



IN THE SUPREME COURT OF BERMUDA

DIVORCE JURISDICTION

2022: No. 3

BETWEEN:

C

Petitioner

-and-

C

Respondent

RULING

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

Appearances: **Aqueelah Simmons of Chancery Legal, for the Applicant**
Sarah Bailey Munroe of Richards Limited, for the Respondent

Dates of Hearing: 14, 15, 16 and 17 July 2026

Dates of Submissions: 21 July 2026

Date Draft Ruling Circulated: 29 July 2026

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*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*

INTRODUCTION

1. These proceedings concern two children of the family, the older child who will be referred to as ‘Y’ (now aged 11) and the younger child who will be referred to as ‘Z’ (now aged 4) (hereinafter collectively referred to as the **Children**). The Court is required to determine competing applications relating to the future care arrangements of the Children and, in particular, whether the Petitioner (hereinafter referred to as ‘**the Mother**’) should be granted leave to temporarily remove them from Bermuda to the United States¹.
2. The Mother's application was filed on 10 March 2026 (**the Temporary Relocation Application**) in which she seeks leave to temporarily remove the Children from Bermuda, confirmation that the parties shall continue to exercise joint custody, affirmation that she shall retain sole care and control of the Children, together with an order for child maintenance. The proposed relocation is said to be for the limited purpose of enabling the Mother to complete a doctoral program over a 4-year period, after which she asserts that she intends to return to Bermuda with the Children.
3. The Respondent (hereinafter referred to as ‘**the Father**’) opposes the Temporary Relocation Application. He contends that the Children's welfare is best served by remaining in Bermuda where they presently enjoy meaningful and frequent relationships with both parents and their extended families.
4. By cross-application dated 15 April 2026, the Father seeks sole care and control of the Children in the event that the Mother elected to relocate without them. However, prior to the substantive hearing, the Mother confirmed that she would not relocate in the absence of the Children. The Father's primary position therefore became one of shared care and control, with the Children remaining resident in Bermuda on an alternating weekly schedule.
5. The Court heard evidence over four days from both parents, the Court Appointed Social Worker, Mr Sijan Caisey (**CASW**), and the LG, Dr Susan Adhemar (**the LG**). In addition to the oral evidence, the Court considered the affidavits filed by the parties together with the

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

Social Inquiry Report dated 1 July 2026 (**the SIR**) and the LG's Report dated 25 April 2026 (**the LG Report**).

6. Following the conclusion of the evidence, the Court received comprehensive written closing submissions from both Counsel as well as oral presentations of those submissions via audio-visual link. Those submissions addressed the applicable statutory framework, the relevant authorities concerning international relocation, the expert evidence and the competing welfare proposals advanced on behalf of each parent.
7. It is common ground that there are no safeguarding concerns regarding either parent. Neither the LG nor the CASW identified any evidence suggesting that either parent poses a risk of harm to the Children. Rather, both experts recognised that the Children enjoy loving and beneficial relationships with each of their parents. The principal dispute before the Court therefore concerns which proposal better promotes the Children's welfare when viewed holistically.
8. The Court has carefully considered the affidavit, each expert report, the oral testimony of each party and the detailed written submissions filed on behalf of both parties. Whilst every submission cannot be referred to expressly within this decision, all matters relied upon by Counsel have been taken into account in reaching the conclusions which follow.

THE INDEPENDENT EVIDENCE

9. The Court had the benefit of two independent professional assessments, namely the LG's Report and the SIR. Both reports were commissioned for the purpose of assisting the Court in determining the Children's welfare in its consideration of the Temporary Relocation Application.
10. Both experts agreed upon a number of important matters. Neither identified any safeguarding concerns regarding either parent. Neither suggested that either Y or Z had suffered abuse or neglect. Both recognised that the Children enjoy close and meaningful relationships with each parent and that each parent is capable of meeting their day-to-day care needs.
11. The LG ultimately expressed the opinion that the proposed relocation could promote the Children's welfare, principally because she considered that the Children were resilient, that the proposal had been carefully researched by the Mother and that meaningful contact with the Father could continue through structured holiday arrangements and electronic communication. She also regarded the educational opportunity available to the Mother as genuine and capable of providing long term benefits for the family.
12. The SIR adopted a more cautious position. Rather than recommending that the Temporary Relocation Application either be granted or refused, the CASW concluded that the ultimate welfare determination rested with the Court. He accepted that the Mother had undertaken substantial planning but also recognised the importance of preserving the Children's

relationship with their Father and acknowledged that any successful relocation would depend significantly upon the parents' future cooperation.

