attempt to undermine its conclusions. He argues that the way the Mother's evidence evolved during the hearing is troubling and reflects directly on her credibility. He notes that she produced emails from more than a decade ago, despite the absence of any detailed or ongoing concerns about the Father's mental health anywhere in her earlier, extensive affidavit evidence. He submits that if the Mother believed these matters posed a genuine risk, they would have appeared prominently and consistently throughout her case.
128. The Father also relies on the Mother's oral evidence, which he says revealed inconsistency and uncertainty regarding why the Father's historic mental health had suddenly become a significant issue. During cross-examination, the Mother acknowledged both parents' efforts towards the Children and appeared to downplay the relevance of the Father's mental health:

“[THE MOTHER]: “I apologise. I know, sorry, that’s obviously about [the Father] or [the Father], but we both love our kids very much, and I know that [the Father], we try our best. No one is perfect as a parent, right? But we love our kids. I know [the Father] loves our kids. I think [the Father] and I are the two people in the world who love our kids more than anyone else in the world, and I know we both try. Does that mean we’re always perfect parents or wonderful parents? No. But I know we try, and I know he tries, and that’s kind of the best you can ask for, right?”

129. When asked why she was seeking the Father's records from 2018, she responded:

“[THE MOTHER]: “I... I guess first, I didn't understand I was seeking them. I had understood they were coming out of the social work report that she had requested Mr Bookstein's records. I have never mentioned his records as far as I know, I think out of sensitivity. I was trying to just say in my affidavit, [the Father] has had depressive struggles. I was not trying to get into any details. Um, I do not understand that I was the one introducing these records into the case.”

130. When pressed further by Mr Richards about her Counsel's insistence that the records were necessary, she said:

***[THE MOTHER]:** "There is a... there is quite an issue being made out of my psychological health. I think it is clearly being alleged that I am psychologically unstable. It looks to me as if she requested records in here from Mr Bookstein and those were not received..."*

131. She added:

***[THE MOTHER]:** "...I think it is important, as you noted yesterday, why wasn't I producing records back that far? You know, I explained, or I believe my lawyer explained that Dr Wong has been my therapist since 2010, so I have produced information from her as well as the extra support that I sought in Bermuda during what has been a difficult time. I am not challenging the fact, and happy to read in the affidavit that [the Father] is in a good place right now, um, and I hope it stays that way. But I do feel that the history which has been put in for me is absent on the other side."*

132. Mr Richards submits that these explanations lack credibility and show a shifting and inconsistent position. He notes that the Mother accepted that her Counsel acts on her instructions. He argues that her explanation, which suggests she raised these issues only because her own mental health was being examined, is an attempt made after the fact to justify the late change and does not withstand scrutiny.

133. During re-examination, the Mother introduced for the first time an allegation that the Father had previously threatened self-harm:

***[THE MOTHER]:** "sorry, maybe I misinterpreted the word safety because they're, I'm not worried about my children's safety, obviously, but their father, am I worried that, am I was I happy to hear that [the Father] is feeling good right now? Yes. Am I worried that that could change in the future, and he might try to hurt himself again given his history? Yes. I will worry about that, he's the father of my children. Um, and he has said to me in the past, if I am granted leave to remove, he will walk into the ocean and drown himself. So yes, I do worry about [the Father]. I would like to raise our kids together as co-parents."*

134. Mr Richards submits that this allegation is a fabrication. He notes that the Mother confirmed in cross-examination that she and the Father have had no direct communication since her arrest on 3 January 2025, and the LTR Application was not filed until April 2025. He therefore argues that it is impossible for such a statement to have been made. He also notes

that it appears in none of her affidavits, in her DVPO application, or in any contemporaneous correspondence.

135. It was further submitted by Mr Richards that the expert evidence does not support the Mother's position. The reports of Dr Brookstein and Dr Hancock do not identify any concern about cyclical depressive episodes or any current risk arising from the Father's mental health. He argues that the Mother's new allegations appear to be an attempt to construct a risk narrative where none exists.
136. The Father also argues that the Mother's criticisms about the completeness of the evidence concerning his mental health are misplaced when her own evidence is limited. She relies solely on two short letters from Dr Wong, who states she has treated the Mother for fifteen years but provides no detailed history of that treatment. Mr Richards points to the ambiguous reference to a "new mood disorder" in Dr Wong's letter and argues that it is unclear whether such a diagnosis was ever previously made.
137. Concerns are also raised about the impartiality of Dr Wong. The CASW confirmed in her oral evidence that Dr Wong expressed concern about the Father's mental health during their telephone conversation, despite never having treated him. The CASW questioned Dr Wong's impartiality, and Mr Richards submits that her intervention reflects a departure from a neutral, professional role.
138. The Father further relies on the report of Dr Farquhar, which states that since January the Mother has experienced a severe worsening of anxiety symptoms, together with symptoms of depression, including low mood, fatigue, poor concentration, insomnia, negative thoughts and hopelessness. As of June 2025, these symptoms remained severe. Mr Richards submits that it is concerning that the Mother sought to minimize these symptoms in her evidence when they are clearly documented and linked to the ongoing litigation.
139. He notes that the Mother denied experiencing frequent panic attacks and attributed the issue to a single incident in January, which is inconsistent with the medical evidence. He argues that if her condition had genuinely improved since the report, an updated medical assessment would reasonably have been provided, especially given the amount of new material the Mother introduced.
140. Mr Richards also highlights inconsistencies in the Mother's evidence about her physical health. Earlier affidavits referred to chronic pain and significant physical limitations affecting her ability to care for the Children, yet she later appeared to distance herself from those claims. He submits that these inconsistencies, combined with the CASW's observations, raise concerns about the reliability of her evidence and her ability to meet the Children's needs.

141. Mr Richards concludes that the Court will need to scrutinize the Mother's evidence carefully. He submits that it is difficult to see how her mental health could have improved significantly in the short period since the June report, particularly in light of the findings in the Imerman Ruling, the CASW's noted concerns about her psychological stability, and the ongoing litigation. He argues that the Mother has attempted to downplay her symptoms to counter the CASW's conclusions and to strengthen her position in the relocation application.

6.4 PROMOTION OF CONTACT WITH THE OTHER PARENT

The Mother

142. The Mother's case is that she is committed to preserving and actively promoting the Children's relationship with the Father notwithstanding any relocation to the United States. She maintains that her application is not motivated by a desire to marginalize or exclude him and says she relies on a detailed and structured access proposal which is generous, realistic, and child focused.

143. She proposes that the Father have frequent and meaningful in-person contact, including extended holiday periods, alternating festive arrangements, and regular long weekends during term time, whether in the United States or Bermuda where practicable. Her proposals include the Father spending the full Easter break, substantial periods at both the beginning and end of the summer holidays, and alternating Christmas holidays, with specific provision for the Children's birthdays.

144. A central feature of the Mother's proposal is a "nesting" arrangement in the United States. Under this arrangement, the Father would spend one week per month during term time living with the Children in their United States home, while the Mother temporarily vacates the property to stay with her parents. The Mother says this is designed to minimize disruption to the Children, allow the Father to participate in their ordinary routines, and maintain the quality of his parenting time. She emphasizes that this proposal goes beyond what is commonly offered and demonstrates her willingness to prioritize the Children's relationship with their Father over her own convenience.

145. The Mother also proposes regular and frequent virtual communication. She accepts and supports video calls every two days, as suggested by the Father, and states that she would remain amenable to daily contact should he wish. She further points to the overlap of US and Bermuda public holidays, together with the Father's existing pattern of international travel and capacity for remote working, as factors which she says make regular in-person contact feasible.

146. In addressing concerns about compliance, the Mother relies on her history of adherence to court orders and her contention that she has never sought to obstruct contact. She disputes the Father's allegations of past obstruction and maintains that any limitations on contact arose from external legal constraints rather than a lack of cooperation on her part.
147. Overall, the Mother's position is that her relocation plan incorporates robust safeguards to maintain the Father's role in the Children's lives. She says it provides for continuity of relationships, meaningful shared experiences, and ongoing parental involvement, while avoiding prolonged periods of separation from either parent. She asserts that the proposals reflect good faith, flexibility, and an understanding that the Children's welfare is best served by sustaining strong bonds with both parents despite geographical distance.

The Father

148. The Father's evidence highlighted repeated attempts by the Mother to limit his access to the Children. He referred to a chronology detailing the events of January 2025 following the Mother's arrest, which, in his account, shows that he actively sought to promote access and establish an agreed schedule. He stated that the Mother indicated she would collect the Children from school and retain their care. When the Mother confirmed she had suitable accommodation, he agreed to access over the weekend of 10 January 2025, with the expectation that the Children would be returned on Sunday evening. The Father contends that the Mother's subsequent correspondence, suggesting the Children would return to school on Monday, was disingenuous and intended to allow her to control access arrangements going forward. He further highlighted that she proposed extremely limited access, restricting him to Saturday overnight visits and excluding the paternal grandparents.
149. In his evidence, the Father noted that during a subsequent roundtable meeting he proposed a week-on, week-off shared care arrangement, but was informed that the Mother would not agree. He also explained that similar issues arose during the summer when he requested a two-week holiday in Europe with the Children, with the Mother permitting only ten days. He submitted that these examples demonstrate a pattern of the Mother frustrating his access and restricting shared care.
150. The Father drew attention to the Mother's statements during cross-examination regarding potential relocation. He described how she indicated she might return to the United States without the Children to pursue what she believes is in their best interests and subsequently stated she would act according to what she believes is best for the Children while noting that she did not believe it was in their interests to live apart from her. He submits that these statements indicate a real risk that the Mother may not facilitate access if the Children relocate. He also referred to the CASW's evidence, which he contends aligns with his concerns that access may not be promoted. Additionally, he noted the Mother's engagement

of US legal counsel and the significant legal fees incurred, which he sees as a further indication that litigation may be pursued to restrict his access.

151. The Father also provided evidence regarding communication about the Children's activities. He noted that the Mother unilaterally enrolled A in therapy without consulting him and that he only learned about her discussions with schools in the United States through A herself. He submitted that the Mother's involvement of the Children, particularly A, in adult matters could negatively influence their relationship with him. He further challenged her account of how A obtained information about the school, describing it as unconvincing.
152. In relation to the Mother's capacity to provide full-time care, the Father gave evidence that she had historically struggled to manage the Children alongside demanding work commitments, including periods of 50 to 60 hour workweeks, and required his assistance. He submitted that her current relocation plan envisages sole care without comparable support, while her professional ambitions in the United States would continue to require long hours. He also highlighted her history of severe anxiety and the faster pace of life in United States as factors that may affect her ability to manage day-to-day care independently.
153. The Father further gave evidence regarding the level of practical support available from the maternal grandmother. He noted that she is over 80 and pointed to text messages spanning May 2022 to August 2023 showing minimal assistance, including occasions where the Children were left in front of the television for extended periods. He submitted that the Mother's reliance on her mother as a source of support for full-time care in The United States is unrealistic.
154. Overall, the Father's evidence emphasizes a pattern of the Mother restricting his access, and he raises concerns about her intentions if the Children relocate. He also highlighted practical issues regarding her capacity to provide full-time care alone, including work commitments, limited support, and past challenges managing the Children's care. Finally, he drew attention to the potential influence of the Mother over the Children and the lack of adequate communication, which he submits could affect his ongoing relationship with them.

6.5 FINDINGS OF THE CASW

The Mother

The Imerman Ruling

155. Mrs Marshall raised concerns regarding the circumstances in which the draft Imerman Ruling was provided to the CASW. Following circulation of the draft Ruling on 10 September 2025, Mr Richards, on 11 September 2025 requested that it be provided to the CASW to ensure her report “*reflects the factual matrix as determined by the Learned Judge.*” Mrs Marshall contends that the Acting Registrar approved this without consulting the Mother’s legal representatives or issuing any cautionary guidance, such as a “Lucas Direction,” leaving the CASW to interpret the Imerman Ruling independently.
156. Mrs Marshall submits that as no such caution was given to the CASW, and that in the absence of guidance the CASW treated disputed matters as proven, contrary to the principles later reaffirmed by Lord Justice Jackson in *Re K (Children: Placement Orders)* [2021] EWCA Civ 1503. She relies on paragraph 29 of *Re K*, where the Court of Appeal stresses that lies in a welfare context must be:

“strictly assessed for their likely effect on the child... the link between lies and welfare must be spelled out.” [Emphasis added]

157. As such, Mrs Marshall submits that the CASW’s subsequent reliance on those draft findings materially influenced her assessment and resulted in conclusions that were unfairly prejudicial to the Mother. Mrs Marshall references the CASW’s statement at page 21 of the SIR which she says illustrates the extent to which the CASW adopted the Father’s case theory and treated unproven allegations as though they had been formally established:

“The extent of her untruthfulness presents concerns about her overall truthfulness in this entire matter. With this apparent attempt to manipulate the facts to be permitted to move, there is some concern that her alleged threats to do everything to minimize [the Mother’s] involvement and relationship with the children, if the marriage ended, may seem plausible given all that has occurred.”

158. Additionally, Mrs Marshall says that whether the Mother lied about the disputed email, or whether the Father accessed it without her consent, is not central, or even pertinent, to the LTR Application.
159. The guidance given in the UK Court of Appeal case of *Re A, B and C (Children)* [2021] EWCA Civ 451, was also relied on as it emphasizes the need for careful judicial direction

where alleged dishonesty is relied upon. Mrs Marshall highlights paragraph 54, where the Court of Appeal says as follows:

“that people lie for all sorts of reasons including shame, humiliation, misplaced loyalty, panic, fear, distress, confusion and emotional pressure, and the fact that somebody lies about one thing does not mean it actually did or did not happen and or that they have lied about everything.”

160. She further points to paragraph 56 and the observations of Lord Justice McFarlane in *Re H-C (Children)* [2016] EWCA Civ 136 which are as follows:

“In the Family Court in an appropriate case a judge will not infrequently directly refer to the authority of Lucas in giving a judicial self-direction as to the approach to be taken to an apparent lie. Where the lie has a prominent or central relevance to the case such a self-direction is plainly sensible and good practice.” [Emphasis added]

161. She further highlights the case of *Re K (Children: Placement Orders)* [2021] EWCA Civ 1503. This is an adoption case where the judge made care orders in relation to three minor children. The judge’s decision was appealed on the ground that the judge did not properly identify the risk of future harm to the children, which resulted in the welfare decision being flawed. The first instance judge was criticized for focusing on lies told by the parents. Jackson LJ at paragraph 17 addressed some of these findings as follows:

“17. Not surprisingly, the judge made damning findings about the credibility of the parents. Having set out their evidence in detail, he described the mother as ‘the most egregious liar I have ever encountered’ and observed that the father ‘appears to not know when he is telling the truth and when he is lying’...” [Emphasis added]

162. Jackson LJ then addressed how the significance of lies must be considered in the context of the welfare principle at paragraphs 29 and 31:

“29. The next general matter concerns the significance of lies. The correct approach to lies in relation to fact-finding is well known and the judge appropriately gave himself a Lucas direction in that context. Here the more pertinent matter for our purpose concerns lies in the context of welfare. Lies, however disgraceful and dispiriting, must be strictly assessed for their likely effect on the child, and the same can be said for disobedience to authority. In some cases, the conclusion will simply be that the child unfortunately has dishonest or disobedient parents. In others, parental dishonesty and inability to co-operate with authority may decisively affect the welfare assessment. But in all cases the link

between lies and welfare must be spelled out. That did not happen in Re Y (A Child) EWCA Civ 1337, (unreported) 3 October 2013, where Macur LJ said this at para [7](4):

‘... I consider the case appears to have been hijacked by the issue of the mother’s dishonesty. Much of the local authority’s evidence is devoted to it. The Children’s Guardian adopts much the same perspective. It cannot be the sole issue in a case devoid of context. There was very little attention given to context in this case. No analysis appears to have been made by any of the professionals as to why the mother’s particular lies created the likelihood of significant harm to these children and what weight should reasonably be afforded to the fact of her deceit in the overall balance.’

