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IN THE FAMILY COURT
Sitting at West London

No. ZW22P00606

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

Tuesday 11th July 2023

Before:

DEPUTY DISTRICT JUDGE HARRISON

(In Private)

Re: Amelia (A Child: Relocation)

THE APPLICANT appeared In Person.

MISS D BUCKETT (instructed by Lawmans Solicitors) appeared on behalf of the Respondent.

A P P R O V E D J U D G M E N T

THE DEPUTY DISTRICT JUDGE:

The names used in this case are not the real names of the children or the family.

FOREWORD: Shortly after giving judgment in this case, I wrote to the child through Cafcass to explain my decision. This letter is reproduced in full, anonymised form.

Dear Amelia,

My name is Jack, and I am a judge. I am a part-time family judge, and the rest of the time I am a lawyer. My job is to make decisions in the best interests of a child when their parents cannot decide what is best for them. I have had to make a big decision about you, and I wanted to write to you to explain why.

I have been lucky enough to read a lot about you in the past few days, although we have not met. I have met both your mum and your dad. They told me how much they loved you. You are very lucky to have two wonderful parents who want what is best for you.

I also met Karen, who I know you spoke to about the case and who gave me some advice about what I should do. Karen told me a lot about you. She told me that you were a very talented linguist, and very bright. She said you were also good at sports. She told me a lot about the conversations you had with her, and she was impressed with how thoughtful you were. To speak three languages at the age of 12 is simply incredible!

I know you feel caught in the middle of your mum and dad. It's a shame that they could not agree whether you should stay in London with your dad or move to Northern Europe with your mum. I have had to make the decision for them because they could not agree.

I listened to Karen, and to your mum and dad. Your mum told me that she wanted to move to Northern Europe. She told me that life in London has become very difficult and expensive. She was worried that she does not have a lot of support in London and would have more support and be better able to look after you in Northern Europe. Your dad doesn't agree; he thinks you should stay in London where you are settled, and you have friends. You told Karen that you'd like to stay in London, partly because you are settled, and partly because of your half-sister. Karen agreed with you and told me she thought this was best.

You also told Karen that you have a great relationship with your dad. Although you have seen him much less than your mum as you've grown up, your dad is a very important part of your life. I am really pleased that you have such a good bond with him, and I am pleased that your mum has always supported this.

When I make this kind of decision, I must think about what is best for you. I must think about not only what you want, but your emotional wellbeing, how well you handle change, if you would suffer any harm and how well your mum and dad can look after your interests. I have to put all this together and come to a decision.

I have decided that you should move to Northern Europe with your mum. I know this will disappoint you, but I think that you will have a much better quality of life in Northern Europe. I

think your education will be better, and that your mum will have a much better support network than your dad has in London. Your dad was really sad about your mum's wish to move to Northern Europe, and I think that this sadness has changed how he sees her and the situation. I was worried that this might affect you. I was also worried that being away from your mum – who is the only person who has ever looked after you all of the time – would be very bad for you.

I know how important your grandparents are to you. You will hopefully see a lot more of them. Your grandparents in Central Europe are still just a flight away. You will also see lots of your dad – in Northern Europe, in the UK, and in Central Europe. I have made sure that you won't lose out on quality time with him. I know you will talk to him regularly, and are in a family WhatsApp group where you speak your one of your native languages. I know that this will continue, and I think it's really important that it does.

I also know how important your half-sister is to you. I was really impressed with what your mum has done to make sure that you see as much of her as possible. I am sure that this will carry on and I hope you see her both in the UK, and in Northern Europe. I am pleased that your mum and your half-sister's mum are friends, and that your half-sister has an open invitation to come and stay with you in Northern Europe.

I am also really pleased that you won't be separated from Leo. I love cats too, and so I know how sad you would have been to be away from him. I'm pleased that you will have him in your life.

I know you may be disappointed by my decision. I hope at least you feel better that the decision is now made, and you can come to terms with it. You have a big move ahead of you, but I know that you will settle, you will make friends, and Northern Europe will very shortly feel like home.

Please don't feel like you have to write back. I wanted you to have this letter to keep. I am going to have a record produced of the reasons I gave to your mum and dad earlier today. They can keep this for you if you ever want to see it when you are older.

I know that you have a bright future, and I wish you all the very best.

With my best wishes,

Judge Jack Harrison

Deputy District Judge
West London Family Court

Introduction

1 I am concerned with the welfare of Amelia, a young lady of 12 years. She was born in 2011 to Grace her mother and Vincent her father. I will refer throughout this judgment to the parents as “mother” and “father”. I do so for ease and continuity of reference. I mean no disrespect to either of the parents.

2 Amelia is subject to a child arrangements order made on 26 March 2018. The order made provision for Amelia to live with her mother and spend time with her father on alternate weekends during holidays and at teatimes on a regular basis.

3 This is the final hearing of two applications:

a. the mother’s application to relocate with Amelia to Northern Europe made by notice dated 25 April 2022; and,

b. the father’s cross-application to vary the child arrangements order made by notice dated 23 June 2023.

4 At this hearing, the mother has represented herself. The father has been represented by Miss Buckett of counsel. This has been a difficult hearing for both parents and the options I am faced with are stark. Both parents have conducted the hearing, in my view, with dignity and moderation. I have been greatly assisted by Miss Buckett who has put her case with considerable skill.

THE BACKGROUND

5 The parties separated eight or nine years ago, although I understand they lived together for a short period post-separation to provide Amelia with a continuity of care. In 2018, a child arrangements order was made governing the amount of time that Amelia spends with both her parents. More recently, the mother says it has become difficult for her to continue to afford to live in London but has expressed a wish to move back to Northern Europe.