13. During cross examination, the CASW accepted that Y experienced emotional conflict when discussing the proposed relocation. He also accepted that the Children looked to both parents for reassurance and that the long-term success of any relocation would depend upon the parents' willingness to actively promote the Children's relationship with the other parent.
14. The Court has attached significant weight to both expert reports. However, as both experts properly acknowledged, neither report determines the outcome of these proceedings. The ultimate welfare assessment remains one for the Court.

THE LAW

15. 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.
16. It is well established that there is no presumption in favour of either permitting or refusing relocation. Every relocation application requires an individual welfare assessment based upon its own facts. The Court must compare the competing proposals and determine which better promotes the welfare of the particular children before it.
17. Both Counsel accept that the welfare checklist contained within section 1(3) of the Children Act 1989 of England and Wales, whilst not binding upon this Court, provides a useful analytical framework. The Court will therefore consider each of the recognised welfare factors individually before evaluating them collectively.
18. In *Re F (A Child) (International Relocation)* [2015] EWCA Civ 882, Ryder LJ reaffirmed that the welfare of the child remains the only governing principle and that where competing proposals exist, each must be analysed independently before being compared side by side. That approach has consistently been recognised by the Bermuda courts and shall be adopted in this case.
19. The Court also accepts that, although the Temporary Relocation Application is expressed to be 'temporary', a proposed relocation lasting approximately four years necessarily requires careful consideration of both its immediate and long-term welfare consequences. The Court must therefore evaluate not only the advantages asserted by the Mother but also the inevitable reduction in the Children's day-to-day relationship with their Father, the effect upon their wider family relationships, the disruption to their education and social networks, together with the practical uncertainty surrounding any future return to Bermuda.

THE PARTIES' POSITIONS

20. Although there is considerable disagreement between the Mother and the Father regarding the appropriate outcome, there is significant common ground. Both parents seek to continue exercising joint custody of the Children. Both acknowledge the importance of the Children's relationship with the other parent. Both accept that neither parent presents a safeguarding risk. The dispute concerns where the Children's welfare is best served during the next four years.

The Mother's Position

21. The Mother's position is that the Court should grant leave for the Children to temporarily relocate with her to the United States, whilst she completes doctoral studies. Ms Simmons submits that the relocation is genuine, carefully researched, financially viable and motivated solely by the long-term welfare of the Children rather than any desire to interfere with the Father's relationship with them.
22. It is also submitted by Ms Simmons that the Mother has undertaken extensive planning for every aspect of the proposed relocation. Counsel points to evidence relating to accommodation, schooling, childcare, immigration requirements, healthcare, financial support, transportation and community resources. Therefore, Ms Simmons argued that the proposal is not speculative but supported by documentary evidence demonstrating that appropriate arrangements have been identified.
23. Ms Simmons also emphasised that the proposed relocation is fundamentally different from many international relocation cases because it is intended to be temporary. She highlighted that the purpose of the move is to obtain a doctoral qualification that will substantially improve the Mother's long-term earning capacity and thereby provide enhanced financial security and greater educational opportunities for the Children following their return to Bermuda.
24. The Mother places reliance upon the fact that she has been the Children's primary caregiver throughout their lives. Ms Simmons submitted that the Children have developed secure attachments to the Mother, that they have consistently looked to her to meet their daily emotional and practical needs, and that maintaining this established caregiving arrangement best promotes their welfare.
25. The Mother accepts that the relocation would necessarily reduce the frequency of the Father's face-to-face contact with the Children. However, Ms Simmons says that this reduction can be adequately mitigated through the following means: extended holiday contact; regular telephone and video communication; ongoing sharing of educational and medical information; and additional contact whenever reasonably practicable. Ms Simmons highlighted that since the parties' separation, the Mother has consistently encouraged the Children's relationship with their Father and intends to continue doing so throughout the proposed relocation.
26. Counsel further submits that the educational opportunity available to the Mother is unique and unlikely to arise again. Therefore, Ms Simmons argues that refusal of the Temporary Relocation Application would require the Mother either to abandon a significant professional opportunity

or relocate without the Children, neither of which is said to promote their welfare. Accordingly, the Mother therefore invites the Court to conclude that the proposed temporary relocation represents the option most consistent with the Children's best interests.