...

...

31. Against that background I return to the present appeal. In my judgment the decision to make care and placement orders for these children cannot be sustained on the basis of judge’s reasoning. His findings of fact cannot be criticised and the threshold for making care orders was plainly crossed. However, in a case in which the risk of harm was the central issue in the proceedings, there is substance in the argument that he did not sufficiently examine the reality of the risks to these children if placed with their parents. Nor, in a case where the other welfare factors tended to point away from adoption, does the judgment explain why those risks were so bad that it outweighed them. Instead, the parents’ reprehensible behaviour came to eclipse other welfare considerations...” [Emphasis added]

163. Additionally, Mrs Marshall argues that the Mother’s position is that sending a non-finalized judicial decision to the CASW, even with administrative approval, created a risk that the CASW would believe the findings were already final before they were formally issued.

The SIR Recommendations

164. The Mother’s position is that, while a social worker’s recommendations may be persuasive, they are not determinative. It is submitted that the Court must assess whether key welfare issues including mental health, emotional attachment, housing, education, stability, and continuity of care have been fully and fairly investigated. The Mother contends that the SIR should be scrutinized for potential bias, failure to consider all evidence, and any unbalanced or hostile approach towards either party.
165. Counsel for the Mother cites *North East Lincolnshire Council v G & L* [2014] EWFC B19, where the Court criticized social worker reports that were “*one-sided, unbalanced, and*

which overstated the negatives of the applicants, ignoring the positives or very begrudgingly conceding them in order to get to the outcome which was desired.”.

166. Reference was also made by Mrs Marshall to Justice Hellman’s decision in *FG v HJ (Formerly HG)* which he noted as follows:

“Mrs Saunders’ uncritical acceptance of the Father’s behaviour ... is symptomatic of a tendency in both Reports to see matters from the Father’s rather than the Mother’s point of view ... I bear this in mind when considering what weight to give to Ms Saunders’ recommendations.”.

167. The Mother’s position is that the CASW’s investigation contained significant failures and factual inaccuracies, including the following:

- (i) Failure to review the record. The CASW did not meaningfully consider the exhibits to the Mother’s second affidavit, including evidence from maternal grandparents and other collaterals.
- (ii) One-sided contact with collaterals. The CASW engaged with the Father’s collaterals but failed to contact the maternal grandmother, two nannies, or follow up with witnesses such as the Mother’s Supervisor at Company A. Discussions with the Mother’s US therapist were not reflected in the report and the CASW made disparaging comments about her professionalism.
- (iii) Failure to investigate psychiatric risk⁴. The CASW did not obtain the Father’s psychiatric history from Dr Hancock or Dr Young and left enquiries regarding mental health until the last minute. The Mother had provided clear evidence in her affidavit of the Father’s long-standing depressive episodes, including that:

“[The Father] has suffered from depression since the beginning of our relationship and spent many hours in bed starting in 2012 ... 2016 to 2019 were a particularly bad few years for him coinciding with [A]’s birth. He has sought help from time to time at my insistence and is always on and off medications but has never stuck with counselling.”

- (iv) Impact of Imerman Ruling. The CASW admitted that her view of the Mother was “coloured” by the Imerman Ruling, influencing the weight she gave to documents, collaterals and the Mother’s narrative.

⁴ See also ‘Historic Care of the Children/Mental Health Concerns’ at pages 33 to 46, paragraphs 101 to 115.

- (v) Dismissal of the Mother’s employment evidence. The CASW did not contact the Mother’s supervisor and dismissed evidence due to a lack of formal letterhead, drawing adverse conclusions without verification.
- (vi) Mischaracterization of the Mother’s mental health. The CASW speculated that the Mother fabricated a narrative portraying herself as a victim, failing to investigate the objective impact of being denied relocation despite evidence of panic attacks, emotional distress and required psychiatric support.
- (vii) Inaccuracies regarding the relocation plan. The CASW misrepresented the Mother’s proposal regarding February and October breaks and treated the “nesting” proposal as an alternative, contrary to written clarifications.
- (viii) Changing descriptions of key incidents. The CASW altered her description of an incident with B from “*the Mother cried out in pain*” to “*the Mother screamed, ‘You hurt me,’*” suggesting bias in her evolving narrative.
- (ix) Failure to investigate paternal grandfather’s behaviour. The CASW did not interview the former US nanny or properly assess reports of inappropriate conduct by the paternal grandfather.
- (x) Undisclosed school information. The CASW obtained information from the Children’s school counsellor not included in the SIR which related to bullying and classroom behaviour. This resulted in the Mother being prevented from asking follow-up questions which undermines the completeness and reliability of the SIR.

168. Counsel for the Mother also submits that the SIR disproportionately reflects the Father’s perspective, omits critical context, and interprets neutral or ambiguous information against the Mother. The CASW’s approach demonstrates suspicion and hostility towards the Mother while giving the Father the benefit of the doubt. Thus, Mrs Marshall says that “*Mrs Saunders acted as the voice of the Father.*”.

169. It was also raised by Mrs Marshall that the SIR does not reflect the wishes and feelings of the Children, particularly as it relates to A given her voiced desire to return to the United States. This will be addressed in the section examining each factor of the UK Welfare Checklist⁵.

⁵ See ‘Application of the UK Welfare Checklist, (a) The ascertainable wishes and feelings of the children (considered in light of their age and understanding) at pages 55 and 56, paragraphs 194 to 198.

170. Given these deficiencies, Mrs Marshall invites the Court to exercise caution in placing weight on the CASW's recommendations. The investigation was incomplete, the evidence inconsistent, and the approach biased. The SIR does not provide a reliable basis for determining the Children's welfare.

The Father

The Imerman Ruling

171. The Father relies on the SIR, which recommends that the LTR Application be refused at this time. The SIR also recommends that, should the Mother remain in Bermuda, the Children should be in the shared care of the parties on an alternating weekly basis. The recommendation by the CASW if the Mother departs Bermuda, notwithstanding refusal, the Children should remain with the Father with appropriate and reasonable access to the Mother.
172. As it relates to the suggestion that a Lucas Direction should have been given by the Court to the CASW, Mr Richards firstly highlights that in none of the emails sent by Mrs Marshall to the Court did she request that a Lucas Direction be given to the CASW. More importantly, Mr Richards emphasized that in children cases, when there is a fact-finding hearing, the social workers and litigation guardians are then directed to produce their reports based on the factual matrix determined in the fact-finding hearing. He stressed that he has never experienced a circumstance where a social worker (or litigation guardian) has been given a Lucas Direction by the Court.
173. The Mother's position that the SIR misrepresents the Imerman Ruling was addressed by this Court at the outset of proceedings. Mr Richards relies on the clarification given by the Court that confirms the SIR appropriately contextualizes and applies the Imerman Ruling⁶.
174. However, it was highlighted by Mr Richards that in the CASW's *viva voce* evidence when she stated that when the Mother entered her office, "*the first thing*" she said was that she was at risk of losing her job. She then volunteered allegations of hacking by the Father, an investigation by her employer and pending legal action.
175. Mr Richards argued that the CASW correctly contextualized the Imerman Ruling and appropriately considered the voices of the Children. The CASW's conclusions regarding the Mother, including concerns about inconsistencies in her evidence and the potential influence on A, are well-founded and informed by direct observation and the broader factual

⁶ See 'Preliminary Application', at pages 10 and 11, paragraphs 20 to 28 which sets out the clarification given by the Court regarding the findings made in the Imerman Ruling.

matrix. The CASW also confirmed in her *viva voce* evidence that discussions regarding specific relocation plans with young children are neither typical nor appropriate. These factors underpin the recommendations in the SIR and provide a sound evidential basis for its conclusions.

The SIR Recommendations

176. Mr Richards submits that the Mother's criticisms of the SIR and of the CASW are without foundation. He notes that her allegations, including that the SIR failed to scrutinize key welfare factors such as mental health, schooling and housing or that it is biased in favour of the Father, are not supported by the evidence
177. He highlighted that the CASW has served the Court since 2013 and confirmed that this report, running to 25 pages, was more extensive than typical. Mr Richards highlighted that in her *viva voce* evidence, the CASW also confirmed its compilation involved substantial email exchanges with the parties as well as the review and consideration of the substantial court pleadings. Mr Richards therefore submitted that the SIR demonstrates careful consideration by the CASW of the relevant issues.
178. Regarding concerns about the Father's mental health, Mr Richards noted that these were only raised by the Mother days before this hearing. Accordingly, Mr Richards says the CASW's assessment of this matter is therefore appropriate and cannot be criticized.⁷
179. Concerning the suggestion that the Mother's collateral evidence was not properly considered, the CASW clarified that these statements were excluded from her report because they were already presented to the Court within affidavit evidence. She further confirmed that her role, and the purpose of collateral evidence, is to function as the eyes and ears of the Court and to present an informed overview.
180. Mr Richards submits that the SIR also contains a clear side-by-side account of the parties' differing positions, including on the planned move to Bermuda. In fact, Mr Richards says, given the significant factual disputes between the parties, the CASW should be commended for the SIR's concise summary of key issues.
181. Mr Richards submitted on behalf of the Father that the Mother's assertion of significant bias within the SIR is unfounded. He argued that the only apparent basis for her complaint is her perception that the CASW's assessment does not favour her position. He submitted that the CASW formed a less favourable view of the Mother because her evidence contained

⁷ See also 'Historic Care of the Children/Mental Health Concerns' at pages 36 to 40, paragraphs 116 to 130.

multiple inconsistencies and because she focused heavily on issues such as her alleged job loss and allegations that the Father had accessed her computer without permission. Mr Richards emphasized that the CASW was entitled to consider the Court's findings of fact, which were relevant and carried weight, and that these findings naturally informed her assessment of the Mother's reliability.

182. According to Mr Richards, these matters, taken together with other inconsistencies in the Mother's evidence and concerns about her willingness to promote access, provided a sound and coherent basis for the CASW's recommendations. He noted that the CASW did not purport to make final determinations on disputed issues and expressly recognised that any concerns she identified would only become significant if the Court ultimately accepted the underlying factual findings.
183. It was therefore submitted by Mr Richards that the SIR is well researched, considered, and reasoned. Mr Richards further asserted that given the Father's reservations about the reliability of the Mother's account, the outcome reached is justified and supported by the evidence. It was also highlighted that under cross-examination, the CASW maintained her position, offering coherent explanations for her conclusions and demonstrating a comprehensive understanding of the relevant documentation and facts in this matter.
184. The Father's position regarding the Mother's assertion that the SIR fails to take into consideration the Children's wishes and feelings will be addressed in the section examining each factor of the UK Welfare Checklist⁸.

6.6 CREDIBILITY

185. The broader issue of credibility is addressed in this section, although it also arises in the earlier and later portions of these Reasons. The submissions summarized below should therefore not be regarded as the only points advanced by Counsel on this topic.

The Mother

186. In the Imerman Ruling, the Court at paragraph 49 accepted the Father's evidence and dismissed the application to exclude the emails. Mrs Marshall asserts that the exercise of judicial discretion regarding admission of the emails would only have arisen if the ruling had been in the Mother's favour, in which case the Court could have admitted the email if

⁸ See 'Application of the UK Welfare Checklist, (a) The ascertainable wishes and feelings of the children (considered in light of their age and understanding) at page 56, paragraphs 199 and 200.

it was central to the issues, regardless of how it had been obtained. Since the Imerman Ruling favored the Father, Mrs Marshall says no such exercise of discretion occurred.

187. Mrs Marshall, on behalf of the Mother, submitted that the Court’s findings on the disputed email should carry no weight in determining the relocation application. She contended that, even accepting the Court’s conclusion as to how the email was accessed and used, the issue is neither central nor tangential to the question before the Court. Counsel argued that the welfare analysis should not be diverted by disputes about whether the Mother lied about the content or significance of the email or whether the Father obtained it without consent. She submitted that these matters do not assist the Court in determining the children’s best interests.
188. The UK Court of Appeal case of Re K (children) (placement orders) [2020] EWCA Civ 1503, was relied on by the Mother and Mrs Marshall highlighted what Lord Justice Jackson said at paragraph 29:

“The next general matter concerns the significance of lies. The correct approach to lies in relation to fact-finding is well known and the Judge appropriately gave himself a Lucas direction in that context. Here the more pertinent matter for our purpose concerns lies in the context of welfare. Lies, however disgraceful and dispiriting, must be strictly assessed for their likely effect on the child, and the same can be said for disobedience to authority. In some cases, the conclusion will simply be that the child unfortunately has dishonest or disobedient parents. In others, parental dishonesty and inability to co-operate with authority may decisively affect the welfare assessment. But in all cases the link between lies and welfare must be spelled out. That did not happen in Re Y (A Child) EWCA Civ 1337, where Macur LJ said this at [7(4)]:

“... I consider the case appears to have been hijacked by the issue of the mother's dishonesty. Much of the local authority's evidence is devoted to it. The Children's Guardian adopts much the same perspective. It cannot be the sole issue in a case devoid of context. There was very little attention given to context in this case. No analysis appears to have been made by any of the professionals as to why the mother's particular lies created the likelihood of significant harm to these children and what weight should reasonably be afforded to the fact of her deceit in the overall balance.” [Emphasis added]

189. Furthermore, Mrs Marshall reminded the Court of the guidance of Justice Mostyn in *NJ v OV*, emphasizing paragraph 6(i), where he stated,

“the only authentic principle to be applied when determining an application to relocate a child permanently overseas is that the welfare of the child is paramount

and overbears all other consideration, however powerful and reasonable they might be.” [Emphasis added]

190. Mrs Marshall submitted that this risk is present here and urged the Court to remain focused on the statutory welfare evaluation rather than peripheral credibility disputes.
191. Thus, Mrs Marshall argues that any allegations of dishonesty or adverse credibility findings against the Mother in relation to specific facts should not be elevated to a determinative factor in a welfare-based application. There must be a clear link to risk of harm for the Children or a deficit in parenting. Additionally, Mrs Marshall argued that, if any party has been less than forthright on welfare matters, it is the Father who has, at times, minimized or been insufficiently forthcoming about his mental health history.
192. Regarding the emails in question, Mrs Marshall suggested that they were taken out of context and that relevant witnesses ought to have been called to explain their significance. Mrs Marshall argued that any conduct of the Mother intended to strengthen her case should be understood in the context of her growing sense of entrapment and desperation. Her actions, while perhaps ill-judged, arise from a genuine belief that relocating to the United States is essential not only to her own wellbeing but to her ability to continue providing the Children with the best care possible.
193. Furthermore, Mrs Marshall says that the Mother’s position is further supported by her circumstances in Bermuda, which are characterized by profound insecurity, unresolved residency status, limited family support and negative impacts on her mental health. Mrs Marshall also noted that the Mother reports that she is homesick to a degree that affects her wellbeing.