Throughout this time, however, and since the child arrangements order application, Amelia has spent time with her father and that time has become increasingly more flexible and free. They are the essential background facts.

THE LAW

6 Amelia’s welfare is my paramount consideration. Welfare is conceived of with reference to the welfare checklist in s.1(3) of the Children Act 1989. An order is an intervention in the right of a private and family life of Amelia and her parents and therefore, the degree of intervention must be both necessary and proportionate as required by the European Convention on Human Rights. If there is a conflict between Amelia’s rights and those of her parents, Amelia’s rights necessarily prevail. As there is a child arrangements order, the application to relocate is made pursuant to s.13 of the Act and not s.8. However, the principles remain the same.

7 In cases of international relocation, a long line of authorities informs the approach to be taken by the court, including *Re F (A Child) (International Relocation: Welfare Analysis)* [2015] EWCA Civ 882, *P v P* [2001] EWCA Civ 166, and *Re C (Internal Relocation)* [2015] EWCA Civ 1305.

8 In *V v M (Child Arrangements Order: International Relocation)* [2020] EWHC 488 (Fam) (also reported as *Re K*), Williams J drew together the authorities to recommend that a composite checklist is adopted and applied. These factors were laid out at [50] of his judgment:

“i) The ascertainable wishes and feelings of the child concerned considered in the light of his age and understanding.

- ii) Physical, emotional and educational needs.
- iii) The likely effect on the child of any change in their circumstances. Within this some specific questions might be what changes to housing, schooling and relationships are likely if they remain in England? How realistic is the plan in the sense of how likely is it to be implemented as conceived? Will there be positive effects in respect of the removing parent's ability to provide care for them if they move abroad? What are the other positives and negatives about country X in terms of environment, education, links with family? What will be the impact on the child of moving permanently to another country in respect of their relationship with the left behind parent and other extended family? To what extent may that be offset by on-going contact and extension to other relationships in the new country?
- iv) The child's 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. There is obviously a significant overlap here with the effects of change and so within this, what may be the impact on the child of the change of their relationship with the left behind parent? How secure is that relationship now and how likely is it to endure and thrive if the child moves? How realistic are the proposals for maintaining contact? What will be the impact on the removing party of having to remain in England, contrary to their wishes? What will be the consequent impact on the child? What will be the impact on the left behind parent of the child moving? Will the ability of either parent to provide care for the child be adversely affected by the refusal or grant of the application and if so to what extent? To what extent will loss of contact with the left behind family be made up for by extension of contact with the family in the new country.
- vi) The capability of the parents, how capable each of them are and any other person in relation to whom the court considers the question to be relevant is of meeting the child's needs. How are the parents currently meeting their needs? Are there any aspects of their ability which may be particularly important in the context of a relocation, for instance their capability of meeting the emotional need of the child for a relationship with the left behind parent? Is the application to relocate wholly or in part motivated by a desire to exclude or limit the left behind parent's role? Is the left behind parent's opposition to the move genuine, or is it motivated by some desire to control, or some other malign motive? Will the parent be better able to care for the child in the new country than in England? What role can the left behind parent play in the future?
- vii) The range of powers available to the court under this Act. Can conditions of contact be imposed in terms of provision of funds, or frequency of visits? Can court orders be made in the other

country, either mirror orders or orders which will allow reciprocal enforcement?”

9 As I have said per *Re C (ibid.)*, the approach as between s.8 or s.13, as it is here, is analogous.

10 It is pertinent to know that the Court of Appeal has been clear that where the future division of a child’s time with each parent is in dispute, irrespective of a relocation proposal, the court should not resolve that dispute first before considering relocation. All issues should rather be considered as one part of a holistic evaluation of the child’s welfare (*L v F* [2017] EWCA Civ 2121). The guidance of Thorpe LJ in the *P v P* case, whilst not of elevated importance over the lodestar of Amelia’s welfare is, of course, useful. That is the law I must apply in this case.

THIS HEARING AND POSITIONS

11 This hearing has been conducted over two days by Microsoft Teams. The matter was case managed by District Judge Rollason last in December 2022 before being listed today and yesterday. In addition to a bundle of documents, I have heard from both parents and a Cafcass officer. Although there were some technical difficulties at the start of the hearing with Grace, both the parents, the representatives, and the witnesses were able to engage with the hearing remotely.

12 The positions of the parties are stark. The mother wants the court’s permission to relocate to Northern Europe along with Amelia. The father opposes this. He wants Amelia to remain in the UK with him. It is not an option that the mother stays in the UK with Amelia.

EVIDENCE

13 I have considered a bundle of documents stretching to 240 pages. In addition, I have considered position statements filed on behalf of both parties. The evidence includes a number of statements from both parents and a Cafcass report dated 13 December 2022. I have also heard live evidence from the mother, the father, and Karen Dunstan of Cafcass, the welfare officer. It is not possible in the course of this short judgment to refer to every strand of evidence that I have read and heard. I have read everything. I have listened intently. I have noted the evidence down faithfully. I will refer in this judgment to the evidence as I consider it to be relevant. If I do not mention a particular source of evidence or thread of evidence, that does not mean that I have not considered it and weighed it in the balance.

CAFCASS

14 I have the benefit of a welfare report prepared by Karen Dunstan of Cafcass dated 13 December 2022. In that report, the welfare officer went through her enquiries which included considering the written evidence filed by the parents, an interview with both parents, enquiries with the school, and the extended family of the mother.