The Father's Position

27. The Father opposes the Temporary Relocation Application in its entirety. Ms Bailey Munroe submits that the Children should remain resident in Bermuda where they can continue enjoying direct and meaningful relationships with both parents. Ms Bailey Munroe confirmed that the Father's primary position is that the parties transition to an equal shared care and control arrangement wherein the care of the Children is scheduled on an alternating weekly basis. Alternatively, he seeks an order reflecting the present arrangements which, he submits, already result in the Children spending almost equal time with each household throughout the course of a year.
28. Counsel for the Father submits that the present arrangements have worked well for the Children and that they have developed strong emotional attachments to both parents. It is argued that the Children presently enjoy stability in their schooling, friendships, extracurricular activities and relationships with their wider maternal and paternal families, all of which would be substantially disrupted by the proposed relocation.
29. The Father further contends that the Mother's proposal would dramatically reduce his direct contact with the Children. Ms Bailey Munroe submitted that, notwithstanding the proposed electronic communication and limited holiday contact, the Children would lose the benefit of their regular day-to-day interactions with him during a particularly significant stage of their development. Counsel argues that modern technology cannot adequately replace the ordinary daily experiences through which meaningful parental relationships develop.
30. Moreover, Ms Bailey Munroe submitted that the Mother's proposal for access twice per year of 2 to 4 weeks during the summer and 2 weeks either during the Thanksgiving or Christmas Holiday is simply not in any way adequate for the Children to maintain a meaningful relationship with the Father. It was submitted that the Mother's oral evidence that she was open and willing to facilitate access during other school holidays should have been contained within her affidavit evidence setting out a detailed schedule.
31. It is also submitted that the proposal involves considerable uncertainty. Whilst described as temporary, the Father argues that there remains a genuine possibility that the relocation could become permanent. Counsel submits that if the Children establish habitual residence in the United States, any future litigation concerning their return would likely occur before the American courts rather than the Bermuda courts. That uncertainty is said to be an important welfare consideration.
32. The Father also challenges the financial viability of the Mother's proposal. Counsel submits that the proposed budget is incomplete, that important living expenses have not been fully accounted for, that the proposal relies heavily upon anticipated financial assistance from the maternal grandfather. Overall, Ms Bailey Munroe says that insufficient evidence has been

produced regarding the long-term sustainability of the arrangements and importantly highlighted the significant funding that would be required to cover travel costs.

33. Counsel further argues that the anticipated educational and cultural advantages relied upon by the Mother have not been demonstrated by objective evidence. Whilst acknowledging that the Mother may personally benefit from obtaining a doctoral qualification, Ms Bailey Munroe submits that any future benefit to the Children remains speculative, whereas the disruption to their present lives would be immediate and certain.
34. Ultimately, Ms Bailey Munroe submitted that the Children's welfare is presently being well served in Bermuda. She highlighted that the Children have secure attachments to both parents, they are thriving within their current routines, and there exists no welfare deficit requiring such a substantial intervention. Ms Bailey Munroe therefore submits that the Court should refuse the Temporary Relocation Application and instead preserve the Children's existing relationships and stability by requiring them to remain in Bermuda.

THE PARTIES' EVIDENCE

35. There was relatively little disagreement regarding the broad factual background. The parties married in 2018 and were divorced in 2022. Orders were subsequently made providing for joint custody, sole care and control to the Mother and liberal access to the Father on an interim basis. Since that time, the Children have enjoyed substantial periods of time in the care of each parent, although the parties disagree as to the precise division of that time.
36. The Mother gave evidence that she has remained the Children's primary caregiver throughout their lives. She described herself as being responsible for their day-to-day routines, medical appointments, educational matters, health insurance and general welfare following the parties' separation. She maintained that she has consistently facilitated the Father's relationship with the Children despite significant communication difficulties between the parties.
37. The Mother further explained that she first informed the Father of her intention to pursue doctoral studies in November 2025. According to her evidence, she thereafter spent several months researching the proposed relocation before commencing these proceedings. She described the opportunity to complete a doctoral degree as unique and capable of materially improving both her own future career prospects and the Children's long-term financial security.
38. During cross examination, the Mother accepted that certain aspects of her proposed budget remained incomplete. She acknowledged that she had not yet received definitive information regarding her taxation obligations in the United States and accepted that her projected expenditure did not include every conceivable expense. She nevertheless maintained that any shortfall would be met through financial support from her father together with any child maintenance ordered by the Court.