The Father

194. As it relates to the findings in the Imerman Ruling, Mr Richards explained that the Father is not suggesting that the Mother’s lack of truthfulness in that application means she has been untruthful in every respect. Rather, his position is that those untruths must be considered together with the rest of the evidence. He further submits that the Mother’s dishonesty, both during the Imerman Hearing and in this application, demonstrates a willingness to do or say whatever is necessary to secure a return to the United States.
195. Counsel further submits that the Mother’s evidence in chief demonstrated a lack of preparation. Her evidence lasted almost an entire day and, in his submission, consisted largely of attempts to address weaknesses in her case at the last moment. He argues that most of this evidence did not arise in response to the views of the CASW, contrary to the Mother’s assertions.

196. Mr Richards notes that the Mother's position has shifted on several central matters. Her proposals for schooling have changed both in the choice of institutions and in the type of educational setting she seeks. Her housing proposal is said to be uncertain. She initially proposed renting in the United States but now seeks to move into the parties' Brownstone even though the financial issues between the parties remain unresolved.
197. Counsel also submits that her position on childcare has changed. She initially said she would need a nanny and budgeted for this support. She now says that she can collect the children herself. He argues that this change was prompted by the Father's observation that in the United States the Children would be collected by a nanny, whereas in Bermuda they are collected by him.
198. The Mother's production of selected text messages during her evidence in chief was brought to the Court's attention as Mr Richards says it raises serious concerns about her reliability. He refers first to a text sent by the Father on 2 July 2022 before a conversation with prospective tenants for the US Property. The Mother presented the text as evidence that the plan was to live in Bermuda for only one year. However, counsel submits that the Mother removed the words "*or whatever you normally do,*" and that this omission materially altered the meaning of the message. Mr Richards argues that the full exchange supports the Father's account that the Mother had been presenting an inaccurate narrative to others about a one year stay which did not reflect the actual agreement. It was therefore Mr Richards assertion that the omission was deliberate and intended to obscure the true context.
199. Mr Richards further submits that it was improper for the Mother to produce edited texts for the first time at the start of the hearing when there was no opportunity to analyze them. He argues that this was not an isolated incident. He refers to texts dated 18 September 2023 which were used by the Mother to suggest that the Father's only concern about her returning to the United States with the Children was financial. He submits that the omitted portions show that the parties were also discussing where the children would live and which schools they would attend. In his submission, these omissions again present a distorted version of events.
200. Counsel argues that this pattern raises broader concerns about the Mother's credibility. He submits that if the Mother must rely on edited texts in support of two central aspects of her case, it indicates that the evidence in its complete form does not support her contentions.
201. Mr Richards submits that the Mother's allegation that the Father dismissed the nanny in the summer of 2023 is not supported by the evidence. He refers the Court to the contemporaneous text messages, which he says show that it was the Mother who proposed that the nanny should be given notice.

202. He relies in particular on a message sent by the Mother on 27 July 2023 in which she stated:

“let us talk this weekend, but I see zero reason not to give JoJo notice. Either I quit, we split or we use Saltus after school care if need be, right. I do not see any scenarios for her.”

203. Counsel submits that the Mother then asked the Father whether he agreed with this proposal. He argues that these exchanges make it clear that the idea originated with the Mother.

6.7 APPLICATION OF THE UK WELFARE CHECKLIST

204. Each factor in the UK Welfare Checklist is addressed in turn below. The evidence presented in sections 6.1 to 6.6 naturally overlaps with these considerations, and many of the factors are interconnected. The evidence relied on for each factor is therefore not confined to what is discussed within that specific section.

6.7.1 The ascertainable wishes and feelings of the children (considered in light of their age and understanding)

The Mother

205. Mrs Marshall submits that both Children (now aged 10 and 6 respectively and who were aged 9 and 5 respectively when the CASW carried out her investigation) can express their wishes and feelings. Emphasis was placed on A, whom she described as exceptionally bright and confident. It was argued that proper weight must be afforded to the Children’s views, measured against their respective ages and levels of understanding. According to the Mother’s account, A has expressed a desire to return to the United States and to be closer to her extended maternal family but has reportedly refrained from sharing these wishes with the Father out of fear that he may react with anger or disapproval. Counsel noted that A conveyed similar apprehension to the CASW during the social inquiry process, stating that she believed the Father “*would be mad*” if she disclosed her preference to return to the United States.

206. Mrs Marshall further submitted that the SIR does not adequately or accurately reflect the Children’s wishes. She contended that the CASW failed to explore the Children’s views with the independence, depth, and sensitivity required in relocation cases. In support of this submission, Mrs Marshall relied on the decision in *Re S (Wardship: Removal to Ghana)* [2025] EWCA Civ 1011. This case involved a 14-year-old boy, identified as S, who was

left in Ghana by his parents without a passport, allegedly to keep him away from gang culture in the United Kingdom. Attorneys representing S initiated wardship proceedings to secure his return to the UK, but Justice Hayden declined to order S's return, considering the parents' actions within their parental responsibility. On appeal, however, the UK Court of Appeal overturned the lower court's decision, determining that the welfare assessment was flawed and that insufficient weight had been given to S's views and overall welfare. Justice Hayden emphasized that the weight afforded to children's views must be meaningful, especially when expressed clearly and consistently.

207. Drawing from this case, Mrs Marshall argued that the CASW did not meaningfully engage with A's expressed views and entirely failed to ascertain B's wishes, despite his strong attachment to the Mother.
208. It was also submitted that when A stated her wish to return to the United States, the CASW responded by challenging or interrogating her position rather than approaching the conversation with neutrality or curiosity. Mrs Marshall argued that there was no evidence of any thorough exploration of the Children's emotional experience of the competing outcomes, i.e. whether remaining in Bermuda without their Mother or relocating with her to the United States.
209. Mrs Marshall contended that the CASW appeared to dismiss A's stated preferences on the assumption that they had been improperly influenced by the Mother, an assumption she said was improperly coloured by the findings in the Imerman ruling. Counsel submitted that this approach deprived the Children (particularly A) of an authentic, independent voice within the assessment. She further argued that the CASW's failure to elicit or record any view from B, despite his age-appropriate ability to express basic preferences, rendered this aspect of the SIR both incomplete and unreliable.

The Father

210. Addressing criticisms that the SIR fails to engage with or meaningfully reflect the voices of the Children, Mr Richards submits, to the contrary, the SIR explicitly recognizes that A's views have been influenced by the Mother, who has involved the Children in adult matters. The CASW also explained that social workers would not customarily discuss specific relocation plans with children of this age but instead observes and gathers information concerning their welfare and general views.
211. Mr Richards further submitted that the CASW identified legitimate concerns about the Mother's influence on A. He highlighted that these concerns were based on both established incidents, including the Mother informing A that the Father was seeking a divorce, and

direct statements made by A about information she had received regarding the United States and the proposed school there. He argued that the CASW was also entitled to consider A's positive experience when recently cared for by the paternal grandmother and to take this into account when evaluating whether A's views may have been shaped before the CASW's interviews.

6.7.2 Physical, emotional and educational needs

The Mother

212. Mrs Marshall submits that the Mother has always been the Children's primary caregiver. She relies on the Mother's evidence together with third party accounts, including the affidavit of the Nanny, to demonstrate that the Mother has consistently undertaken the Children's emotional, physical and psychological care from morning until bedtime.
213. Whilst the Mother accepts that the Father has assisted with school collections and drop offs since the dismissal of the Bermuda nanny in October/November 2023, she maintains that the core responsibility for the Children's daily welfare has remained with the Mother. Counsel notes that even during periods when the Father has exercised his scheduled access, the Children have continued to look to their Mother for emotional support and for the organization of their routines.
214. Mrs Marshall submits that both Children are facing challenges in Bermuda. A has reported experiences of bullying and is said not to be academically stretched. B continues to struggle with emotional regulation and has found it difficult to settle at his current school. He has not formed friendships easily and often becomes distressed in the mornings before school.
215. The Father disputes this account, but the Mother maintains that B suppresses distress when in the Father's care because he is emotionally reserved and less receptive to such expressions. Counsel argues that the Court must consider the long-term developmental risk if B continues to mask emotional difficulties.
216. It was also highlighted by Mrs Marshall that B has been identified as having sensory processing disorder and exhibits behaviours consistent with ADHD, as recorded by Dr Pitts Crick. The Mother says that these needs require a flexible and responsive educational environment. Counsel states that Saltus is unable to meet these needs consistently, as the teaching assistant cannot regularly remove him from class without leaving the main teacher unsupported. Counsel contrasts this with La Scuola in the United States, where B would have access to a paraprofessional who could provide individualised support, movement breaks and sensory regulation as required. Class sizes are significantly smaller and would permit closer attention to his learning profile.

217. Mrs Marshall further states that B's diagnosis of torticollis remains a concern. Although the Mother says that this has improved, the neck tilt persists and may ultimately require surgical intervention. Bermuda does not currently have a paediatric physiotherapist, a fact confirmed by his therapist, Michelle Monk. The Mother's position is that this gap in local services is detrimental and that B previously benefitted from the specialized paediatric therapies available in the United States.
218. Counsel argues that the resources available in the United States would directly advance both children's wellbeing. Bermuda no longer has a dedicated sensory gym, while the United States offers multiple facilities, including sensory gyms in both Fieldston and La Scuola, together with extensive outdoor and therapeutic environments such as playgrounds and parks. Mrs Marshall argues that these factors illustrate the significant disparity between the two jurisdictions and supports the Mother's position that relocation is necessary to meet the children's educational and developmental needs.
219. As it relates to the Mother's employment, Mrs Marshall emphasizes that the Mother's evidence is that her role allows for significant flexibility. As such, the Mother says that she will be available and present for seeing the Children off to school in the mornings as well as for their collection from school at the end of the day. Whether this means the Children being returned to their residence or the Mother attending the school to collect them. The Mother also relies on her evidence that the Nanny and her mother can assist in providing care for the Children when needed. She also suggested the use of university students for babysitting services if required.

The Father

220. The Father's evidence is that the Children are settled in Bermuda, are thriving within its lifestyle, and have benefitted from stability in their schooling and daily routines. His counsel submits that the Mother has sought to undermine that stability by overstating concerns which are not supported by independent or professional evidence.
221. Mr Richards submits that the Mother's relocation plan is neither viable nor carefully investigated. He argues that the plan has changed repeatedly and appears to reflect the Mother's desire to leave Bermuda rather than a settled proposal for the children. He submits that the arrangements for the Children were developed only in reaction to concerns that were raised, and that each amendment was an attempt to fill gaps rather than the product of advance planning.
222. In relation to A, the Mother contends that she is experiencing bullying at school. The Father's evidence is that fluctuations in A's friendships are age appropriate and consistent

with normal social development. He relies on advice from A's therapist and on the school's report to the CASW, which states that:

“[A] needs help communicating with her peers when there is a misunderstanding. However, this is a normal behavior that can be seen in the third grade for all students.”

223. The CASW further confirmed in oral evidence that she spoke with the school counsellor, Mr Scanlon, who advised that the issue described as “bullying” reflected children seeking to “establish relationships” and was “normal.” On the Father's case, the professionals do not regard this as a school-led problem, but rather as an age-appropriate developmental stage. School reports describe A as a pleasure to teach, making good progress academically despite family circumstances.
147. As regards B, the Father's Counsel submits that the Mother has significantly exaggerated his health and educational needs. Although the Mother described him as neurodivergent and suggested that Saltus cannot meet his needs, the evidence confirms that B has not been diagnosed as neurodivergent and that there are no concerns that the school is failing to support him. The Jots report confirms that B is a settled and welcomed member of his class and describes him as a “*tactile sensory seeker*” requiring limited occupational therapy focused on sensory integration. The Father says that classroom recommendations, including the use of a wiggle cushion and movement breaks, are already in place.
148. The Father also relies on medical evidence concerning B's historic diagnosis of Torticollis. Reports confirm that B was discharged in 2023 by the Government Physiotherapist, who described only “*a very mild head tilt due to resolving Torticollis*” and expressed no concerns regarding his motor development. Mr Richards highlighted that the Mother's own evidence confirms a similar assessment, with recommendations for outdoor play, climbing, jumping, and riding a bike or scooter. Counsel submits that Bermuda provides greater opportunities for such outdoor activity than would be available following relocation.
149. Mr Richards submitted that even if the Mother were correct that the Children are struggling, (which is not accepted), the Father says that the relocation would only exacerbate any difficulties by removing them from their settled home and requiring mid-term school changes.
150. The Father's evidence emphasizes that Bermuda offers a highly active, outdoor lifestyle. The Children's current routines include art, gardening, football, sailing, taekwondo, and horse-riding. The CASW confirmed that the Children enjoy these activities and that she observed no evidence that they were over-scheduled. It was submitted by Mr Richards that the Mother has provided no concrete or workable plan demonstrating how a comparable

range of activities could be sustained in the United States, having regard to seasonal limitations, longer travel times, and her employment demands.

151. The Father also disputes the Mother's claim that B cries for an hour each morning before school. He states that he has not observed such behaviour. The CASW confirmed that she had spoken with Mr Scanlon since the commencement of term and that no concerns of this nature were reported.
152. Counsel for the Father submits that the Mother's evidence in this regard is either exaggerated or reflects the Children being influenced by adult matters. It is of particular concern that A has relayed more information about the proposed move to the Father, the paternal grandparents, and the CASW than the Mother accepts having disclosed to her.
153. The Father expressed concern that the Mother's work commitments would not permit her to maintain such a schedule and that activities are already diminishing due to her influence. He notes that the Mother's *viva voce* evidence that A no longer wishes to participate in football or horse-riding is coincidental, particularly given the practical difficulties identified with continuing those activities in the United States, including the distance to suitable facilities. He also says that the Mother has greatly overstated the Nanny's ability to assist given her current age as well as her mother's assistance in caring for the Children.
154. Mr Richards emphasized the Father's evidence that the Children have spent their formative years in Bermuda. In B's case, Bermuda is the only home he meaningfully knows. A significant advantage of the Children remaining there is the Father's documented flexibility, which allows him to manage school drop-offs and pick-ups and to be directly involved in extracurricular activities. Bermuda's size and climate permit year-round participation with minimal travel, a model which, the Father submits, would not be realistically replicable in the United States.