15 The welfare officer met the child and the parents together at the Cafcass offices. She described Amelia as an intelligent and deep-thinking girl. It was clear from this report that Amelia wanted to remain in the UK. She described having a good relationship with her dad. She said her dad shares her humour, but her mum is more mature and serious which perhaps reflects the mother's role as the primary carer for Amelia's living memory. Amelia described herself as half Northern European, half Central European, but says, fundamentally, she is English:

“I’m English. I was born in England. English is my most fluent language. I don’t really enjoy Northern European books.”

16 The Cafcass officer described the conversation with Amelia about her paternal family:

“Amelia described visiting Central Europe in the summer and her paternal grandparents and relatives there. She has not been recently because of the pandemic and when she saw her grandparents, she cried with happiness. She described life there and the house and garden picking blackberries on the road, caring for animals that lived wild (dog and cat). She said:

‘It’s so free and nice. There are beaches not close by but we go sometimes. I love it. I love the freedom.’

Amelia’s body language and speech was animated and passionate, similar to when she was talking about learning a language. When I asked her whether this would all stay the same if she lived in Northern Europe, her demeanour changed and she became serious:

‘This is Central Europe. In Northern Europe, it’s not like that. My grandparents live in the countryside but it isn’t the same. Not the same freedom, childlike things. More like modern children. I like the wild side. I go to Central Europe only in the summer. The winter I may only go for a few days because it’s a one-week holiday and flights are expensive.’

Amelia was affectionate about her maternal grandparents too:

‘I have the same relationship with my maternal grandparents in Northern Europe (I took this to mean her relationship with the paternal grandparents in Central Europe). My grandmother smokes a lot and can have a short temper if she wants to go out and have a smoke but then she’s fine’.

17 One additional and very important person to Amelia is Eliza, her half-sister. The Cafcass officer recorded in her report the words of Amelia:

“I’ve seen her three weeks in a row because she’s been living with her father recently but it’s usually on alternate Sundays. I really want to see her more often. She hasn’t slept over yet. That’s what the mum has decided. Eliza is the most important person in my life. I didn’t see her enough when I was younger. Even though there’s an eight-year gap between us, it meant I could hold her and understand her. I am so much more mature than her that I don’t need to be annoyed with her. I would definitely miss her and be seeing her a lot less if I

move to Northern Europe.”

18 Amelia does not want to go to Northern Europe. She told the welfare officer:

“I might miss England. I would definitely miss my friends and my best friend. Mum says I don’t see much of them. She says they can visit me in Northern Europe. They can see me much more easily in England. I feel so much happier when I am at my dad’s house but it kind of felt like I was free. I can be more my own person. I felt happy at my mum’s but only when I did what she wanted me to do.”

19 She then says:

“I’ve talked to my dad about living with him. I think he would be completely fine with that. He’s pretty supportive. If he’s going to work in the office, he can work from home if I’m sick. I don’t have a problem being home alone. Monday and Tuesdays I have clubs. I have homework to do. I’m in the netball team. I like to think I’m good at sport and academically. My dad thinks I’m both. My mum thinks I should be academically good. I love my parents equally and I would be so upset to lose them, and I am sure they love me equally. As I am maturing, I understand more. I feel mum took advantage when I was younger and I didn’t understand and she’s trying to do the same again. I don’t think she would stay if she knew I wanted to. I think she’s trying to prove that I like my dad more than my mum. I think she’ll continue to try even though it’s not in my dad’s, my sister’s, me or her best interest. She’s just trying to prove a point.”

20 In respect of her recommendations, the welfare officer noticed as follows:

- (1) Amelia’s wishes and feelings were given thoughtfully;
- (2) She has just started secondary school and is making new friends. Both parents meet her physical and educational needs;
- (3) Her emotional needs are met more fully by her father as she recognises their personalities are similar and she feels more comfortable talking about emotional issues with her father. Amelia has a very close relationship with her father and loves her sister. Moving away from the father would be a very significant loss for Amelia and she would pine for him;

- (4) Further change would be the mother's partner moving into the family home in Northern Europe;
- (5) Amelia appears to have a very easy relationship with her father and she feels she can be herself with him. She loves her mother equally to her father but she finds the relationship more difficult, especially since her mother has tried to persuade her to move to Northern Europe;
- (6) Grace does not appear to take Amelia's emotional well-being into account when planning her future. Moving to Northern Europe presents a huge change in lifestyle for Amelia. It distances her from everything she is used to, loves, and feels settled in. Amelia is not convinced it is necessary to move to Northern Europe and the Cafcass officer says that she tends to agree with her; and
- (7) Amelia is secure in the knowledge that both her parents love her and the Cafcass officer assessed that those positive life experiences increased her resilience. She says she would miss seeing her mother every week but believes she could overcome this.

21 In cross-examination, the Cafcass officer was asked about the family networks available to Amelia in Northern Europe. She said she could benefit from living in Northern Europe. The route to this conclusion was the interview with Amelia and the impact of the change of the feeling that she is English, although she embraces her Central and Northern European heritage. She also takes into account the fact she has a sister in London. The Cafcass officer acknowledged that close relationships would be impacted nevertheless if she moved to Northern Europe. Having read that report, in my view, the report could have made it clear that whichever way this goes, she will lose out. If she is in Northern Europe, she will lose out on what she is used to with the whole of her life but if she is in London, she will lose out with a relationship with her mother.