39. The Mother also accepted that the Children would inevitably experience disruption should the relocation occur. She highlighted that the Children would also be required to change schools if they were to remain in Bermuda as they have both just completed transition years in each of their respective schools. The Mother nevertheless maintained that they were resilient children who had successfully adapted to previous changes in their lives (as was confirmed in the LG's oral evidence) and that the long-term advantages of the relocation substantially outweighed any temporary adjustment period.
40. The Father gave evidence that the Children presently spend a significant proportion of their time in his care and that, when school holidays are taken into account, the practical arrangements have developed into an almost equal sharing of parenting responsibilities. He produced calendars and other documentary material in support of that assertion. He maintained that the Children have developed strong and secure attachments to him and his extended family which should not be unnecessarily disrupted.
41. The Father acknowledged that he has long wished to exercise shared care and control on a 50/50 basis. He accepted that he did not previously issue an application seeking such an arrangement but explained that the Mother's relocation proposal fundamentally altered the circumstances and required him to place his position before the Court.
42. The Father maintained throughout his evidence that his objection to the relocation is centred upon the Children rather than himself. He repeatedly expressed concern regarding the reduction in their day-to-day relationship with him, the disruption to their schooling, the loss of their relationships with their wider family and the uncertainty associated with any future return to Bermuda.

FINDINGS AND ANALYSIS

43. Applications involving the international relocation of children are amongst the most difficult decisions that courts are required to determine. They inevitably involve competing advantages and disadvantages regardless of the outcome reached. Where parents reside in different countries, the practical reality is that the children cannot simultaneously enjoy the same degree of regular physical contact with both parents. Consequently, the Court's task is not to identify a perfect outcome, but rather to determine which of the competing proposals best promotes the Children's welfare.
44. It is also important to recognise that this application concerns a temporary relocation rather than a permanent relocation. Nevertheless, the proposed period of approximately four years represents a significant proportion of Y's adolescence and encompasses almost the entirety of Z's early childhood. Whilst the Mother maintains that she intends to return upon completion of her studies, the Court must assess the Temporary Relocation Application on the practical consequences that are likely to arise during the proposed period of absence together with any foreseeable risks associated with that proposal.

45. The Court has considered the evidence of each witness, the expert reports and the detailed submissions filed on behalf of both parties. The central question is not whether the Mother's proposal is genuine or whether she would personally benefit from completing her doctoral studies. The issue is whether the proposed relocation better promotes the welfare of the Children than their continued residence in Bermuda.
46. I accept that the Mother has a genuine desire to pursue a doctoral degree. I also accept that the programme may improve her future professional opportunities and earning capacity. Those matters are relevant. They are not, however, determinative. The Mother's educational ambitions must be considered through the lens of the Children's welfare.
47. I further accept that the Mother has undertaken considerable research. She has investigated housing, schools, childcare, healthcare, transport and immigration matters. The Temporary Relocation Application cannot properly be characterised as impulsive or entirely unplanned.
48. There are nevertheless important weaknesses in the proposal. The financial arrangements are not as secure as the Mother suggests. Her budget leaves little room for unanticipated expenditure. It does not fully account for taxation, travel, contact costs and other expenses likely to arise during a four-year period. The proposal also depends upon continuing financial assistance from the maternal grandfather without detailed evidence concerning the amount, duration or certainty of that assistance.
49. Whilst the Father raised uncertainty regarding the Mother's ability to balance the demands of doctoral study, her Graduate Teaching Assistant responsibilities and the daily care of two children, the Court does not share this concern. The Court does not find that the Mother would be incapable of caring for the Children in the United States. The concern is comparative. In Bermuda, the Children are supported by both parents and by members of their maternal and paternal families. They have established schools, routines, friendships and community connections. The proposed relocation would replace that settled arrangement with one that is less certain and more dependent upon future events.
50. The Court must also consider the Father's position on its own merits. The Children presently spend significant time in his care. The evidence demonstrates that he is not a peripheral parent. He has an established and important role in their daily lives.
51. The precise mathematical division of the Children's time was disputed. It is not necessary for the Court to determine whether the Father's care amounts to exactly 48% or some lesser proportion. The relevant conclusion is that his care is frequent and meaningful. The Children spend regular weekends and considerable portions of their school holidays with him. Their relationship with him extends well beyond occasional access.
52. The evidence also establishes that the Children have close relationships with their paternal grandparents, maternal grandmother and other family members. Those relationships form part of their existing support system. They should not be treated as incidental merely because electronic contact could remain available after relocation.

53. The Father's proposal would permit the Children to maintain their relationship with both parents within the same jurisdiction. It would also preserve their friendships, extracurricular activities and broader family network. Although the parents have experienced communication difficulties, the present arrangements have continued to operate and have met the Children's needs.
54. The Court therefore rejects the submission that refusal of the Temporary Relocation Application would amount to maintaining an inadequate or harmful status quo. The evidence does not establish any present welfare deficiency requiring the Children to leave Bermuda.