6.7.3 The likely effect of any change in circumstances

The Mother

224. It was confirmed by Mrs Marshall that the Mother has reached the difficult conclusion that she must return to the United States in order to preserve her mental health and remain able to parent the Children effectively.
225. Mrs Marshall submits that the Court is required to make a clear choice between two outcomes. If leave to relocate is granted, the Children will reside in the United States in the Mother's day to day care. If leave is refused, the Children will remain in Bermuda in the Father's day to day care.

226. It is the Mother's position that a refusal of the application would result in the Children being separated from the parent who has historically provided their consistent emotional and physical care. Counsel argues that such a separation carries serious psychological risk for the Children and that these concerns have not been given adequate consideration in the SIR. Mrs Marshall submits that relocation would allow the Children to maintain continuity of care and remain connected to their maternal family. She says that the United States offers specialized therapeutic resources, strong academic opportunities and a broad range of enriching experiences in the arts and cultural fields.
227. Moreover, Mrs Marshall emphasized that the Children would be returning to a familiar environment in which they already have established relationships and a sense of belonging. It was also highlighted by Mrs Marshall that the evidence shows that the Mother's LTR Application is motivated solely by the welfare needs of the Children and not by any improper purpose.

The Father

228. Critically, Mr Richards submits, the proposed relocation would involve a significant impact on the time the Children spend with the Father. Although the Mother states she intends to promote a relationship, the negative aspersions cast against the Father, which he says are replete in her affidavit and *viva voce* evidence, calls into question the authenticity of that assertion. The CASW has expressed similar concerns noting that a move to the United States would present difficulties for the Children in maintaining a healthy relationship with their Father.
229. It is submitted by Mr Richards that the Mother's plan to remove the Children to the United States would be highly disruptive and impact their current stability and security. The Children would be forced to move to an unfamiliar environment. The Father says the United States is unfamiliar to them as the Children were young when they left the United States (A was 6 years old and B was just 2 years old) and they will have no tangible recollection of their previous life.
230. It was also raised by the Father that although the United States and Bermuda are geographically close, they are worlds apart from a lifestyle perspective. The transition will be difficult. The Children will need to start new schools, separately, in a new home, without their Father.
231. The Father disagrees about the Mother's motivation driving the LTR Application. He says that her true motive is driven by her desire to be back in the United States based on her unhappiness and wish to be promoted at Company A. Mr Richards submitted that this is why the emails that were the subject matter of the Imerman Application were key to the

Mother's case as she believed that eliminating the possibility of being able to work in Bermuda would bolster her chances of being successful in the LTR Application. Therefore, the Father says that in line with this, the plans proposed by the Mother for the Children were just an afterthought which is supported by her continuously shifting evidence.

6.7.4 Age, sex, background and relevant characteristics

The Mother

232. Mrs Marshall submits that the Children are dual UK and US citizens, born and raised in the United States, with their cultural and familial identity closely tied to the United States. A is entering puberty, a stage where maternal presence is vital, and she has expressed a desire to discuss emotional and physical changes with the Mother.
233. It was further submitted by Mrs Marshalls that the Mother's evidence is that the Father, though loving, is emotionally distant and reserved, with limited insight into A's needs. Further, it is submitted that B's neurodivergence and physical vulnerabilities require high levels of coordination and support, which the Mother is well-placed to provide given her longstanding role as primary caregiver.

The Father

234. The Father highlights that for the last three years, the Children have resided in Bermuda and given their ages when they left the United States their recollection and familiarity with that environment will be minimal, if not non-existent.
235. The Father also raises the Mother's over exaggerated reliance on what she says are the Children's strong relationships with their maternal grandparents as well as the falsehood of the extent to which the maternal grandparents assisted the parties with childcare when they lived in the United States.
236. Furthermore, it was submitted by Mr Richards that the Father has been the Children's main carer since around October/November 2023 and there has not been any suggestion from the Mother since this time that he was unable to meet the Children's needs (both physically and emotionally).

6.7.5 Any harm the children have suffered or are at risk of suffering

The Mother

237. The Mother contends that the Children would be exposed to emotional harm if they were required to remain in Bermuda without her. She says that A has continued to experience difficulties at school and has not received support that would meaningfully address these challenges. She also maintains that B shows signs of emotional distress before school and often appears unsettled. Mrs Marshall therefore submits that these matters demonstrate that the Children's emotional and educational needs are not being met in Bermuda and would be better supported if they were permitted to relocate with the Mother.
238. Counsel also submits that the Children's immigration status requires attention. The position advanced is that the Children have no independent or secure right to live in Bermuda. Their ability to remain in the jurisdiction depends entirely on the continuation of the Father's work permit. If his employment were to end, the Children's right to reside in Bermuda would also fall away. Even if the Father were later to obtain permanent residency, counsel argues that there is no evidence that such status would automatically apply to the Children. As such, Mrs Marshall submits that this creates a risk that the Children may develop roots in Bermuda only to find in the future that they cannot lawfully remain.
239. The Mother also raises concerns about the Father's mental health. Counsel submits that his history of depression, together with the allegation that he has expressed suicidal thoughts, creates a potential safeguarding concern for the Children. The Court was referred to evidence that the Father has been prescribed several antidepressant medications as well as two antipsychotic medications. Mrs Marshall argues that this medical history requires careful consideration, especially given the Mother's position that the Father has a limited support network in Bermuda.
240. Counsel further highlights that the CASW acknowledged during her evidence that the Father's mental health history had not been fully explored during the SIR investigation. Mrs Marshall argues that this gap in the assessment is significant and warrants careful consideration by the Court when evaluating the potential risks associated with the Children remaining in the Father's primary care.

The Father

241. Mr Richards submits on behalf of the Father that the United States presents greater safety concerns than Bermuda. He relies on text messages sent by the Mother in which she complained of crime, homelessness and visible drug activity in the United States. He argues that her attempt to attribute these concerns to the pandemic is unpersuasive because the

messages were sent in 2022, two years after the height of Covid, and he maintains that the conditions described remain prevalent.

242. Mr Richards further submits that the Court should be concerned by the Mother's repeated attempts to limit the Father's access to the children. He refers to the January 2025 chronology which he says shows that, following the Mother's arrest, the Father sought to promote access and agree a schedule. He states that the Mother repeatedly insisted that she would collect the children from school and retain their care. He notes that although the Father agreed to weekend access beginning on 10 January 2025, the Mother later sent correspondence indicating that the children would be returned to school on Monday. He submits that this created the impression that they would return to the Father after school which he says was misleading and designed to secure their return to her full-time care. He also argues that the Domestic Violence Protection Order application was issued on questionable grounds to further this aim. He says that the Mother's proposal at that time for the Father to have only one overnight per week, excluding the paternal grandparents, is inconsistent with her claim that she has always supported an equal division of time.
243. Mr Richards adds that similar issues arose at the roundtable meeting. The Father sought shared care on a week-on/week-off basis but was told that the Mother would not agree. He submits that this reflects a litigation strategy that is also apparent in her repeated emphasis on the Father having five of fourteen days of care. He further argues that the same pattern occurred in the summer when the Father requested alternating weeks and a two-week holiday in Europe. According to him the Mother refused and allowed only ten days.
244. The Mother's *viva voce* evidence at the start of her cross examination was also cited by Mr Richards in relation to when he had asked about her intentions to return to the United States, she said:

“If I have to go back to [the United States] for a little while without them and continue to fight for what I believe is in their best interests.”

245. It was argued by Mr Richards that the Mother then stopped herself speaking further as it was clear she recognized the damaging nature of her statement and eventually went on to say,

“I will continue to do what I believe is in my children's best interests. I don't know what my options might be. I would have to take legal advice into ... but I don't believe it is in my kids' interests to live in a different country from me.”

246. Therefore, Mr Richards asserts that these comments confirm the Father's longstanding concern that the Mother would not promote access in the United States.

247. It was also highlighted to the Court by Mr Richards that the Mother has already sought legal advice about filing divorce proceedings in another jurisdiction and that she has incurred significant legal fees in the United States in doing so. Mr Richards says that this has only increased the belief that the Father has of the Mother's intention to pursue further litigation in order to restrict his access should relocation be permitted.
248. Mr Richards submits that these matters, when considered together, raise a significant concern about the Mother's willingness to promote a meaningful relationship between the Father and the children if relocation were granted. He notes that the CASW shares this concern and believes there is a real risk that the Mother would not facilitate access should she return to the United States.

6.7.6 The capability of each parent to meet the children's needs

The Mother

249. Mrs Marshall submits that the Mother's capacity as a parent is well documented and supported by independent evidence. The Mother's evidence is that she has consistently cared for the children through challenging circumstances while maintaining her employment. She states that her change of employer has improved her work-life balance.
250. Mrs Marshall further submits that the Father's involvement with the Children increased only after the commencement of litigation. She characterizes his role as limited to logistical support, rather than emotional or developmental caregiving. The Mother's position is that, if relocation is refused, the Father would be assuming sole care for the first time, which presents a genuine risk to both his wellbeing and that of the Children.
251. Counsel for the Father is said to have attempted to dismiss the Nanny's Affidavit as irrelevant. However, Mrs Marshall contends that the evidence of the Nanny is directly relevant to the welfare analysis before the Court. The Nanny's account, according to the Mother, provides clear insight into the historic pattern of care and, importantly, into the Children's attachments. Mrs Marshall submits that this evidence must be carefully weighed when considering the risk of the Children being separated from their Mother for extended periods.
252. Mrs Marshall also relies on the Nanny's evidence to support the psychiatric evidence of Dr. Bookstien concerning the Father. She states that the Nanny describes a sustained pattern of withdrawal and detachment by the Father during the period when his treating psychiatrist confirms he was prescribed anti-depressant and anti-psychotic medication. The Father, according to Mrs Marshall, seeks to minimize this by suggesting that only one weekend was affected due to over-medication and that he was unaware of the reasons for his

prescriptions. However, Mrs Marshall asserts that the Nanny's observations indicate a more persistent period of disengagement, which is consistent with the clinical evidence. Mrs Marshall argues that the Father's attempts to minimize these concerns are themselves troubling. She submits that the Court must consider the real implications of placing the Children in the Father's sole care for prolonged periods, especially when the Mother's protective presence would no longer be available. She further notes that, unlike the Mother, the Father has not established a circle of friends who could observe changes and act if concerns arise.

253. Mrs Marshall states that the Nanny is based in the United States and is available to assist on Fridays when the Children return. She submits that the Mother's wider support network includes her retired mother, long-standing friends and the Nanny. Mrs Marshall argues that this network would provide the Children with stability, continuity and emotional security. She describes the Nanny as a neutral, long-term caregiver who offers a compelling and unchallenged account of the family dynamic over six years. Mrs Marshall submits that this evidence supports the Mother's case in all material respects and should be given significant weight by the Court.
254. The Mother's evidence is that, in the United States, she has secured housing, schools, care arrangements and ample support. She proposes that the Father have generous contact with the children, including monthly visits, shared holidays, and daily virtual communication. Mrs Marshall submits that this demonstrates the Mother's ongoing commitment to maintaining the children's relationship with their Father.
255. Additionally, the Mother contends that the Children residing with her, as their primary carer, is financially viable and relies on the budgets presented to the Court.

The Father

155. Although the Mother has sought to minimize the Father's caregiving role, Mr Richards emphasized the Father's evidence of the contemporaneous text messages and a detailed caregiving log. He argues that the caregiver log has not been shown to be inaccurate and was referenced in Dr Hancock's correspondence. The Mother has not identified any specific error within it. Counsel submits that the log provides clear evidence of the Father's substantial day-to-day involvement, particularly during periods when the Mother was working long hours. One such acknowledgment appears in a message from the Mother dated 3 May 2024, in which she stated:

"I am sorry you feel that way. I appreciate your support with the kids and what you do. I still feel overwhelmed."

256. Mr Richards submits that the Court should have serious reservations about the Mother's ability to cope with the sole care of the two children if she were permitted to return with them to the United States. He points to the evidence that shows the Mother works very long hours and struggles with the demanding nature of her job. He notes that in her deposition given two years ago, she accepted that she had been working approximately fifty to sixty hours each week.
257. Mr Richards further submits that Mother struggled during the same six-month period the Father was already living in Bermuda and was therefore unable to assist. He argues that this would again be the situation if the Mother were to relocate the children. The text messages relied upon record the Mother saying that she was extremely busy at work, that she felt she was having a breakdown, that she was not coping physically or emotionally and that she was asking the Father to return to help with the children. While it is accepted that she was still recovering from her car accident at that time, Counsel asserts that she nevertheless had the support of both her parents and the Nanny, which is more than the support she now claims she will need. He also notes that the prior difficulties arose during only a six-month period whereas the Mother now seeks to assume sole care on a permanent basis.
258. Counsel submits that there are further examples from the time the parties have lived in Bermuda that show the Mother continues to struggle. He refers to text messages in which the Mother states that she has lost the nanny, that she is receiving no assistance and that she wants to return to the United States.
259. In those same messages the Mother states that it is not fair for her to be responsible for collecting and transporting the children, managing the household and maintaining a full-time job while working from home. She says she cannot continue in that manner. She also states that she needs someone to drive the children and that she cannot keep rearranging her work schedule around their pickup times. She then expresses frustration about the lack of household support and says that they need a housekeeper or nanny.
260. Mr Richards submits that these concerns were raised during a time when the Mother was living in Bermuda, working remotely and receiving regular assistance from the Father. He argues that this demonstrates that her difficulties cannot be attributed solely to the absence or presence of external help.
261. Counsel also refers to text messages between the parties and highlights one dated 5 March 2024 in which the Mother asks whether the Father notices how little sleep she gets and says that she feels overwhelmed. The Father's notes, which are said to record further comments from the Mother, indicate that she had been working very late and was exhausted. Mr Richards submits that these excessive work hours explain why the Father took on responsibility for the Children each afternoon and evening so that the Mother could work.