- 22 She was asked about Amelia going through puberty and menstruation. She had equal confidence that both of the parents could parent Amelia appropriately with regards to her menstruation and her development into womanhood. In essence, the Cafcass officer reflected and based her conclusions on Amelia's wishes and feelings. Her preference was to not have a change. Amelia was happy in London. She had friends. She had a school. She said, as I have already quoted, "Why would I change something I am happy with?"
- 23 The welfare officer identified that the tension between the parents affects Amelia. She said that the wider conversation really showed that she is able to see other people's opinions and could not just take into account her opinions but thinks about what other people think of her as well. That was evidenced in the fact that she referred to the mother as passive aggressive and then bolstered that impression by giving examples. So it is clear that the welfare officer considers Amelia's wishes and feelings to be properly stated and understood.
- 24 The welfare officer has undertaken, in my view, a thorough enquiry of Amelia's *prima facie* wishes and presented them within her assessment. I am clear that her analysis is largely, if not wholly, underpinned by that assessment of Amelia's wishes and feelings. The welfare officer's essential point is: why change what is not broken? This is presented in detail and based, in my view, on Amelia's plainly expressed wish.
- 25 Although the welfare officer weighs in detail the losses experienced by Amelia if she were moved to Northern Europe, there is little comparable analysis of the loss of Amelia's relationship with her mother if she were to remain in the UK. I accept that Eliza is very important to Amelia and, indeed, that she will pine for her father but the mother, in my judgment, represents the one thread of stability that Amelia has enjoyed in her short life.

They have never lived apart. The mother has been a consistent figure through a life of change. The breakdown of her parents' relationship and the adjustment that comes with that. Although Amelia is able to give her wishes and feelings as she may perceive them, and accept that she said what she said, Amelia is, in my judgment, unable to reflect on a loss of such significant magnitude.

26 The welfare officer's task within the report was to provide a key counterbalance for the losses that would result from either possibility I am faced with, either of which, in my view, represent great change. She has failed to do this. There is, in addition, a failure to note that the conduit/the glue between Amelia and Eliza is largely the mother. Although Eliza spends time with her father and Amelia enjoys this, and no doubt would enjoy this if she lived there, I cannot escape the fact that the mother has an excellent relationship with Eliza's own mother, and she frequently arranges for time to be spent with the girls away from the father. I reject the suggestion that a move to Northern Europe will result in the cessation of that relationship. Every thread of evidence from the past suggests that the mother takes the relationship between Amelia and Eliza seriously and will continue to promote this.

27 In addition, in my view, the welfare officer's report lacks any comparative analysis of the different options. The welfare officer seems to have looked to Amelia herself to provide an evidence base of what her life would be like rather than scrutinise the statements in this case where the options for Amelia are clearly set out. The welfare officer said in her assessment:

“There may be some benefits for Amelia should she move to Northern Europe with her mother as outlined by [mother's] proposals. However, Amelia could not tell me what they would be.”

28 In my view, that is inadequate. The welfare officer should have teased the considerable benefits out of the evidence and weighed them fully. The welfare officer was wrong to rely

on Amelia to expose and weigh those benefits. I accept that, in evidence, the welfare officer was much less circumspect about the benefits of Northern Europe in terms of schooling and family but these, regrettably, did not appear in her analysis.

29 I am therefore led to the conclusion that the welfare officer's report contains, in my judgment, a fatal poverty of analysis in respect of the losses that Amelia is likely to face either way and a comparison of the options, and does not, in my view, provide a reliable touchstone of evidence upon which I can safely rely.

THE MOTHER'S EVIDENCE

30 The mother has filed a litany of statements within the proceedings. In her first statement of August 2023, she explained that she wished to move to Northern Europe for the following reasons:

- (1) The cost of living and exorbitant childcare costs she has faced largely alone has caused her significant stress of the past seven and a half years;
- (2) The maternal family live largely in Northern Europe and Amelia's welfare would be better served by being close to the family;
- (3) Childcare is easier, cheaper, and more accessible in Northern Europe; and
- (4) The father has been an obstacle since the 2018 child arrangements order and has not helped the mother when she needed it.

31 The mother explained in her evidence that she wanted to relocate to a city in Northern Europe. Here, she would live in a three-bedroomed apartment with Amelia and her partner.

She says her partner's support in supporting the mother's care of Amelia would be very helpful. The mother has mapped out comprehensively accommodation and schooling at an international school that would teach Amelia English, and her two other native languages, in addition to other languages, matching Amelia's aptitude for learning languages.

32 The mother's position is that regardless of my decision about Amelia, she will move to Northern Europe. She explained in oral evidence yesterday that this decision is driven by her struggling in London. She told me that she needs to live near London for work yet is faced with exorbitant costs that are now manifestly unaffordable when one factors in childcare. She told me this has affected her ability to keep her job. She told me that, in addition, their pet, a farm cat Leo has already moved to Northern Europe and will join them soon.

33 Miss Buckett explored a number of relevant issues in her incisive and moderate cross-examination. It was put to the mother that she discussed the court proceedings with Eliza's mother whilst Amelia and Eliza were in another room. It was put to the mother that childcare was no longer required now that Amelia spends some time alone. I say, as I did to Miss Buckett, that I did not consider this to be an attractive point. Plainly, Amelia requires proper care and supervision at her age.

34 The mother gave emotive evidence about the position she was in and her reasons why she wanted to move. It was obvious to me in her evidence how much she adores her daughter and how sad that she was that she feels so unsupported. She feels, in effect, that her hand has been forced. She gave an account of the financial situation that she is now in. I did at

that point stop cross-examination because I considered that this point had been adequately covered in live evidence, dealt with in submissions prepared by the mother.