The Ascertainable Wishes and Feelings of the Children

55. Y is 11 years old. Her wishes and feelings are therefore entitled to meaningful consideration, although they are not decisive. Z is four years old. Her age limits the weight that can safely be attached to any expressed preference.
56. The evidence concerning Y's wishes was not entirely consistent. She expressed both excitement and anxiety about the proposed move. She recognised that relocation might bring new experiences and opportunities. She was also distressed by the prospect of leaving her Father, her wider family, her school and her established life in Bermuda.
57. The CASW observed that Y became tearful when discussing relocation. He considered that she appeared conflicted and may have felt pressure not to disappoint either parent. The LG took a somewhat different view and did not conclude that Y had been coached or improperly influenced.
58. I accept that Y was not deliberately coached by either parent. I also accept that her conflicting statements were genuine. Her ambivalence is understandable. She loves both parents and is being asked to contemplate a choice that no child should feel responsible for making.
59. The Mother's submissions place weight upon Y's expressed interest in the opportunities available in the United States. The Father's submissions emphasise her emotional response and her attachment to Bermuda. Neither aspect should be considered in isolation.
60. In my judgment, Y's wishes do not provide clear support for the relocation. Her evidence demonstrates curiosity about the move but also significant concern about the loss of her existing relationships and way of life. Her emotional conflict weighs against placing her in a position where she must live abroad for four years while remaining uncertain about whether and when she will return.
61. Z is too young to understand the full implications of the proposal. Her welfare must be assessed primarily through her developmental needs and existing attachments. At her age, frequent and predictable contact with both parents is particularly important.
62. Z has not had the same number of years as Y in which to develop and consolidate her relationship with the Father. A substantial reduction in direct contact during the next four years

would occur during a formative stage of her childhood. Electronic communication would not provide an equivalent substitute.

63. I therefore find that the Children's wishes and feelings, considered in light of their respective ages and understanding, do not support the Temporary Relocation Application.

The Children's Physical, Emotional and Educational Needs

64. Both parents are capable of meeting the Children's basic physical needs. There are no safeguarding concerns and no suggestion that either parent has neglected the Children.
65. The Mother's proposal provides suitable accommodation and access to schooling and healthcare in the United States. The Court accepts that the Children's physical needs could be met if the relocation were permitted.
66. The more difficult issue concerns their emotional needs. The Children are closely attached to both parents. Their present arrangements enable those relationships to be maintained through regular physical contact.
67. Relocation would reduce the Father's role from frequent and direct parenting to concentrated holiday contact and electronic communication. That represents more than a change in scheduling. It would alter the nature of his relationship with the Children.
68. The proposed contact regime would not preserve the Father's present involvement in school matters, ordinary routines, extracurricular activities and the daily experiences that form part of family life. He would learn of many events after they occurred rather than participating in them.
69. This is particularly important in Z's case. A child of 4 years of age ordinarily experiences parental relationships through regular physical presence, repetition and routine (as confirmed in the LG's oral evidence). Long periods between visits may be experienced differently by a young child than by an older child with a more developed understanding of time and distance.
70. Y is better able to understand the concept of temporary relocation. Even so, four years is a substantial period. It would encompass important stages of her education and personal development. The fact that she could speak with the Father by audio-video telecommunication does not remove the emotional consequences of his absence from her daily life.
71. The Court has also considered the Children's educational needs. The Mother believes that the schools available in the United States would provide greater academic opportunities. However, the evidence does not establish that either child is presently educationally disadvantaged in Bermuda.
72. Y is settled within the Bermuda school system. The proposed move would require her to change schools and later face another transition if the family returns to Bermuda. Depending upon the timing of the return, she may re-enter the local system during an important stage of her secondary education.

73. Z would also experience educational transitions. The evidence indicates that the proposed arrangements may affect the level at which she enters school in the United States and may result in further changes during the period abroad and upon return.
74. The Court accepts that children are capable of adapting to school changes. Adaptability does not establish that the changes are beneficial or necessary. The question is whether the advantages of relocation outweigh the disruption. On the present evidence, they do not.
75. I accept that the Mother's future qualification may eventually increase her earning capacity. Any benefit to the Children arising from that improvement is long term and uncertain. The immediate educational consequences of the relocation are more concrete. They include leaving established schools and later facing another transition.
76. I find that the Children's emotional and educational needs are better served by remaining in Bermuda.