262. In addition, the Father relies on text messages in which the Mother states that she had received a new role in March 2023 and that her job would become even more demanding. She states that the work is extremely stressful and compares it to the pressure she experienced when she worked in a private company in the United States. Mr Richards argues that it is therefore difficult to accept her current assertion that her once demanding job has now become flexible and manageable. It was further emphasized that the Mother continues to pursue a promotion in Company A and regards that role as the peak of her career. Mr Richards submits that it is inevitable that this ambition will require long hours and increased responsibilities and which he says is also supported by the Mother' evidence in the Imerman Hearing where she stated that her new role would involve a significant expansion of responsibilities.
263. Mr Richards submits that when these work responsibilities are combined with the Mother's history of severe anxiety, the accelerated pace of life in the United States, the reliance on public transportation, the longer travel times, the absence of support from the Father and the lack of any professional childcare assistance, the Court should have significant concerns about her ability to care for the children alone if she were to relocate.
264. The Father submits that the Mother's reliance on her own mother for childcare is unrealistic because the maternal grandmother is over eighty and the text messages show that her involvement has been significantly overstated, including one message where she responded to a request for help by saying she would assist "*when pigs fly*". The Father disputes the Mother's explanation that these messages reflected only a brief period of influence from him, noting instead that they span from May 2022 to August 2023 and align with her own later statements in 2024. Additional messages from October 2023 record the maternal grandmother leaving the children in front of the television for an entire day, which the Father says demonstrates a longstanding lack of meaningful support and shows that she cannot reasonably be relied upon as a childcare resource in the United States.
265. In addition, Mr Richards submits that the Mother has not produced a consistent or reliable housing plan for the children in the United States. Her proposals have shifted between renting very expensive apartments, none of which include outdoor space, and moving into the US Property. He argues that the US Property is the parties' main asset with significant equity and that it would be improper for the Court to assume that the Mother can occupy it before the ancillary relief proceedings are resolved.
266. Safety concerns in the United States that were stated by the Mother were also brought to the Court's attention by Mr Richards. He argues that the Father says that the United States is less safe than Bermuda. Text messages in which the Mother described crime, homelessness and visible drug activity were relied on by the Father. These messages were

sent in 2022 and therefore, Mr Richards says, cannot be attributed to the pandemic. Mr Richards stressed that the Father believes these concerns remain and that public transport exposes the children to the same issues today. He also maintains concerns about long school and activity travel times.

267. In relation to finances, Mr Richards submits that the Mother has not shown that relocation is affordable. The Mother's evidence suggests monthly costs of \$32,000 to \$38,000, yet her monthly income is \$14,000. Mr Richards argues that when only base salaries are considered, and once the Father's necessary housing and living costs are added, there is a monthly shortfall of more than \$15,000. Therefore, Mr Richards submits that the Father cannot sustain the cost of regular travel to the United States to exercise access with the Children and would be forced to use his vacation leave for access, which would limit meaningful time with the Children.
268. Mr Richards asserts that the Mother has not provided proper evidence that the relocation is financially viable. Mr Richards notes that her Counsel attempted to raise the issue during cross examination of the Father, but he argues that this was insufficient. In his submission, the Mother has failed to demonstrate that her proposals are affordable.

6.7.7 The range of powers available to the Court

The Mother

269. Mrs Marshall submits that the Court has wide discretion but is effectively faced with two options:
- (i) Refuse relocation, leaving the Children in Bermuda under the Father's sole care, resulting in loss of their primary caregiver, increased risk of emotional harm, lower-quality education, and reduced access to maternal family and cultural experiences.
 - (ii) Grant relocation, allowing the Children to return to the United States with the Mother in day-to-day care, benefiting from tailored education and therapy, while maintaining contact with the Father through a structured plan.
270. It was emphasized by Mrs Marshall that only the latter option is child-focused, sustainable, and protective of the Children's long-term best interests.

The Father

271. It is accepted by Mr Richards that the Court has a wide discretion. He says, however, that there are three options available to the Court in exercising its discretion which are as follows:
- (i) The Mother utilizes the option that is available to her with Company A that her role be moved to Company A's Bermuda Office. In this scenario, the parties will share care of the Children on an alternating weekly basis.
 - (ii) The LTR Application be refused and the Children remain in the primary care of the Father with meaningful access to the Mother.
 - (iii) The LTR Application be granted with the Children moving to the United States with the Mother. The Father says this option is not child-centred as the Mother's true focus of the LTR Application is her desire to leave Bermuda. The Court must take into consideration all concerns raised by the Father which most significantly surround the issue of the Mother's ability and capacity to meet the Children's needs along with the Father's view that the Mother will not promote his relationship with the Children.
272. Mr Richards submitted that the best option for the Children is the first, i.e. that both parties remain in Bermuda. Thereafter, the next best option is for the Children to remain in Bermuda with the Father and for the Mother to have meaningful access to them.

7. FINDINGS AND ANALYSIS

7.1 THE LAW

273. The Court is mindful not to become distracted by the terminology sometimes used in relocation jurisprudence when describing the exercise of discretion. Expressions such as a comparative global analysis, a holistic evaluation or a side-by-side comparison are intended only to assist the Court in carrying out its central task. They are not separate legal tests and should not be understood as rigid frameworks. The authorities make clear that these expressions simply reflect the long-established requirement that the Court must evaluate each realistic outcome in the round, consider the identifiable advantages and disadvantages of each, and then determine which option best promotes the welfare of the particular child or children before the Court.

274. It is therefore essential to avoid treating these formulations as procedural checklists. A side-by-side comparison is not a mathematical exercise, nor is the Court required to weigh each parent's case against the other point by point. The process is qualitative rather than quantitative. The Court must stand back and consider the children's circumstances as a whole, guided by the understanding that their welfare is the paramount consideration which surpasses all other factors, however compelling those factors may seem.
275. The authorities discussed earlier in these Reasons confirm that the welfare principle is the only true legal principle in permanent relocation cases. The guidance offered in those cases, including the commonly referenced questions and considerations, is intended merely to illuminate factors that may arise in any given case. Such guidance must not be elevated to the level of presumption or rule. The circumstances of relocation applications vary infinitely and as such, the Court must remain free to determine what outcome best serves the welfare of the children on the facts as they actually present themselves.
276. The Court must therefore remain focused on substance rather than form. The UK Welfare Checklist provides useful structure by identifying the broad categories of welfare considerations that commonly arise. However, it does not bind the Court, nor does it require a formulaic approach. Its value lies in its assistance to the Court in ensuring that all relevant dimensions of the children's welfare are considered. A Court decision does not need to expressly refer to a comparative global analysis or list the UK Welfare Checklist, as long as the reasoning shows that the Court has considered the children's needs, circumstances and future welfare in a holistic way.
277. Accordingly, the principles to be applied in relocation cases in Bermuda can be summarized as follows:
- (i) The Court's decision must be based on what is in the best interests of the child, meaning that the welfare of the child is the paramount consideration and supersedes all other considerations.
 - (ii) The factors set out in the UK Welfare Checklist may assist the Court in identifying the matters relevant to the child's welfare but they are guidance only and not an exhaustive or prescriptive list.
 - (iii) Each case must be determined on its own facts. Relocation cases do not turn on legal presumptions but on the particular circumstances of the children and the evidence before the Court.
 - (iv) There is no presumption in favour of the primary carer, whether expressed explicitly or implicitly, and no party begins with any advantage by virtue of their historic caregiving role.

7.2 MOVE TO BERMUDA

278. The Mother presented exhaustive evidence concerning the parties' move to Bermuda, including text messages, emails and other documents. However, none of this material provided meaningful assistance to the Court in determining the central issue, which is the welfare of the Children. Much of the evidence was peripheral, contested, or focused on issues that did not assist the Court in determining the central relocation question.
279. During the Mother's cross-examination of the Father, I asked counsel to clarify the relevance of several questions concerning the circumstances of the move to Bermuda. I noted that I was unaware of any legal principle or test that makes the parties' original intentions when entering a jurisdiction a determinative factor in a relocation analysis. Mrs Marshall submitted that there is authority suggesting that, where a party has been tricked or manipulated into changing jurisdictions, or where a move was understood to be temporary, the Court should take that circumstance into account. I therefore asked her to provide the relevant authority.
280. Later that day, Mrs Marshall referred the Court to *Re C (Children)* [2014] EWCA Civ 705. She relied on paragraph 3(a), which summarized the Mother's account of the parties' intentions, and paragraph 15(c), where the judge mentioned intention before turning to the welfare checklist. Having reviewed the case, I do not accept that *Re C* establishes a principle that the parties' intentions at the time of a move are relevant to a later application for leave to remove. In *Re C*, intention formed part of the factual background only. It had no determinative role at first instance or on appeal. The case does not support the broader proposition advanced and has little relevance to the facts before this Court.
281. I also note that similar issues arose at various points during the hearing, which required the Court to question the relevance of certain evidence. Mrs Marshall later criticized the Court for doing so in the presence of the Father. I do not accept that criticism. A judge must actively manage proceedings to ensure that the hearing remains focused, fair and efficient. This includes identifying when a line of questioning is not material, ensuring that only relevant evidence is pursued, ruling on procedural matters, and preventing the hearing from being diverted by issues that do not assist the welfare analysis. These interventions are part of the Court's duty to ensure proper administration of justice.
282. The Mother also relied on a number of other relocation authorities. These decisions do not alter or qualify the core principle that the welfare of the child is the paramount consideration. They illustrate how that principle has been applied on the particular facts of those cases. As relocation decisions are highly fact-specific, these authorities provide limited guidance in identifying or weighing the welfare factors relevant to the Children in

this matter. The Court must therefore treat them with caution and avoid relying on their outcomes as if they were prescriptive.

283. This concern is reflected in the observation of Lord Justice King in *Re M*, which was cited with approval in *FG v HG*. The Court of Appeal there stated:

“There is only one principle in relocation cases and that is that the welfare of the child is paramount.... It is unnecessary and inappropriate to trawl through the myriad of authorities in relation to relocation cases; after all in how many different ways is it necessary or helpful for it to be said that the welfare of the child is the paramount consideration?” [Emphasis added]

284. This guidance reinforces the need for the Court to remain focused on the welfare inquiry and not to become distracted by case law that does not alter or develop the governing principle.

285. In any event, I am not satisfied that the Mother has established that the move to Bermuda was intended by both parties to be a short-term arrangement limited to one or two years. Her narrative rests almost entirely upon her own retrospective interpretation of events and upon statements she made to third parties which simply repeat what she told them. These statements do not constitute independent corroboration of an agreed intention. They amount only to evidence of the Mother’s belief, not evidence of a joint family understanding.

286. The Father was granted a three-year work permit. This is fundamentally inconsistent with a short-term assignment of the nature now asserted by the Mother. Moreover, both parties jointly sought legal advice regarding the Father’s permanent resident status in the United States and chose not to preserve that status. The evidence shows that they were advised on the steps that would have been required to retain the Green Card if the relocation were temporary. The parties nevertheless proceeded to surrender it. In circumstances where reinstatement of permanent residence is known to be difficult, I accept the Father’s evidence that this decision reflected an intention for a longer-term relocation rather than a brief assignment.

287. I also find that there is no evidence that the Mother attempted to preserve the Father’s immigration status or attempted to initiate any application for its reinstatement. Her present submission that she relied on assurances that the relocation was temporary cannot be reconciled with this absence of action. Had she believed that the family would be returning to the United States within a short period, it is more likely than not that she would have taken steps to protect the Father’s long term legal position.

288. The Mother’s United States tax returns also contradict her present position. She declared herself to be a bona fide resident of a foreign country. This declaration requires a genuine

intention to reside abroad for a significant and indefinite period. Such a filing is not consistent with a temporary relocation. The Mother has provided no satisfactory explanation for why she certified herself as a bona fide foreign resident if she truly believed that the stay in Bermuda was short term.

289. The Court has also considered the Mother's reliance on the leasing of the United States home, the placing of household belongings into storage, the renewal of the lease for the Bermudian residence and communications with the Children's school. These factors do not provide reliable evidence of a temporary relocation. Families relocating internationally for an extended or indefinite period frequently rent their homes, store belongings and preserve school options. These actions are therefore equivocal. They do not establish that the parties intended a short-term stay.
290. The Father's evidence is supported by the parties' conduct after arrival in Bermuda. The Mother participated in the renewal of the lease in 2023. She expressed relief that the renewal had been secured. She actively engaged in planning for the Children's schooling for future academic years. There is no documentary evidence that she objected to these steps at the time on the basis that the family's residence was supposed to be temporary. These actions are consistent with a settled and continuing residence in Bermuda.
291. The contemporaneous text messages relied upon by the Father also support his account. Although the Mother expressed unhappiness and at times spoke of returning to the United States, these messages show moments of conflict, not evidence of deception or entrapment. They also show occasions on which the Mother agreed to remain in Bermuda and continued to take part in routine decisions affecting the family's future there. The Father's interpretation, namely that the Mother was dissatisfied but not misled, is consistent with the evidence.
292. The authorities make clear that relocation cases must not become distorted by attempts to reframe the past through the prism of present litigation. In *K v K* the Court of Appeal cautioned against reliance on subjective classifications or narratives that are unsupported by evidence. The task of the Court is to determine the facts objectively. When the evidence is assessed in this manner, I find that the Mother's account is inconsistent with the documentary history and that the Father's account is more reliable.
293. In *Re F and H (Children)* the Court recognised that the history of a family's movement between jurisdictions must be evaluated within its context and that parental dissatisfaction does not equate to a binding family intention to relocate or return. In the present case, the Mother's dissatisfaction with Bermuda does not alter the objective evidence demonstrating that the parties jointly established a settled residence there.

294. For these reasons, I find that the relocation to Bermuda was not agreed as a short-term arrangement of one or two years. The objective evidence supports the Father’s position that the parties contemplated and acted in accordance with a longer-term relocation. The Mother’s contrary account is inconsistent with contemporaneous documents, inconsistent with her own conduct and inconsistent with the independent material before the Court. In any event, as submitted by Mr Richards, this finding, even if it were in the favour of the Mother, does little to assist the Court in determining what is in the best interests of the Children. What it does shed light on however, is showing yet another attempt by the Mother to manipulate the evidence to fit her narrative that the Children should return with her to the United States.

7.3 MOTHER’S EMPLOYMENT POSITION

295. Turning to the evidence concerning the Mother’s employment, I accept the Father’s submissions. The emails the Mother attempted to exclude show that she herself identified her need to return to the United States as the central foundation of her relocation case, describing it as the “*lynchpin*” of her position. The Court has already found that the Father did not unlawfully access those emails and that the Mother voluntarily showed him the material. Her allegation of hacking was therefore untrue. Her repeated assertion that she would lose her job if she remained in Bermuda is also contradicted by the evidence.
296. As confirmed in the Imerman Ruling, the internal communications indicate that transferring her role to Bermuda was a viable option because the position was global in nature. The Mother admitted in cross-examination that she made no enquiries of Company A’s Global Human Resources Department about this possibility. The letter from Company A’s Bermuda Office does not assist her, as it is based on misunderstandings and does not address whether her global role could be relocated.
297. The Mother’s argument that the Imerman Ruling did not reach the discretionary stage is unfounded. The Court addressed discretion directly at paragraph 50. It explained that even if the images had been obtained improperly, the emails would still have been admitted because excluding them could have prevented the Court from seeing the full picture. A proper exercise of discretion required the Court to consider the content of the emails.
298. It follows that both the factual and discretionary aspects of the Imerman analysis were completed. The Mother’s suggestion that the findings were incomplete or “*wrong*” is rejected. In any event, the Court is now *functus officio* in respect of those findings. It is evident that the Mother’s attempt to revisit these issues was directed at persuading the Court to alter its previous findings.