35 When challenged on Amelia's resilience, the mother was quick to point out that Amelia has experienced a number of transitions. A house move, a school move from primary to secondary school with the adjustment in social networks that this brings, and a transition to living in a blended family and parents with new partners. I did not get the sense from the mother, and this concurs with the Cafcass analysis, that Amelia was anything other than resilient and able to combat change. This line of questioning, however, was of limited value because whatever I do in this case will necessitate some change. It is, in fact, a question of nature and degree.

36 It was put to the mother that there was limited experience of Amelia being taught in her mother's language although this is not correct. The mother explained to me that Amelia is adept at being taught in the mother's native language having been given immersive language lessons over some time. The mother was criticised in cross-examination for her decision to seek a therapist to support Amelia. It was put to her that this was a cynical act designed to undermine the Cafcass involvement in the case. The mother said, however:

"It is very difficult for me. This is why I consulted the therapist to try and explain her why certain things needed to happen."

37 She told me that she was an adopted person herself and that she wanted Amelia to understand her options and why the mother might be moving. The mother explained that she did not want Amelia to feel abandoned and she explained that she had hid the financial motivation for moving out of shame and embarrassment.

38 The mother made an application at the start of this hearing to introduce a report from the therapist into evidence. I did not consider that this was fair as it was not evidence that could be treated as expert evidence or treated as evidence under Part 25 to the Family Procedure Rules. There was no opportunity for the father to cross-examine the author on the report and, in fact, the court had directed a welfare report to understand, amongst other things, Amelia's wishes and feelings.

39 I do not need to rely on that report when formulating a welfare analysis. I do, however, place some reliance on the fact the therapist was sought and the description of the work. Both the mother and Miss Buckett made something of this in submissions. I do not place any reliance and have placed any opinion evidence or recommendations contained within that report out of my mind.

40 The father considers that the mother is acting cynically. In the position statement filed by Miss Buckett, it says this:

“There have been some developments that have worried the respondent father which can be further explored in the parties' live evidence. This includes the applicant mother taking Amelia to counselling, sexual health therapy, without, as far as the respondent is aware, discussing this first with Amelia to her father's knowledge without a referral from her GP, which the respondent father worries has pressured Amelia. The respondent father is concerned that the applicant mother is psychologically pressuring Amelia to instigate guilt about how Amelia responded to Cafcass and about moving to Northern Europe, including discussing the move to Northern Europe.”

41 I consider this allegation to be unfounded. Firstly, the therapist sought was an art therapist who was both HCPC and BAAT accredited. I have confidence that an accredited and regulated therapist would not allow themselves to be used in an orchestrated attempt to pressurise a child. Second, the reason for the referral describes the work being there to

assist Amelia coping with emotions. This is credible against the Cafcass report being filed that plainly painted Amelia as split in her loyalties. It is obvious that Amelia was undergoing a period of anguish. Finally, Amelia's worries about being abandoned chimed with the mother's own life story and I have sympathy with the fact that mother, in all likelihood, would want to prevent Amelia from experiencing similar emotions of rejection and abandonment.

42 For those reasons, I reject the suggestion that the mother has behaved cynically with the instruction of a therapist. I am satisfied that it was in good faith, if not a slightly clumsy attempt to help Amelia come to terms with the magnitude of the changes she may be facing. Evidentially, of course, that does not matter for the Cafcass report. As the welfare officer noted, this therapeutic involvement postdated her assessment and, therefore, did not impact the report. I reject the argument as it seemed to be thought that this was a source of pressure in the preparation of that assessment.

43 The mother also denied that she had pressured Amelia. She explained that the welfare report had been left out on a coffee table in December 2023 shortly after it was received. The mother told me that she had been unwell and the report was left out carelessly. I do consider this to be very unfortunate and this has undoubtedly raised the temperature of the proceedings as Amelia was plainly nervous about going against the mother's wishes. Even though Amelia was bound to be curious about the proceedings and the plans for her future, it was, in my very clear view, not appropriate for her to have access to the documents within the proceedings. To her credit, the mother accepts this. I was concerned at conversations reported by the welfare officer that the mother and Amelia discussed Northern Europe. Again, I accept that it is hard for the mother to delineate her own plans and experience from that of Amelia's and that there is an inevitable degree of crossover. However, it is also plain

to me from those conversations and from the mother's own evidence that Amelia, in my view, has been overexposed to the brunt of these proceedings.

44 I do not find that this has been done maliciously or with any attempt to pressure Amelia as has been suggested by the father in his evidence. There is no evidence that the mother has set out to do this. I am, however, satisfied that the mother has shared an inappropriate amount of information with Amelia about the proceedings. I do not agree with the welfare officer that this was "unkind". I would say it was clumsy.

45 That aside, however, and overall, I found the mother's evidence to be emotive and compelling. She had clearly considered each aspect of Amelia's existence in Northern Europe with care and saw benefits for both her and Amelia together. I formed the impression that she took the relationship between Amelia and her father very seriously and she had given thought and consideration into the practicalities of that relationship.

FATHER'S EVIDENCE

46 Father has filed three statements in the proceedings and gave live evidence. The father reflects in his written evidence on the strong bonds between him and Amelia and the ties that Amelia has to London, her schooling, and her social life. It is clear that the father worries for the future of those ties. Within two paragraphs of his first statement, he expresses the view that:

"Moving to Northern Europe will degrade Amelia's relationship with her father and paternal family."

47 Father reflects in all of his statements on the ties that keep Amelia to London. The father concludes through his statements that the mother is putting her needs above those of Amelia in making the proposals that she has.