The Likely Effect of a Change in Circumstances

77. The proposed relocation would alter almost every significant aspect of the Children's lives. They would leave Bermuda, change homes, change schools, establish new friendships and adapt to a new community. They would also experience a substantial reduction in direct contact with the Father and their wider family.
78. The Court does not accept that the temporary description of the proposal materially reduces the extent of the change. Four years is not a brief absence. It represents more than one third of Y's present life and almost the whole of Z's life to date.
79. Whilst it is accepted that the Children have previously demonstrated resilience, resilience is a strength, but it should not be treated as a reason to expose children to avoidable upheaval. The Court must ask whether the change promotes their welfare, not merely whether they are capable of surviving it.
80. The LG considered that the Children could adapt without suffering lasting psychological harm. I accept that opinion. However, the absence of predicted long term harm does not establish that relocation is the preferable option.
81. A comparative welfare assessment requires the Court to consider the benefits of remaining as well as the risks of moving. The Children can remain in Bermuda without the risk of suffering harm. They can continue their education, maintain their friendships and preserve frequent contact with both parents.
82. The Mother's proposal also creates the prospect of a second major change at the end of her studies in four years. The Children would then be expected to leave the lives established in the United States and return to Bermuda. Y may be approaching important educational stages. Z may have spent most of her remembered childhood in the United States.

83. The Mother's present intention is to return to Bermuda. I do not find that she is presently acting dishonestly about that intention. However, circumstances may change during the next four years. She may obtain employment opportunities in the United States. Her personal relationship may develop. The Children may become settled in their schools and community.
84. The Mother's oral evidence acknowledged that the question of return would have to be considered in light of the circumstances then prevailing. That was a realistic concession. It also demonstrates that return cannot be regarded as certain.
85. If the Mother later concluded that return was not in the Children's interests, further litigation might become necessary. By then, the Children's habitual residence and the appropriate forum for determination may be disputed. The Court must take account of that risk even though it cannot predict precisely how any future proceedings would be resolved.
86. The likely effect of the proposed change is therefore considerable. The Children would experience immediate disruption, reduced family contact and uncertainty regarding their eventual return. Remaining in Bermuda would preserve the greater degree of continuity and stability.
87. This factor weighs significantly against relocation.

The Children's Ages, Background and Relevant Characteristics

88. The Children are Bermudian with established family, educational and community connections in Bermuda. They also have links to the United States through citizenship and the Mother's proposed educational arrangements.
89. The Mother's proposal would expose them to a different culture and provide an opportunity to live abroad. That may offer useful experiences. International exposure is not, however, inherently superior to the life presently available to them in Bermuda.
90. The evidence does not establish that the Children's cultural, educational or developmental needs require residence in the United States. Nor does it establish that their present environment lacks appropriate opportunities.
91. Y is at an age where friendships, school identity and social belonging are becoming increasingly significant. Relocation would require her to leave those connections. A later return would require another process of adjustment.
92. Z is at a stage where stability, routine and frequent contact with attachment figures are of particular importance. Her young age increases rather than reduces the significance of the proposed separation from the Father.
93. The Children's sibling relationship is also relevant. The Court accepts that they should remain together. Neither party proposes otherwise. Refusal of the Temporary Relocation Application

will not separate them from each other or from the Mother as the Mother has confirmed that she will not relocate without them.

94. The Children's ages, background and characteristics favour continuity within their established Bermudian environment.

Any Harm Suffered or Risk of Harm

95. There is no evidence that either child has suffered physical harm in the care of either parent. No safeguarding concerns were identified by the experts.
96. The relevant risk is emotional harm arising from parental conflict, loyalty pressure, geographical separation and disruption to established attachments.
97. Y has already experienced emotional difficulty when discussing the proposed move. The evidence suggests that she feels a responsibility to protect or please both parents. The Court is concerned that a four-year relocation could prolong that conflict.
98. If Y enjoys her life in the United States, she may feel that she is betraying the Father. If she wishes to return to Bermuda, she may feel that she is undermining the Mother's studies. The temporary nature of the proposal may therefore create continuing uncertainty rather than reassurance.
99. Z faces a different risk. Her relationship with the Father is still developing. A reduction from frequent physical contact to occasional holiday visits may weaken the ordinary familiarity and attachment created through regular care.
100. The Mother has expressed a willingness and ability to facilitate electronic contact. I accept that she would arrange video and telephone communication. The difficulty is not simply whether contact would occur. It is whether the quality and regularity of that contact could preserve the present relationship.
101. The Mother's proposed in-person contact was limited when compared with the Children's existing arrangements; however, she was clear in her oral evidence that she was open and willing for additional holiday contact outside what she had proposed either by the Father travelling to the United States for access or the children returning to Bermuda. Even allowing for additional contact by agreement, the practical realities of cost (which I accept as shown in the Father's evidence can be up to \$15,000 each calendar year), travel time, school commitments and the Father's employment would restrict what could be achieved.
102. The Court is not satisfied that the reduction in contact can be adequately mitigated by the proposed arrangements. The risk is not that the Children would immediately cease loving their Father. The risk is that his role would gradually move away from a significant feature of their daily lives.