299. As to the email from Mr G that the Mother sought to introduce during re-examination, I decline to admit it. It was new evidence, provided without notice and without any opportunity for cross-examination. It was not true rebuttal evidence. It was also elicited through the Mother's Supervisor (a witness in these proceedings) in a manner that effectively invited confirmation of a preconceived position, rather than providing independent information. This was inappropriate, particularly given that I had already clarified at the outset of the hearing that findings had been made regarding the Mother's ability to retain her role by relocating it to Bermuda. This supports the view that the Mother was attempting to re-litigate matters already determined.
300. For completeness, even if the Mr G evidence had been admitted, it would have carried little weight. It did not address the central question of whether the Mother's global role could be transferred to Bermuda.
301. In summary, the Court is satisfied that the Mother would likely be able to maintain her employment were she to remain in Bermuda. Her contrary statements were advanced to support her relocation case and do not reflect a full or balanced consideration of the options available to her.

7.4 HISTORIC CARE OF THE CHILDREN/MENTAL HEALTH CONCERNS

302. It is asserted by the Mother that she has always been the Children's primary caregiver to such a degree that her role ought to be elevated above the Father's for the purposes of this relocation application. While she undoubtedly played a significant role during the Children's early years, as is common in many young families, the evidence does not establish that her role remained so predominant that the Father became peripheral or unreliable.
303. By contrast, the Father's account of his caregiving involvement, particularly from 2023 onward, was consistent, supported by contemporaneous communications, and corroborated by independent evidence. I accept that he undertook daily responsibilities including school transportation, attendance at medical and extracurricular engagements as well as routine management during periods when the Mother was required to work long, demanding hours.
304. In assessing the competing narratives, it became apparent that the Mother's portrayal of her own exclusive caregiving was frequently inconsistent and at times significantly overstated. Her account appeared to amplify her contribution while diminishing, at points unfairly, the Father's demonstrable and meaningful role in the Children's lives. Assertions concerning the extensive involvement of her parents and claims that she single-handedly managed all

aspects of the Children's daily care, were not sustained when tested against the totality of the evidence.

305. Further difficulties arise from the shifting nature of the Mother's position over the course of these proceedings. Claims that the Father's involvement was minimal, or that meaningful engagement commenced only after the breakdown of the marriage, are not supported by reliable contemporaneous material. Moreover, reliance upon historic caregiving labels is inconsistent with the governing legal framework, which does not assign determinative weight to such characterizations.
306. Of particular significance is the timing of the allegations concerning the Father's historical mental health. These statements were introduced at a late stage of these proceedings, despite their absence from the Mother's earlier affidavits, including the detailed Mother's First Affidavit. The medical documents she submitted do not substantiate any cyclical or severe psychiatric illness. The timing of these allegations, especially their appearance after the unfavourable SIR, significantly weakens their credibility. The Mother's oral evidence on this issue was hesitant, inconsistent, and shifted away from her earlier position when she was questioned more closely.
307. I do not accept that the Father poses any mental health risk to the Children. He was transparent regarding his historical experience with depression and produced independent evidence confirming his current psychological stability. The expert materials from both Dr Brookstein and Dr Hancock reveal no diagnosis or pattern of illness that could give rise to safeguarding concerns or impair his parenting capacity.
308. The Mother's allegation that the Father stated he would "*walk into the ocean and drown himself*" if relocation were ordered is a clear fabrication. Her own evidence confirms that there has been no direct communication between the parties since January 2025, rendering such a statement impossible in the context alleged. The absence of any reference to this allegation in her affidavits, her Domestic Violence Protection Order application, or earlier correspondence further supports the conclusion that it was raised for the first time during the hearing and is without foundation.
309. The evidence of the Nanny has been considered. Her account relates to a period when the Children were very young and as such provides no helpful insight surrounding the Children's care since the family has resided in Bermuda. It does not demonstrate that the Father has been inconsistent or unsafe in more recent years, nor does it outweigh the substantial objective evidence supporting his reliability, engagement and the stability he provides in Bermuda.
310. The medical correspondence from Dr Wong also requires caution. In the CASW's *viva voce* evidence, she indicates that Dr Wong expressed views about the Father, despite never

having treated him, raising concerns regarding impartiality. The letters lack clarity in articulating the Mother's longstanding diagnoses and do not adequately address her admitted severe anxiety and depressive symptoms, which her Bermuda psychiatrist documented as persisting at a severe level as recently as mid-2025.

311. Having considered the evidence in its entirety, I am satisfied that the Father has been, and continues to be, an active, capable and reliable caregiver. The Mother's narrative concerning historic caregiving is incomplete, unhelpful and, at times, overstated. The allegations concerning the Father's mental health were raised late, are unsupported, and lack credibility. There is no evidential basis on which to conclude that the Children would face any risk in the Father's sole care. In contrast, the Mother's own psychological vulnerability, as reflected in independent psychiatric evidence, raises legitimate concerns as to her current emotional stability and her capacity to sustain the level of care she claims she can provide without the Father's support.

7.5 PROMOTION OF CONTACT WITH THE OTHER PARENT

312. I do not accept the Mother's assertion that she has consistently promoted the Children's relationship with the Father or that she has a history of facilitating frequent and meaningful contact. Her evidence on this point was inconsistent with contemporaneous correspondence and with the Father's detailed account of events following her arrest in January 2025.
313. Letters exchanged through Counsel between 8 and 13 January 2025 show that the Mother sought to assume sole care of the Children and to limit the Father's contact to one overnight per week, while excluding the paternal grandparents. This is wholly at odds with her claim that she has always supported shared or generous care. Her communications at that time were deliberately vague and appeared aimed at retaining control over the Children's time and transitions.
314. This approach continued in March 2025 and again during the summer when she rejected proposals for shared care and limited the Father's holiday time to ten days, despite his request for a two-week vacation. These actions cannot be explained by the "*external legal constraints*" she relied upon. They support the Father's position that she has, on several occasions, sought to restrict or heavily manage the Children's time with him.
315. I therefore accept the Father's evidence on this issue as credible, measured and supported by contemporaneous material. In contrast, the Mother's assertions of consistent cooperation are not.
316. Of particular concern are the Mother's remarks during cross-examination that, if relocation were refused, she might return to the United States "*for a little while without them*" and

“continue to fight” for what she views as in the Children’s interests. When pressed, she stated that she did not believe it was in the Children’s interests *“to live in a different country from me”*, leaving open the possibility of further litigation in another jurisdiction.

317. These comments reinforce the Father’s concerns, as well as those identified by the CASW, that if relocation were granted the Mother may not reliably promote the Children’s relationship with him. Her evidence showed a firmly held belief that the Children’s best interests lie in living with her in the United States, which creates a real risk that her stated intention to support shared parenting would not be maintained.
318. In my view, these statements significantly undermine the credibility of the Mother’s proposal and raise genuine concerns about her willingness to maintain meaningful paternal contact if she were permitted to relocate.
319. I further accept the Father’s evidence that the Mother has involved A in matters that are adult in nature. This includes discussions about schooling in the United States and details relating to the proposed relocation. Her explanations as to how A acquired specific information about a United States school, including references to “smart kids” and class structures, were not convincing. The CASW’s observations support the conclusion that the Mother has exposed A to matters beyond her age and understanding.
320. This conduct raises concerns about the Mother’s insight into appropriate boundaries and her ability to shield the Children from the parental conflict. It also lends weight to the Father’s concern that the Mother’s pursuit of relocation has already influenced A’s views and that this influence would likely intensify if relocation were allowed.
321. Although the Mother presented an extensive access plan, including a proposed “nesting” arrangement and monthly visits by the Father, I find that this plan is not viable. It depends on several assumptions:
 - (i) that the Father could travel monthly from Bermuda to the United States;
 - (ii) that the Mother could consistently vacate the Children’s home to accommodate the Father;
 - (iii) that her demanding employment would allow predictable time for coordination; and
 - (iv) that the financial and logistical burdens inherent in that arrangement would be sustainable long-term.

322. None of these assumptions are supported by independent evidence. Moreover, the Mother's history of managing contact during periods of conflict does not give reassurance that such a cooperative and flexible model could be reliably executed.
323. I also find that the proposed nesting arrangement is impractical and intrusive. It would require the parents to share living arrangements in circumstances of high conflict and is inconsistent with the present state of the parties' relationship. It appears aspirational rather than grounded in practical reality.
324. I accept the Father's evidence that he has consistently sought to maintain regular and meaningful contact with the Children, including proposing shared care immediately following the parties' separation and again during subsequent discussions. His evidence regarding his communication with the Children, his involvement in their routines and the consistency of his approach was supported by third-party material and by the CASW.
325. In contrast, the Mother's pattern of restricting access, her unilateral decisions about A's therapy and schooling, and her late-raised allegations concerning the Father's involvement undermine her claim that she would promote his relationship with the Children if relocation were granted.
326. I am therefore satisfied that:
- (i) the Father has historically promoted and facilitated the Children's relationship with the Mother;
 - (ii) the Mother's actions have, on multiple occasions, impeded the Father's contact;
 - (iii) her recent statements raise significant concerns about her willingness to promote contact if relocation were granted; and
 - (iv) her proposed arrangements for cross-border parenting are not realistic, sustainable, or reflective of her past behaviour.

7.6 FINDINGS OF THE CASW

The Imerman Ruling

327. I do not accept Mrs Marshall's submission that the Court should have given a Lucas Direction to the CASW when the draft Imerman Ruling was provided to her. The purpose and application of a Lucas Direction have been misunderstood.
328. The suggestion that circulating the draft ruling to the CASW created improper influence has no merit. The draft was sent only so that she could provide editorial comments. The findings of fact had already been reached and were not open to revision. There was no realistic prospect that the outcome of the Imerman Ruling would change. It was therefore appropriate for the Acting Registrar to provide the draft to the CASW so that her report could reflect the factual matrix already determined by the Court. The Mother's assertion that the CASW treated unproven matters as established fact is inconsistent with both the ruling and the CASW's oral evidence.
329. Mrs Marshall did not persuade me that a Lucas Direction is something that should be given to a professional preparing expert evidence. The case of *R v Lucas (Ruth)* [1981] QB 720 established that lies do not automatically prove guilt. The Court of Appeal held that a lie can support a prosecution only if it is deliberate, relates to a material issue and is motivated by an intention to conceal guilt rather than by panic, shame or confusion. The ruling also stressed that juries must be reminded that people may lie for innocent reasons. These principles apply in both criminal and family cases and assist judges in assessing credibility.
330. The full context of the Lucas direction in *Re H-C (Children)* appears at paragraphs 97 to 102, where Lord Justice MacFarlane explained:

“97. Within that list of factors, although the judge does not expressly prioritise them, the finding that Mr C lied about the quietness in his flat that night is given the greatest prominence in this section of the judge's analysis. 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 as explained in the judgment of the court given by Lord Lane CJ:

'To be capable of amounting to corroboration the lie told out of court must first of all be deliberate. Secondly it must relate to a material issue. Thirdly the motive for the lie must be a realisation of guilt and a fear of the truth. The jury should in appropriate cases be reminded that people sometimes lie, for example, in an attempt to bolster up a just cause, or out of shame or out of a wish to conceal disgraceful behaviour from their family. Fourthly the statement must be clearly shown to be a lie by evidence other than that of the accomplice who is to be corroborated, that is to say by admission or by evidence from an independent witness.'

98. *The decision in R v Lucas has been the subject of a number of further decisions of the Court of Appeal Criminal Division over the years, however the core conditions set out by Lord Lane remain authoritative. The approach in R v Lucas is not confined, as it was on the facts of Lucas itself, to a statement made out of court and can apply to a lie made in the course of the court proceedings and the approach is not limited solely to evidence concerning accomplices.*
99. *In the Family Court in an appropriate case a judge will not infrequently directly refer to the authority of R v Lucas in giving a judicial self-direction as to the approach to be taken to an apparent lie. Where the lie has a prominent or central relevance to the case such a self-direction is plainly sensible and good practice.*
100. *One highly important aspect of the Lucas decision, and indeed the approach to lies generally in the criminal jurisdiction, needs to be borne fully in mind by family judges. It is this: in the criminal jurisdiction the lie is never taken, of itself, as direct proof of guilt. As is plain from the passage quoted from Lord Lane's judgment in Lucas, where the relevant conditions are satisfied the lie is capable of amounting to a corroboration.* In recent times the point has been most clearly made in the Court of Appeal Criminal Division in the case of R v Middleton [2001] Crim L R 251. *In my view there should be no distinction between the approach taken by the criminal court on the issue of lies to that adopted in the family court. Judges should therefore take care to ensure that they do not rely upon a conclusion that an individual has lied on a material issue as direct proof of guilt.*
101. *In the present case Newton J did not directly refer to R v Lucas or to the conditions set out within that authority. By implication he held that Mr C's account of a quiet night was given deliberately, and secondly he held, rightly, that that account related to a material issue in the case. In stating that he had stepped back to consider whether that is because of shame or panic or because of some dreadful accident the judge was, again by implication, considering the general thrust of R v Lucas and, in stating that overall he rejected any notion*

that the lies masked some dreadful accident or mistake, he seemingly rejected an innocent explanation for the lie. There is ground for concern that the judge may have overstepped the line and adopted an approach which, in the criminal context, would not be permitted by his statement in paragraph 79 of the judgment as follows:

'The only independent evidence comes from the neighbours. On the face of the evidence the accounts are damning and in particular paint the lie to Mr C's assertion that he and the boys had a quiet, unbroken night, the context needs careful consideration.'

102. *I have taken the opportunity to refer to R v Lucas in the hope that a reminder of the relevant approach taken in the criminal jurisdiction will be of assistance generally in family cases...* [Emphasis added]

331. As such, there are circumstances in family proceedings where Lucas Directions are given, but the authorities make clear that the direction is a judicial self-direction. Its purpose is to guide the Court's approach. As Lady Justice Macur cautioned in *Re A, B and C (Children)*, the direction must be used carefully. At paragraph 58 she stated:

"That a tribunal's Lucas self-direction if formulaic and incomplete is unlikely to determine an appeal, but the danger lies in its potential to distract from the proper application of its principles. In these circumstances I venture to suggest that it would be good practice when the tribunal is invited to proceed on the basis, or itself determines, that such a direction is called for, to seek counsel's submissions to identify: (i) the deliberate lies upon which they seek to rely; (ii) the significant issue to which they relate; and (iii) on what basis it can be determined that the only explanation for the lies is guilt. The principles of the direction will remain the same, but they must be tailored to the facts and circumstances of the witness before the court." [Emphasis added]

332. I have also considered that Mrs Marshall did not request a Lucas Direction in her correspondence with the Court on 11 September 2025 or at any time before the SIR was completed six days later. If she believed such a direction was required, she had ample opportunity to make that submission and did not do so.

333. Mrs Marshall's email of 11 September 2025 at 12:10 p.m. stated:

"Dear Madam Acting Registrar,

In relation to the email below, we note that our client reserved her position to file

further affidavit evidence following the decision in the Immerman application. Whilst we have not yet taken our client's instructions on the draft Judgment, we anticipate seeking further directions for the filing of the said affidavit evidence. The ratio of the decision is at paragraph 49 of the judgment where the Judge says that she finds that the wife showed the husband a selection of email on her work laptop and permitted him to take photographs of those messages. Having so found the application was dismissed.