48 In evidence, father told me that the arrangements from the 2018 order had broadly stayed the same, although they had become freer and less constrained. In cross-examination, the father told me he does not live with his partner Velma at present. He said they live separately but they plan to converge. He told me:

“We want to do it properly. I introduced Amelia a long time ago. The relationship between Sophia [which is Velma’s daughter] and Amelia is of importance. We are testing it.”

However, it does seem, whether this is with the mother or the father, that Amelia will have to adjust to a new partner in her life and home environment.

49 In cross-examination, the father was asked about the situation with Eliza. He explained that he was only ever allowed to see her six hours per week on a Sunday and she was not allowed to stay overnight. The father told me that the relationship between him and Eliza’s mother was at a low ebb and was fraught with tension. He agreed that the relationship was strained and that he had issued a C100 to apply for a child arrangements order to increase the time spent with Eliza. I am concerned that resorting to litigation may be a destructive step for that relationship. Whether his request for a 4-year-old to stay at his home overnight is realistic is not a question for me but this does not give me confidence in the ability of the father to act as a glue from Eliza and Amelia’s relationship.

50 It was obvious through the father’s cross-examination and his evidence that his feelings about the mother are likewise fraught with tension. It is the father’s position that the mother

is unfortunately motivated, in part, to reduce his relationship with Amelia and, in part, to satisfy the mother's wishes rather than Amelia's best interests. He was preoccupied with this ill-feeling in his evidence. I asked him about the arrangements. He said this:

“Arrangements. The same, officially. The reason why-- That's the reason I brought to make the application. I was finding it difficult to establish a relationship with Amelia. I was subjected to conditions. The top of them was when mother sent me an email to provide her beforehand the list of people seeing, names, telephone numbers. It was alienation.”

51 This was in response, however, to a very simple and unrelated question. Likewise in his evidence he says this:

“The applicant is only thinking of herself and deflecting upon me. I made a child arrangements order whereby a final order was made in March 2018. I feel this placed a lot of emotional pressure on me in trying to gain stable contact with my daughter. I really do not understand why the applicant would want to destroy my relationship with me and my daughter anymore.”

52 In his evidence, the father used words such as “alienation” and “isolation” to describe the situation he was in. I see absolutely no evidence that his relationship with Amelia is anything other than absolutely superb but, in spite of this, the father has attacked the mother and her choice to move abroad. He did not seem able to empathise with her position at all. When asked to describe the impact of abandonment, he brought it back to himself.

53 What is his fear? His fear is that the relationship between him and Amelia would be ruined, but Amelia has an excellent relationship with him. This simply would not have happened as Amelia has grown up with relatively infrequent contact without the support of the mother. It is inherently unlikely, in my judgment, that the mother has been anything other than highly supportive of the relationship between Amelia and her father. Amelia adores her father. She speaks very highly of him. She aligns herself to his humour and his personality.

It is simply not true to suggest that there is any track record of alienation in this case or isolation. Amelia knows her father and is in regular touch with him through a number of media. I see no reason why this will not continue. I reject the suggestion as made in evidence that the father's relationship will be fractured. I am of the view that this may be more infrequent but of no less quality. In fact, Amelia is more likely to have the father's undivided attention during bouts of contact than at the moment.

54 Having heard the father's evidence and having reflected upon the ability of the mother to promote the relationship between Amelia and her father, I wish I could say the same about the father. In my view, however, the father's ill-feeling and mistrust towards the mother shone through his evidence. In my view, this has clouded his objectivity and he was unable to realise the advantages of Northern Europe or, indeed, recognise any of them. He thought the only advantage was about a relationship with mother. He then said he wanted to provide a balanced view before speaking negatively and bringing it back to him but he has, in my view, allowed his own negative view of the mother to cloud a proper assessment of the advantages of moving to Northern Europe. That the father could not bring himself to do this in his evidence, in my judgment, speaks volumes.

55 I am particularly troubled by the father's contention that the mother is motivated by her own and not Amelia's interests, as if these two things can be surgically extracted from the other. Amelia and mother's interests, in my view, are inextricably linked. Amelia's welfare should be viewed as relational. The mother is Amelia's primary carer and her only primary carer in living memory. Amelia's well-being is undoubtedly affected by the capacity of that primary carer. The parents separated eight to nine years ago and lived apart sometime after that. I find the father's view that the situation can simply be artificially extracted to be completely

unrealistic.

56 I found his evidence to be sincere and compelling but, sadly, shortsighted. I have no doubt that he loves his daughter. I have absolutely no doubt that he wants desperately to remain living in the same country as her but I am concerned that this ill-feeling towards the mother affects my essential ability to have confidence in his ability to promote the role of the mother. My overriding feeling after listening to his evidence is that he was angry with the mother, that he remains ill-feeling about mother, and that is a powerful intoxicant.

ANALYSIS – WELFARE CHECKLIST

57 I turn to the welfare checklist. In doing so, I have regard to the questions and challenges laid down by Williams J.

Wishes and feelings

58 I accept that Amelia's clearly expressed views, wishes, and feelings are that she remains in the UK. I accept that she loves both her parents very much and finds the situation where she is being asked to choose to be invidious. Amelia appears irritated by her mother and her wish to move abroad, and is able to engage in these questions. The welfare officer rationalised this in her evidence:

“She preferred to live with the father than live in Northern Europe, to stay with her English friends. She's a young adult. She's at another stage of her life now. She's reached puberty. As young children become older, the relationships they have with their friends and peers become more important than they do in primary school.”