103. The Court also considers that further litigation regarding return could expose the Children to renewed parental conflict. Although that risk is not inevitable, it is sufficiently real to form part of the welfare analysis.
104. Remaining in Bermuda is not free from difficulty. The parties have communication problems and there has been conflict between them. However, those matters can be addressed through structured arrangements, defined communication methods and appropriate parental support. Relocation is not a necessary or proportionate response to those difficulties.
105. I find that the risk of emotional harm associated with relocation exceeds the risks associated with the Children remaining in Bermuda.

The Capability of Each Parent to Meet the Children's Needs

106. The Mother has historically undertaken substantial responsibility for the Children's care. She has managed many aspects of their education, healthcare and daily routine. The Court recognises and respects that contribution. There is also no evidence that the Children have been exposed to harm whilst in the Mother's care.
107. The Father's involvement has also been significant. He has cared for the Children regularly, including for substantial periods during school holidays. He cannot be characterised as an occasional or secondary parent.
108. Both parties have shortcomings in their approach to communication. The Father's decision to block the Mother on WhatsApp for periods of time was not conducive to effective co-parenting. His unilateral communication with Y regarding attending Warwick Academy was also inappropriate regardless of whether the discussion was held over speakerphone for the Mother to hear. Such a discussion should have been had with the Mother privately before anything was communicated to Y.
109. The Father accepted that he should have handled the school matter differently and apologised. The Court expects him to demonstrate improved communication and greater respect for the principle of joint custody. For the avoidance of doubt, neither parent should be discussing any issues surrounding custody with the Children prior to communicating with the other parent regarding that issue.
110. It is understandable that the Mother's approach has also caused the Father unease as her initial proposal for contact did not maximise the Children's time with the Father. It placed considerable emphasis upon what could later be agreed rather than setting out a firm and comprehensive schedule that reflected the Father's present role.
111. The Mother maintained that the Father could seek additional time. That approach did not sufficiently recognise that it was her proposal which would create the geographical separation. The obligation to present a workable plan for preserving the relationship therefore rested substantially upon her. Having said this, I do not believe it was the Mother's intent to limit the

Father's contact but was rather a hope to open communication between them to give the Father an opportunity to respond.

112. The Court also found the Mother's evidence regarding the disadvantages of relocation to be unduly guarded. She was reluctant to acknowledge the extent of the loss the Children would experience through reduced contact with the Father and their wider family.
113. This does not mean that the Mother intends to alienate the Children from the Father. The Court makes no such finding. It does, however, raise concern regarding whether she fully appreciates the practical and emotional consequences of the proposed reduction in contact.
114. The Father is capable of meeting the Children's needs during his periods of care. He has appropriate family support and the Children are familiar with his home and routines. There is no evidence that the Children have been exposed to harm whilst in the Father's care.
115. The Children's needs can therefore be met by both parents while they remain in Bermuda. Relocation would place the greater part of their daily care with the Mother and materially reduce the Father's ability to exercise his parental responsibilities.
116. This factor therefore favours the Children remaining in Bermuda.

The Expert Evidence

117. The Court has considered the expert evidence with much care and consideration. The LG supported relocation and the CASW did not make a definitive recommendation.
118. The LG's opinion that the Children could cope with relocation is relevant. However, her assessment was principally directed towards whether the move would cause lasting harm. That is not the complete legal test.
119. The Court must determine which proposal better promotes the Children's welfare. The absence of predicted harm from relocation does not outweigh the positive benefits of remaining in Bermuda with regular access to both parents.
120. The Court does not accept the Father's submission that the LG was biased in favour of the Mother. The report was prepared in good faith and with the Children's welfare and voices in mind. The Court nevertheless places limited weight upon the final recommendation as the Children's either to relocate or remain in Bermuda were not definitive.
121. The CASW's refusal to make a definitive recommendation was appropriately cautious. His evidence identified important factors on both sides. He recognised the Children's resilience but also acknowledged their strong attachments, the significance of parental cooperation and Y's emotional conflict.
122. The SIR therefore assists the Court by identifying the relevant welfare issues. It does not establish that relocation is necessary or preferable.