The relevance and weight to be attached to the content of the email themselves remain to be resolved in the wider proceedings and such determination cannot be properly undertaken until our client files her evidence in relation to those emails. As such, the balance of the comments made by the Judge insofar as they relate to the emails is obiter and should not be shared with the Social Worker without being accompanied by the affidavit evidence which our client will be seeking directions to file relating to those emails. It is our view that the SIR should be finalised and circulated and to the extent that the said emails feature in the report and recommendations, we reserve our right to request that she consider her findings further upon production to her of our client's said affidavit evidence."

334. Following the Acting Registrar's confirmation that the CASW would receive the ruling, Mrs Marshall sent a further email at 12:15 p.m.:

"Dear Ms Swan,

It is disappointing that you have responded to Mr Richards without considering our position in relation to his request. My email to you addressing Mr Richards' request is considered. We would be grateful if Ms Saunders can be advised not to review the judgment at this time. It is noted that the judgment itself has not yet been perfected."

335. It is also relevant that the hearing of the LTR Application was scheduled to begin on 26 September 2025, fifteen days later, and the Mother did not file an application for leave to appeal the Immerman Ruling. If she genuinely believed that the findings under the heading "Findings and Analysis" were *obiter*, it is unclear why her Counsel did not seek clarification from the Court. I regard this as another example of the Mother's litigation strategy, which involved seeking to rely on this asserted misunderstanding to advance later applications.
336. It is notable that, after the Court clarified the Immerman Ruling at the outset of the hearing on 26 September 2025, the Mother did not then promptly seek leave to appeal. Instead, throughout the hearing she maintained the position that the Court had erred in making the findings.

337. Additionally, I do not accept the submission that the CASW failed to apply the principles that govern the treatment of alleged dishonesty as set out in *Re A, B and C*, *Re H-C* and *Re K*. Those authorities explain how the Court must evaluate the significance of lies. In *Re H-C*, Lord Justice McFarlane explained that a judge may, where appropriate, give a Lucas self-direction so that lies are not treated as direct proof of guilt and so that a proper distinction is made between lies that arise from shame, panic or confusion and lies that indicate culpability. In *Re K*, Lord Justice Jackson emphasized that lies must be examined carefully for their likely effect on the child and that the link between the lie and the welfare assessment must be clearly identified. These principles guide the Court and do not direct the approach of a social worker whose role is to undertake a welfare assessment.
338. The purpose of a fact-finding hearing is to ensure that experts, including social workers and psychologists, are not required to resolve disputed factual matters. That responsibility rests solely with the Court.
339. The CASW did not treat the Mother's dishonesty as decisive. She identified that the Mother's lack of candour was relevant to her insight, her reliability and her ability to promote the Father's relationship with the Children. These are legitimate welfare considerations. She did not treat dishonesty as a basis to reject the Mother's position, nor did she use it to replace an independent assessment of the Children's welfare. Her conclusions were measured and left for the Court to determine. Her approach accords with the guidance in *Re K*, which cautions professionals not to allow issues of dishonesty to overshadow the broader welfare factors.
340. Accordingly, the submission that the CASW's assessment was improperly influenced by the Imerman Ruling is also rejected. The SIR places the Court's findings in their proper context and acknowledges their significance. The CASW explained the limited extent to which the findings informed her assessment of credibility. Her evidence was careful and nuanced. She recognised that dishonesty must be considered within the wider welfare context. There is no basis to conclude that she misunderstood or misapplied the ruling or that a Lucas Direction was necessary.
341. For these reasons, the Mother's criticisms relating to the Imerman Ruling, the circulation of the draft judgment and the alleged influence on the CASW are rejected. For the avoidance of doubt, the following findings are made:
- (i) Mrs Marshall did not request such a direction at any stage of the proceedings.
 - (ii) In children matters where factual disputes have been resolved in a fact-finding process, social workers and litigation guardians are expected to prepare their reports using the factual matrix established by the Court.

- (iii) A Lucas Direction is a judicial tool used by the Court when assessing witness credibility. It is not directed to professionals who prepare expert reports.
- (iv) There was no basis for issuing a Lucas Direction to the CASW and it was neither required nor appropriate.

The SIR Recommendations

- 342. The Mother's broader criticisms of the SIR are unfounded and do not undermine the reliability of the report. These criticisms are addressed below.
- 343. The Court does not accept the Mother's submission that the CASW's approach is inconsistent with the welfare checklist because it does not consider the Children's wishes and feelings. The reliance placed on *Re S* is not accepted. That case involved a fourteen-year-old child. A child of that age is at a different stage of cognitive, emotional and social development when compared with A, who was nine at the time of the SIR. The circumstances in *Re S* were also very different. The child in that case had been removed from the United Kingdom without authorization, left abroad without a passport and separated from his home environment. The Court of Appeal placed significant weight on his clearly expressed and consistent wishes.
- 344. In contrast, there has been no comparable removal, no abandonment and no safeguarding concern in this case. A has not expressed views with comparable maturity (given that she is significantly younger than S) nor has she articulated independent views. The Court is satisfied that *Re S* does not assist the Mother and does not undermine the SIR's treatment of the Children's wishes and feelings.
- 345. I accept the Father's submission that the SIR is thorough, balanced and carefully prepared. The report is twenty-five pages in length and demonstrates significant engagement with both parents and with the documentary evidence. The CASW gave clear evidence that she reviewed the pleadings, affidavits, correspondence and collateral materials placed before the Court. Her oral testimony confirms that her investigation was comprehensive and consistent with established standards within the Department.
- 346. The Mother's claim that the CASW failed to consider her exhibits is not supported by the evidence. The CASW explained that materials already contained in the filed affidavits were not repeated in the SIR because they were already before the Court. Her role is to provide an independent assessment, not to duplicate pleadings. I accept this explanation.
- 347. I also accept the CASW's explanation that she contacted the collaterals she considered necessary to form a reliable view of the Children's welfare. The fact that she did not contact

every individual identified by the Mother does not render the report unbalanced. She spoke with school staff, medical practitioners and paternal family members who had recent involvement with the Children. Her decision not to pursue further collateral interviews where evidence was already available in affidavit form was an appropriate exercise of professional judgment.

348. The Mother's complaint that the CASW failed to investigate the Father's mental health is contradicted by the evidence. Concerns regarding the Father's mental health were raised by the Mother only days before the hearing. The CASW reviewed the available material and addressed the matter in light of the limited information provided and the timing of the allegations. Her oral evidence was consistent with this approach.
349. In contrast, the Mother's account of the Father's alleged longstanding mental health difficulties was inconsistent with the independent material before the Court. Her position relied largely on her own assertions and was not supported by psychiatric evidence.
350. Reliance on authorities relevant to fact finding in care proceedings is misplaced. The CASW's task was not to determine disputed facts. Her role was to consider whether parental behaviour created welfare concerns.
351. The characterization of the CASW as hostile or biased is not supported by the evidence. Her testimony was measured and professional. She was clear in her explanations and acknowledged where her information was limited. She did not overstate her conclusions. She also made plain that some issues required judicial determination. This reflects the correct division of roles between the Court and a social worker.
352. The suggestion that the CASW acted as the Father's voice is unfounded. The SIR sets out each party's position and identifies the areas of disagreement. It records concerns raised by both sides. The fact that the CASW found aspects of the Father's evidence more reliable does not indicate bias. It reflects her assessment of the documentary evidence, the inconsistencies in the Mother's account and the Mother's involvement of A in adult matters.
353. The Court is not persuaded that any of the alleged inaccuracies undermine the reliability of the SIR. For example, the suggestion that the CASW altered her description of the incident involving B does not establish prejudice. She explained that her initial note was brief and that the later description reflected the Mother's own account. I accept this explanation.
354. Similarly, criticisms concerning school information and the Mother's employment evidence do not affect the overall reliability of the SIR. The CASW explained why certain information was omitted and confirmed that her conclusions were based on all the evidence

before her. There is no indication that she withheld relevant information or exceeded her remit.

355. I am satisfied that the SIR is a reliable and balanced assessment that provides significant assistance to the Court. The CASW's findings concerning the Mother's inconsistencies and her involvement of A in adult matters are supported by independent evidence. Her concerns about the Mother's ability to promote the Children's relationship with the Father are well founded. Her recommendation that the relocation application be refused is a rational conclusion that aligns with the wider evidence.
356. For these reasons, the Court rejects the Mother's submission that the SIR is biased, incomplete or unreliable. The report is comprehensive, carefully reasoned and grounded in the evidence. The criticisms advanced by the Mother were overstated and not supported by the CASW's clear and credible explanations. I therefore place significant weight on the SIR and find that its conclusions support the Father's position on the Children's best interests.

7.7 CREDIBILITY

357. This section addresses the broader issue of credibility, which also appears in earlier and later parts of these Reasons. The absence of specific references to certain evidence under this section should not be taken to mean that such evidence was not considered as part of the overall analysis.
358. From the commencement of the hearing, beginning with the Mother's examination in chief, the Mother's evidentiary position was problematic. Rather than limiting her evidence to genuine updates arising after the filing of the Mother's Second Affidavit, and not addressed in the Mother's Third Affidavit which was admitted into evidence and sworn on 15 September 2025, the Mother introduced new material that had never appeared in any affidavit. Mrs Marshall was directed several times to move on, both by the Court and following objections from Mr Richards, because the Mother's evidence was not confined to proper updating matters. Mrs Marshall's examination in chief ultimately lasted an entire day.
359. It became apparent that, prior to the Imerman Ruling, the Mother had placed considerable emphasis on her asserted inability to continue employment with Company A if she remained in Bermuda. This position was undermined once the Court rejected her evidence in the Imerman Ruling. The Mother then attempted to avoid the effect of that finding by suggesting that the ruling was premature and that the content of the emails was irrelevant to the LTR Application.

360. As explained in paragraphs 313 to 325 above, I rejected that submission. The Court was *functus officio* and the Mother was not entitled to revisit those findings or seek a fresh interpretation of the emails.

361. Mrs Marshall also criticized paragraph 50 of the Imerman Ruling, which provides:

“In case I am wrong on the factual findings, I address discretion. Even if the images had been obtained without authority, I would have refused the relief sought. The content of the emails are central to the issues the Court must resolve in the wider proceedings. The discretion to exclude evidence obtained unlawfully exists, but it is to be exercised so as to secure a fair trial. On these facts exclusion would risk obscuring the true picture and impede a just outcome.” [Emphasis added]

362. Mrs Marshall argued that this finding was wrong because, in her submission, the Mother’s employment circumstances were not a central theme of the LTR Application. I do not accept that submission. The finding was made in the Imerman Ruling, and the Court is *functus officio*.

363. It is also necessary to address paragraph 50 of Mrs Marshall’s written submissions, in which she stated:

“...With the utmost respect to the court, whether and to what extent the Mother lied about the content and import of the emails and whether the Father had accessed them without her consent is not a central or even tangential issue of this Leave to Remove proceedings...” [Emphasis added]

364. This submission is untenable. If the content of the emails were irrelevant, it is unclear why the Mother considered it necessary to bring the Imerman Application in the first place. She pursued that application at considerable expense, seeking to exclude the very images she now claims were of no significance. That position is inconsistent with the time and resources devoted to seeking their exclusion. The only reasonable conclusion is that the content of the emails was indeed central to her case.

365. The Mother’s manipulation, exaggeration and, at times, fabrication of evidence during cross-examination give me little confidence in her stated motives for the LTR Application. I accept that the Father’s motivation in opposing the application is grounded in genuine concern for the Children’s welfare. I do not suggest that the Mother does not care for the Children, but her focus appears to have been primarily on her desire to return to the United States.

366. Two examples of fabricated evidence illustrate this concern. First, the Mother claimed that the Father told her he would “*walk into the ocean and drown himself*” if she left Bermuda with the Children. Second, she alleged that B cries and has tantrums for approximately one hour every morning before school. Had either of these events occurred, they would have been disclosed at the earliest opportunity, particularly given their relevance to the Children’s welfare. Numerous letters were exchanged between Counsel from January 2025 onward, and neither allegation appears in any correspondence. These assertions were raised only in cross-examination, which further undermines their credibility.
367. I have also considered the Mother’s attempt to minimize the Father’s recent involvement with the Children by reducing his role to that of a ‘driver’, and her emphasis on the Children’s relationship with her own family and friends. This gives me limited confidence that she would promote the Children’s relationship with the Father. Matters that could have been resolved early became, instead, an escalating pattern of misrepresentation. The Mother was unhappy living in Bermuda from the outset, and in my view, this was the true motivation behind the relocation request.
368. The Mother’s approach significantly lengthened the hearing from five days to ten days. It also resulted in a large volume of additional material that did little to advance the welfare analysis. The Court was required to review more than 1,200 pages of documents in the hearing bundles and numerous exhibits introduced during the hearing. The Mother introduced fifteen exhibits, many comprised of multiple documents. The Father produced eleven exhibits in response. This approach delayed the issuance of these Reasons and created unnecessary complexity.
369. The bulk of the *viva voce* evidence arose because of positions taken by the Mother. Over six days of evidence, she spent one day giving examination in chief in an effort either to bolster earlier assertions or to introduce completely new matters that should have been disclosed well before the hearing. Counsel for the Mother then cross-examined the CASW for an entire day and cross-examined the Father for two days. I accept that the Mother’s approach, including her pursuit of the Imerman Application, was inconsistent with her stated position that she wished to share care with the Father and work cooperatively with him if permitted to relocate.
370. The Mother also sought to portray the Father as posing a safety risk by raising concerns about his mental health. These concerns were not mentioned in her First Affidavit or at any earlier stage. They were raised for the first time at the hearing. This timing suggests that they were not genuine welfare concerns but were raised to support her application.
371. Notably, during cross-examination, the Mother conceded that she did not understand why such significance was being placed on her allegations about the Father’s historical and

current mental health. She also accepted that she had no concerns about the Children's safety when they were in his care. She added that she believed the Father should provide a long psychiatric history because she had provided her own. This position is inconsistent with her suggestion that the Father poses a risk.

372. If the Mother's expressed position had been accurate, the hearing would have been focused on comparing the parties' respective plans. Instead, the Mother sought to undermine the Father through allegations that he had deceived her into coming to Bermuda and had then trapped her there, that he prioritised money over the Children, that he engaged in coercive or controlling behaviour, and that he had a significant mental health history that placed the Children at risk. These allegations arose late, lacked independent support and were inconsistent with contemporaneous material.

373. For the avoidance of doubt, I have applied a self-directed Lucas Direction in relation to the Mother's honesty both in the Imerman Ruling and throughout the LTR Application. As it relates to the four conditions expressed in *R v Lucas* by Lord Chief Justice Lane, I find as follows:

- (i) All of the Mother's untruths have been deliberate.
- (ii) Her untruths are directly material to the determination of the LTR Application.
- (iii) The Mother's lies are undoubtedly due to her fear of the LTR Application not being successful.
- (iv) There is ample evidence that shows the Mother's lies throughout these proceedings.