59 I have to consider, however, whether these are authentic and informed wishes. I am not satisfied, for the reason I have already expressed, that Amelia can or has properly engaged

with the magnitude of the question she was being asked, i.e. separation from the only primary carer she has in living memory. I respect her desire for the status quo and I understand this completely but I am simply not persuaded that Amelia has articulated or been challenged on what, in my view, would be a potentially catastrophic loss of her only living memory carer from her everyday life. Wishes and feelings are not determinative anyway but, for that reason, I am cautious when I rely on what Amelia tells the Cafcass officer.

Physical, educational, and emotional needs

60 Both parents can meet Amelia's physical needs. Amelia's educational needs are being met in London at present. They could also be met in a city in Northern Europe. Her educational needs are significant. By that I mean she is a bright girl. She speaks three languages. She requires a level and quality of education that can stimulate her very obviously significant intellect.

61 In terms of her emotional needs, she needs, in my view, the consistency that stability brings to her. The mother has provided that throughout her whole life. Save and except for overexposure to information about this case, there is little, in fact nothing, that can be said to criticise the mother's ability to meet Amelia's needs.

62 The father is an unknown. He can meet Amelia's emotional needs in the short-term and their interactions and bond are of good quality but I have no base of evidence to draw upon when assessing the father's ability to recognise and support Amelia's emotional needs on a day-to-day basis. Indeed, and very concerningly, when I asked the father to consider the question of abandonment and how Amelia might experience that, I do not consider the

father was able to engage in that at all.

63 Amelia's emotional needs are also met by her wider family. The mother's parents are an hour or so away from the mother's home city in Northern Europe which would be accessible easily. They are in their 80s. Amelia loves them dearly. The father's parents are in Central Europe. The father loves them dearly and so does Amelia. She loves visiting them. Grandparents play a huge part in a child's emotional and social development. The father's parents are always, however, and would remain, a flight away. It seems to me that there is an advantage to have at least one set of grandparents within a short distance.

64 The father has raised questions about the mother's ability to promote him in Amelia's life. I do not consider this to be an issue. As I have explained, that her bond with her father is so strong is that testament to the mother's ability to support this relationship. On the contrary, however, I consider that the mother's relationship with Amelia would be harmed by her staying with the father. I do not consider at present that the father has shown an ability to extract his own ill-feeling from his evidence and, in all likelihood, therefore his parenting. I consider that there is a very real risk that the father may allow this ill-feeling to permeate his interactions with Amelia.

The likely effect of a change in circumstances

65 Whatever I do in this case there will be a change. Amelia will either move to Northern Europe and have her ties to education and family strained or broken, or she will move in with her father and have her most significant relationship strained. She will have to contend with either parent with the challenge of a further partner. She will have to adjust to a new

style and form of parenting and home environment.

66 It has been said that Northern Europe is untested. How will she settle into school? How will she settle into a flat? How will she settle into an environment that is not her own? However, likewise, the father's care is, to some extent, untested. How will she settle into his full-time care? How will she cope with the loss of a day-to-day figure in her life? Can the father be trusted to support that therapeutically and appropriately? How will she adjust to a new partner? Will she see Eliza less given that the mother, and not the father, is, in my view, the real conduit, with the father's time with Eliza limited practically and by his poor relationship with her own mother? Her housing will change. She will have to adjust to new accommodation. I do not consider that either of the options are unsuitable. Her schooling will change. The quality of schooling is equivalent but, of course, she will lose her friends if she moves to Northern Europe or certainly those friendships will become harder to maintain. However, I note both parents' description of Amelia as adaptable and resilient. She can and will, in my view, absorb change. She can socialise with ease and make friends. Her capacity to do that is well-established as she has just moved schools.

67 How realistic is the plan in being implemented as conceived? Very realistic. In fact, there is certainty from the mother's plan as to living, schooling, and wraparound care. The mother has proposed, in my view, a realistic and well thought through plan in terms of Amelia's existence. Likewise, Amelia's schooling and living arrangements in London are a certain but there is a lack of wraparound care which places an extra burden on the father and his partner and a limited support network of other adults who have other children and busy lives. There will, in my view, be a very positive effect on the mother's ability to provide Amelia with the enduring quality of care that she requires in Northern Europe. I cannot say the same about the father in the UK. This is not to say that I do not think the father would

manage but, likewise, the mother's proposal is by far the most attractive option.

- 68 The impact on the left behind parent if Amelia moves to Northern Europe will be significant but this can be ameliorated, in my view, with regular, good quality contact and free and direct contact with the father and his family on WhatsApp and video call. This can be done in a way that is culturally sensitive, including by conversing in the father and Amelia's shared language. As Amelia gets older and wants to spend more time with her friends and less with her family, this will also allow her to maintain vital ties with her father and enjoy a social life at the same time.
- 69 The impact on the mother of the loss of Amelia will, in contrast, be devastating. This may affect the relationship between the mother and Amelia as Amelia gets older and her ability to provide care to Amelia at the moment and meet her needs, or even, frankly, engage in the relationship in the short-term. There is a risk that all those things, in my view, could be compromised. That would be completely antithetical to Amelia's welfare.
- 70 In respect of the loss of contact with the father, although this will reduce in frequency, it will increase, I hope, in quality. There will be more regular contact. The father's wider family are in Central Europe and not in the UK and therefore, as I have said, they remain they remain a flight away. So, there will be little to no impact on Amelia's ability to maintain relationships with her grandparents. However, in Northern Europe, she will gain a maternal family just a short distance away. She will benefit from regular and incidental contact with her treasured grandparents and her wider family.