Comparative Evaluation

123. The Court must compare the two realistic proposals side by side.
124. Under the Mother's proposal, the Children would remain in her care and accompany her to the United States. They would have suitable accommodation, attend local schools and benefit from the experience of living abroad. The Mother would pursue a significant academic qualification which might improve the family's future financial position.
125. In contrast, there are many identifiable disadvantages. The Children would leave their established home environment, school system (even though the Children would be transitioning to new schools for the 2026/2027 academic year if they remain in Bermuda), friends and wider family. Their direct contact with the Father would reduce dramatically. They would face at least one major educational transition and another upon return. The financial arrangements contain uncertainty. The return to Bermuda cannot be guaranteed with complete confidence.
126. Should the Children remain in Bermuda, they would continue their education, retain their friendships and maintain frequent contact with both parents and their extended family. The parties would have regular, consistent and meaningful direct contact with both parents.
127. The principal disadvantage of the Father's position is that the Mother may be unable to pursue her doctoral studies at this time. That may cause disappointment and may delay her professional advancement. It is an important consideration, but it has not been shown to be a direct welfare need of the Children.
128. The Mother has confirmed that she will not relocate without the Children. Refusal of the Temporary Relocation Application will therefore not separate the Children from her. They will remain in her care for substantial periods and continue their established relationship with her.
129. The comparison is therefore not between relocation with the Mother and remaining in Bermuda without her. It is between relocation with substantially reduced contact with the Father and remaining in Bermuda with continuing relationships with both parents.
130. When the proposals are assessed in that way, the Father's position offers greater stability, continuity and preservation of family relationships. The potential future advantages of the Mother's qualification do not outweigh the immediate and certain losses that relocation would impose upon the Children.
131. The Court therefore finds that the Mother has not established that temporary relocation to the United States is in the Children's best interests.

CONCLUSION

132. The Temporary Relocation Application arises from a genuine and commendable desire to advance her education. The Court recognises the personal and professional importance of the opportunity available to the Mother and its potential long-term benefit both for herself and for the Children.
133. The Court must nevertheless place the welfare of the Children above every other consideration. Their welfare is presently supported by regular relationships with both parents, stable schooling, established friendships and a broad family network in Bermuda.
134. The proposed relocation would substantially reduce the Father's direct involvement in their lives. It would introduce significant educational, social and emotional changes. It would also create uncertainty regarding their return after four years.
135. The Court is not satisfied that the benefits identified by the Mother are sufficiently direct, certain or child specific to outweigh those disadvantages. Nor is the Court satisfied that the proposed contact arrangements would preserve the Father's present relationship with the Children to an acceptable degree.
136. Having considered each welfare factor separately and collectively, I conclude that the Children's best interests require them to remain in Bermuda. Accordingly, the Temporary Relocation Application is refused.
137. The parties shall continue to exercise joint custody of the Children. As a reminder, joint custody requires meaningful consultation concerning all major decisions affecting their education, healthcare, religion, travel and general welfare.
138. As to care and control the parties shall have shared care and control of the Children. Care and control shall be exercised under the current arrangements between the parties.
139. The parties are strongly encouraged to use an electronic parenting communication application such as OurFamilyWizard, to exchange information concerning school, medical appointments, extracurricular activities, travel and changes to the agreed schedule. Communications shall be confined to matters concerning the Children and shall remain respectful.
140. Additionally, both parents must give serious consideration to attending and completing a recognised co-parenting course. They should also consider whether any individual therapeutic support may assist them in improving their communication which could ultimately reduce the possibility of the Children being exposed to parental conflict, whether directly or indirectly.
141. The issue of child maintenance shall be adjourned *sine die* with the Mother having liberty to restore. The request to restore the matter may be by way of letter to the Registrar requesting that the matter be listed on a Thursday Chambers day for case management directions.
142. In relation to costs, as identified in the Court's recent decision of *K v A (Security for Costs Ruling)* [2026] SC (Bda) 2, the correct starting point in matrimonial proceedings is that costs

prima facie follow the event but may be displaced much more easily than, and in circumstances which would not apply in other divisions of the Supreme Court. In *K v A (Security for Costs)* the reasoning of Butler-Sloss LJ in the case of *Gojkovic v Gojkovic (No 2)* [1992] 1 All ER 267 was applied as it was accepted that the approach of costs *prima facie* following the event was not of general application in all family cases. It was emphasized that it would not ordinarily apply in applications involving children.

143. Therefore, in my view as this application relates to the custody and care and control of children, one major factor that would cause the Court to consider making a costs order would be the litigation conduct of the parties. In this case, although the parties advanced strongly opposing cases, neither acted so unreasonably in the conduct of the proceedings as to justify a costs order. There shall therefore be no order as to costs unless either party wishes to be heard on the issue of costs, the Court must be advised of this intent within 7 days from the date hereof. Absent any indication from Counsel to pursue a costs order, the order shall be no order as to costs.

DATED this 6th day of August 2026



ALEXANDRA WHEATLEY
ASSISTANT JUSTICE OF THE SUPREME COURT