374. The credibility issues are relevant not only to disputed facts but also to my assessment of the Mother's ability to meet the Children's needs, including the demands of her employment, her capacity to co-parent in a cooperative manner and her willingness to promote the Children's relationship with the Father.

375. Finally, it is necessary to consider what I regard as the motivation behind the Mother's lack of candour. I do not criticize her desire to return to the United States. I accept that she was unhappy in Bermuda from the outset and that this has affected her mental wellbeing, particularly since the commencement of litigation. My view is that she did not want to be perceived as a mother who chose to leave her Children in Bermuda. Her reluctance to be candid may have been influenced by feelings of shame about prioritizing her career and about feeling isolated. I recognize that women who seek to prioritize their careers can often face unfair criticism. Had the Mother been transparent from the outset, the parties may well have reached agreement without the need for extensive litigation. The strain created by

these proceedings has undoubtedly, negatively affected both parties and, most importantly, the Children. It is likely that the Mother now regrets her approach.

376. As to the Father, I find his evidence to be measured, consistent and supported by documentary and independent material. He acknowledged past difficulties, including historical mental health challenges, and did not minimise them.
377. I am also satisfied that the Father provided a candid explanation of his employment circumstances and his involvement in the Children's lives. I accept his evidence that his employment cannot be relocated to the United States and that he is required to remain in Bermuda.

7.8 APPLICATION OF THE UK WELFARE CHECKLIST

378. Each factor in the UK Welfare Checklist is addressed in turn below. The evidence presented in sections 6.1 to 6.6 overlaps with these considerations, and several of the factors relate closely to one another. Therefore, the absence of a specific reference to a particular piece of evidence under an individual factor should not be taken to mean that it was not considered as part of the overall analysis.

7.8.1 The ascertainable wishes and feelings of the children (considered in light of their age and understanding)

379. Whilst A has expressed views about living in the United States, including positive associations with extended family and aspects of her earlier life there; the evidence does not satisfy me that her wishes were expressed in a settled, consistent and independently formed manner, divorced from the context of parental conflict and the Mother's clearly stated intentions.
380. I attach weight to the SIR, which recorded concern about the extent to which A may have been exposed to adult issues and discussions about relocation. In those circumstances, caution is required before attributing decisive weight to her expressed wishes. They are one relevant factor, but they cannot be determinative.
381. As to B, I accept that his age and developmental stage make direct expression of wishes more difficult. Whilst his wishes were not explored directly by the CASW, I do not find this omission materially undermines the welfare analysis given B's age. His attachment needs and emotional presentation are more reliably assessed through observed behaviour, routine and caregiving patterns rather than a verbally expressed preference. Therefore, B's 'voice' is clearly presented in the SIR by taking into account these factors.

7.8.2 Physical, emotional and educational needs

382. The Court must scrutinize the Mother's relocation plan to determine whether it is viable, coherent and genuinely child-focused. Having considered the totality of the evidence, I am not satisfied that it is. The Father's position that the plan is neither well-developed nor reliably investigated is supported by the evidence.
383. On the evidence before me, the Court finds that the primary motivation behind the Mother's application is her own desire to leave Bermuda, rather than a carefully structured plan for the Children's welfare. The arrangements proposed for the Children appear to have been secondary, adapted intermittently to address deficiencies highlighted during the litigation. I agree with Mr Richards' analogy of the Mother's proposals resembling a vessel from which water continually escapes; whenever a weakness in her plan was exposed, she attempted to apply a patch rather than present a stable and considered proposal grounded in prior planning. Consequently, this affects the weight the court can attach to her assertions, particularly where they are unsupported by objective evidence.
384. Examples of the Mother's ever-changing evidence regarding pertinent issues are as follows:
- (i) The Children's schooling has changed both in terms of identification and in terms of the type of school in which the Mother was seeking to place the Children. Initially the Children were to go to a small supportive school together, whereas now A is to attend a large school whilst B is to attend an Italian speaking school for one year, with the possibility of moving again.
 - (ii) The proposed housing has changed and is not clear. The Mother had initially sought to rent in one area, but she now seeks to move back into the US Property which is fraught with difficulties given the parties have not resolved their financial affairs. It is unclear if the Mother were granted permission to leave immediately where the Children would reside.
 - (iii) The Mother had initially indicated she would require the support of a Nanny, listing her previous help, , as that person. She had budgeted for \$2,000 per month for this assistance but now indicates that she can collect the Children directly. This is in response, no doubt, to the Father pointing out that the Children would be collected by a Nanny in the United States, whereas they could be collected by him directly in Bermuda.
 - (iv) Daily travel plans were provided on the first day of the hearing and were entirely new to both the Father and the CASW. The new plan appears to be that A will travel to school each day via bus and that she will then remain at school

until 5:30 undertaking unspecified activities. The Mother contends that she will be able to collect B from school each day and take him to unspecified activities.

385. The Children's physical needs are being met in Bermuda. They have suitable housing, attend school and receive routine healthcare. The primary consideration relates to their emotional and educational needs.
386. I acknowledge that the Mother has played an important role in supporting the Children emotionally and has historically (and recently) been actively involved in their education and care. However, the evidence does not demonstrate that these needs cannot be met in Bermuda with the Father, nor does it indicate that the Children are currently at risk. Although proximity to the Children's maternal grandparents may foster a closer relationship with them, this benefit does not outweigh the potential loss of their relationship with the Father.
387. Regarding A, there is some evidence of educational frustration. Nevertheless, I am not persuaded that her needs cannot be addressed within the Bermudian educational system. Similarly, I do not accept that A's difficulties are difficulties that exceed those commonly experienced by children of her age.
388. With respect to B, I have carefully considered the evidence concerning his neurodevelopmental and sensory needs. While he may require additional support, the evidence does not establish that appropriate educational or therapeutic resources are unavailable in Bermuda. Furthermore, there is no indication that any current shortfall has resulted in harm or developmental delay.
389. In comparison, although the Mother's proposed arrangements for the Children in the United States may appear attractive at first glance, the evidence before the Court does not sufficiently establish that these arrangements would result in a demonstrable or measurable improvement in the Children's overall welfare.

7.8.3 The likely effect of any change in circumstances

390. I consider this to be a critical factor in the present case. The Children are settled in Bermuda. They have established routines, schooling, friendships, and had (prior to the Mother returning to the United States in November 2025) a predictable pattern of involvement with both parents.
391. Relocation would involve a substantial change: a new country, new schools, new routines, and a fundamental alteration to the Children's relationship with their Father. That change would be immediate and enduring.

392. While refusal of relocation may result in the Mother choosing to leave Bermuda, I am not persuaded that this outcome necessarily equates to emotional harm. The evidence establishes that the Father can meet the Children's day-to-day needs and that meaningful contact with the Mother can be maintained.
393. On the other hand, the loss to the Father-child relationship that would be occasioned by relocation would be profound and not realistically remediable through holiday contact alone.

7.8.4 Age, sex, background and relevant characteristics

394. The Children are dual nationals with connections to both Bermuda and in the United States. While they were born in the United States, they have spent a significant and formative period of their lives in Bermuda and have limited recollection of independent life in the United States.
395. A's approach to adolescence is a relevant consideration, but it does not lead inexorably to the conclusion that her welfare requires relocation. Adolescence also brings an increased need for stability, routine and protection from adult conflict (which the Mother has been shown to involve her).
396. B's vulnerabilities require consistency and predictability. I am satisfied that these are currently better achieved by maintaining his settled environment rather than introducing multiple simultaneous changes. I do not accept that B requires the level of resources the Mother suggests are necessary that are not already in place in Bermuda.

7.8.5 Any harm the children have suffered or are at risk of suffering

397. I find no evidence that the Children have suffered harm while in the care of either parent, save for the Mother's involvement of A in her conflict with the Father. The risks identified are therefore largely prospective rather than historic.
398. The Court has significant concerns regarding the Mother's clear influence over A by inappropriately involving her in adult issues; ultimately, this behaviour is akin to parental alienation and can have a devastating impact on the Children and particularly on their relationship with the Father.
399. Accordingly, the Court attaches weight to the risk of emotional harm arising from instability, prolonged litigation and exposure to adult conflict. In my view, that risk is far more likely if relocation were granted and in the primary care of the Mother than if the Children remain in Bermuda.

400. I am not satisfied that the Father's historic mental health difficulties present any current safeguarding risk. They are well-documented, historic and unsupported by evidence of present impairment. Indeed, the Mother's *viva voce* evidence confirmed she had no concerns for the Children's safety when in the care of the Father.
401. The issue of immigration status has been raised but does not, on the evidence before me, amount to a present welfare risk of sufficient weight to justify relocation.

7.8.6 The capability of each parent to meet the children's needs

402. The Mother has demonstrated resilience and commitment, but aspects of her evidence raise concerns about insight, proportionality and future co-parenting. The Father has demonstrated consistency, emotional availability and a willingness to place the Children's needs above the conflict between him and the Mother.
403. I do not accept the Mother's assertion that her capacity to parent, as presented, outweighs the Father's ability to meet the Children's needs. While the Mother has historically played a significant role in the Children's care, the evidence does not support the conclusion that the Father's involvement has been merely logistical or that he lacks emotional or developmental engagement with the Children. On the contrary, the Father's involvement has increased as a function of necessity and circumstance, and I am satisfied that he has demonstrated a consistent, reliable and child-focused approach to parenting.
404. The Court also finds that the Mother's work responsibilities have been largely overstated and I am not satisfied the Mother has presented any reliable evidence that her role is flexible and will allow her to have a primary role in the Children's care rather than having to rely on a nanny or others to assist.
405. I do not accept the contention that refusal of relocation would result in the Father assuming sole care for the first time in a manner that poses a risk to his wellbeing or that of the Children. The evidence establishes that the Father can meet the Children's day-to-day needs and has done so to a substantial degree. I am satisfied that he has the emotional capacity, organizational stability, and practical availability to assume primary care if required.
406. I have considered the affidavit evidence of the Nanny. While her evidence provides a historical perspective on caregiving arrangements, i.e. for the period the parties were residing in the United States, I do not accept that it establishes an ongoing or current deficit in the Father's parenting capacity. To the extent that her evidence describes periods of withdrawal or disengagement by the Father, those matters relate to historical circumstances and must be assessed in light of the expert medical evidence as a whole. I am not persuaded

that they demonstrate a present or prospective risk to the Children were they to remain in the Father's care.

407. Moreover, I am satisfied that the Father has been open about his historical mental health difficulties and has produced independent medical evidence confirming his current stability. I do not accept that the evidence supports the finding of sustained disengagement of the kind alleged, nor that the Father has sought to minimize material risks. By contrast, I find that the concerns raised by the Mother in this regard emerged late in the proceedings and are unsupported by independent, expert evidence.
408. The Court has also considered the relative support structures available to each parent. While the Mother purports to rely on a network of extended family and friends in the United States, the evidence does not establish that this support is materially stronger or more reliable than that available to the Father in Bermuda. Indeed, the Mother's reliance on her parents to assist with caregiving historically has been greatly overstated. I am satisfied that the Father has appropriate mechanisms in place to identify and respond to the Children's needs and that he can seek assistance if necessary.
409. Of considerable significance is the Father's demonstration of a sincere willingness and ability to promote the Children's relationship with the Mother. The Mother's conduct in relation to information-sharing, including decisions regarding therapy and schooling, withholding contact unreasonably (January 2025 until she returned to the United States), involving A in these proceedings by influencing her to express she wants to go to the United States, all raise concerns about her future promotion of co-parenting should the Children reside primarily with her outside the jurisdiction.
410. Taking these matters together, I am satisfied that the Father is able to meet the Children's physical, emotional and developmental needs and that their welfare would not be compromised by remaining in his care. Additionally, I find that the Father is better placed to provide stability, continuity and support for the Children while promoting their relationship with the Mother (the non-resident parent).

7.8.7 The range of powers available to the Court

411. The stark reality of the LTR Application is that the Court must choose between maintaining the Children's settled life in Bermuda, with arrangements that preserve meaningful relationships with both parents or by sanctioning a relocation that would fundamentally alter those relationships. The Court has a wide discretion which is not bound by either party's proposals for resolution.

8. CONCLUSION

412. In reaching my decision, I have given careful and thorough consideration to all the evidence presented, including the oral testimony, the documentary materials comprising the affidavits and exhibits, and the written and oral submissions of Counsel. While not every issue raised during the proceedings has been expressly addressed in these Reasons, that should not be taken as an indication that it was overlooked. All matters advanced by the parties have been weighed in the Court's assessment the absence of express reference reflects only that such evidence was not assessed as carrying sufficient weight or significance to require specific discussion.
413. I remind myself that in determining an application of this nature the welfare of the Children is the paramount consideration. No other factor, whether the wishes or convenience of either parent or the practical consequences of competing proposals, can displace that principle. All other considerations are necessarily subordinate to it.
414. I have applied no presumption in favour of a primary carer, nor any lesser or modified evidential threshold for a parent who presents as a returning parent. The authorities confirm that the Court must conduct a fact specific, child focused inquiry in every case, without reliance on labels or classifications that risk obscuring the central question, namely what outcome best promotes the welfare of the Children.
415. The correct approach requires holistic welfare evaluation. This involves identifying each realistic option available to the Court, considering the advantages and disadvantages inherent in each, and then standing back to determine which course best serves the Children's long term welfare needs. It is not sufficient to consider the Mother's proposal in isolation or on its own merits. It must be examined comparatively and within the broader welfare matrix.
416. Where there were conflicts in the evidence, it was necessary to make findings of fact and credibility. These findings were made not as an end in themselves but because they inform the welfare analysis. The likely future behaviour of each parent, including their reliability, insight and capacity to meet the Children's emotional and developmental needs, forms an essential part of the Court's evaluative exercise.
417. Having applied the welfare principle and conducted a full comparative analysis of the available options, I conclude that relocation to the United States does not best promote the welfare of the Children. The disruption involved in such a move, the significant diminution in the frequency and quality of the father-child relationship, along with the absence of demonstrated necessity for relocation collectively outweigh the benefits advanced by the Mother.

418. The analysis of the UK Welfare Checklist, considered as a whole, points clearly and consistently toward the Children remaining in Bermuda. I am not satisfied that the Mother's relocation plan is sufficiently settled or coherent. Key elements including accommodation, schooling, childcare arrangements and financial sustainability remain uncertain. The Children would face a midterm change of school, a new environment, and the loss of the regular and in person paternal relationship that they currently enjoy. The loss to the father-child relationship under the Mother's proposal would be profound, long-lasting and impossible to remedy through holiday contact or electronic communication alone. No countervailing welfare advantage has been established that would justify or offset that loss.
419. Accordingly, the application for leave to remove the Children from Bermuda is refused. The Children's welfare is best served by remaining in Bermuda.
420. As it relates to costs, as indicated in the Decision dated 31 December 2025, I will hear Counsel on this issue with a view of Counsel agreeing a timeframe for the filing of submissions and providing mutually agreed dates for a one-day hearing.

DATED this 20th day of February 2026



ALEXANDRA WHEATLEY
ASSISTANT JUSTICE OF THE SUPREME COURT