Age, sex, and background

- 71 The only relevant factor here is that Amelia is a young lady. She is starting her period. Both the mother and father, in my view, are able to support this, encourage good hygiene, and assist Amelia in starting on this journey to womanhood.

Any harm which she has suffered or is at risk of suffering

- 72 How secure is the relationship now and how likely is it to endure and thrive if the child moves? The relationship between Amelia and her father is very secure. It is entrenched and I have every confidence it will endure if she moves to Northern Europe. Amelia sees a lot of herself in the father. She loves his company and enjoys his humour. As I have said, they communicate through a variety of media and I have no reason to consider that this will not continue. This has blossomed in spite of the fact that she has been living with her mother. I am satisfied, for the reasons I have explained already, that this could not have happened without the support of the mother. Cafcass says very clearly she loves both of her parents but if she were in Northern Europe and chatter about the father continued, this would grind her down. However, I reject that. There is absolutely no evidence of this happening in the past. In fact, the relationship could not be better.

- 73 The relationship between Amelia and her mother is excellent. Amelia sees the mother as a more mature and strict parent which may be because she does the majority of the day-to-day parenting. I am concerned, as I have said, however, by the father's attitude towards the mother and the likelihood, as I see it, that the father would allow this conflict to permeate into his parenting. In my view, this may damage the mother and Amelia's relationship.

74 The relationship with Eliza is very important. As I have explained, I consider the mother and not the father to be the reason for this. The mother has an excellent relationship with Eliza's mother, and they arrange visits and incidental contact. That is not in any way to diminish the father but his relationship with Eliza is constrained and controlled. For the reasons I have expressed, I consider the mother is the conduit and therefore the glue and can perhaps improve over time. I have no doubt that this will continue if Amelia moves to Northern Europe.

75 In terms of harm from change, the welfare officer said in her evidence:

“There are so many unknowns. We do not know how living with a stepfather will go. She likes him but when you start out as a couple, there are rough edges to smooth and it is part of that. There is the issue of the step-sister and bad experiences with her.”

76 However, I have already explained when considering change I reject this analysis. The history of change for Amelia suggests she is resilient and able to withstand change. She can blossom in periods of change. The changes she faces applies to both parents equally and this is one further aspect in which I found the Cafcass analysis to be lacking.

77 The relationship between Amelia and her grandparents will extend and develop. This cannot be said of the paternal grandparents who will remain a flight away, although the option that Amelia remains in the UK would not improve that either, and, in my view, Central Europe is no more or less accessible from a nearby Northern European airport as it is from a London airport.

78 How realistic are the proposals for maintaining contact? In my view, the proposals for maintaining contact with the father are realistic. The father is able to visit Northern Europe and there are well thought out plans for Amelia to visit the UK. She will be supported by

the mother in doing this. The mother will be financially freer and better off to financially support contact and trips abroad.

- 79 In terms of other harm, I have already identified the risk of being exposed to conflict if she lives with her father. Amelia was described as being worried about the impact of the move on her mother and this, paired with an exposure to further conflict, would, in my view, be destructive to Amelia's welfare.

How capable each of the parents are

- 80 That Amelia is so resilient and well-mannered is testament to the parenting ability of both the parents. There are no welfare issues in terms of either of their parenting. There is no evidence that the mother or father cannot meet Amelia's needs. The mother has done this well. Cafcass expressed the view that I accept, that the father would do this capably.
- 81 Is the application to relocate wholly, or in part, motivated by a desire to exclude or limit the left behind parent's role? In my view, it is not. It is clear that the mother is worried about desolation. She is genuine. Her position is that she would go regardless and that says to me that she views this as a necessity. I have explained why I consider the father's position to be unfounded that the mother is intent on harming the relationship between him and Amelia. The mother has been a support for this relationship, and it is right that that is recognised fully in this judgment.
- 82 Is the left behind parent's opposition to the move genuine, or is it motivated by some desire? The father's opposition is not malign. It is genuine. He loves his daughter. He is angry

with the mother but he has allowed this to permeate his decision-making. However, in my view, his opposition to a move is not out of a desire to control. It is not malign. It is pure and simple sadness.

- 83 Will the parent be better able to care for the child in a new country rather than England? What role can the left behind parent play in the future? The father can play a full role in Amelia's life. I have outlined how this can be done. I have outlined my conclusions and reasons as to why the mother will be able to provide Amelia with a better level of security, stability, and care in Northern Europe.

The range of powers available to me under this Act

- 84 I have to make an order. The parents do not agree and so I have to give effect to my welfare analysis. I can make a direction that the mother obtains a mirror order in the country in Northern Europe, a signatory, of course, to the 1996 Hague Convention and so reciprocal enforcement will be no issue. I have no doubt that this order will be respected in that jurisdiction.

- 85 Tying these threads together, it is, in my judgment, overwhelmingly in Amelia's welfare interests to move to Northern Europe with her mother. The balance falls firmly and wholly on that side. The losses she suffers can be well compensated and I am satisfied that she will continue to thrive in her mother's capable care. There must be regular contact between father and Amelia. This must be direct and indirect.

- 86 My order is therefore as follows:

- (1) Permission to the mother to relocate to Northern Europe with Amelia; and
- (2) Contact as follows between the father and Amelia: for three weeks in the summer in the UK, Central Europe or Northern Europe; for the autumn break in the UK, Northern Europe, or Central Europe; every Easter in the UK, Northern Europe, or Central Europe; and every other Christmas in the UK, Northern Europe, or Central Europe.

87 For the reasons I have outlined, that is my judgment.

Transcript approved, JH.

CERTIFICATE

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