Case No: CF24C50189

Neutral Citation Number: [2025] EWFC 273

IN THE FAMILY COURT SITTING AT CARDIFF

BETWEEN:

A LOCAL AUTHORITY IN WALES

Applicant

- and -

GDA

First Respondent

- and –

X

(The child acting through his Cafcass Cymru Guardian)

Second Respondent

APPROVED JUDGMENT

MARTIN JONES (instructed by the local authority) for the Applicant

KATE BROADHURST (instructed by Gracelands Solicitors) for the First Respondent

LYNNE NAYLOR (Cameron Jones Hussell and Howe) for the Second Respondent

Hearing dates:

22 and 23 July 2025

[/1185] Bundle references

INTRODUCTION

1. These proceedings pursuant to Part IV of the Children Act 1989 ("CA89") concern one child, namely [X], who was born [in 2024]. I used the anonymized letter X ("X") in relation to the child's identity in an earlier judgment (for the purposes of any potential reporting of the judgment) and will do so again in this judgment. X is now c 16 months old.

2. There are also now proceedings pursuant to the court's inherent jurisdiction concerning X. The relevant C66 application was issued on 10/7/25, which seeks for X to be made a ward of court following the conclusion of these CA89 proceedings.

3. The relevant local authority in relation to each set of proceedings is [a local authority in Wales] ("LA"). The LA has been represented by Mr Jones, solicitor, at this hearing.

4. [GDA] is X's mother ("M"). M is a citizen of [another country] ("Country Z" once again for potential reporting purposes). She has been in the United Kingdom ("UK") since the latter part of 2023. M has been represented by Ms Broadhurst at this hearing. I note that the identity of X's father continues to be unconfirmed.

5. X has been represented via his Cafcass Cymru Guardian ("CG") and by Ms Naylor, solicitor.

6. I also record that Ms L, of Country Z's consular team, has also attended once again this hearing.

7. The LA has previously sought a care order ("CO") and an interim care order ("ICO") in relation to X pursuant to an application dated 2/5/24 [203/1185]. The LA's final case, in outline, is that a Special Guardianship Order ("SGO") should be made in favour of X's maternal uncle and his partner (i.e. de facto maternal aunt) who reside in Country Z and that this should ideally be fully recognised (i.e. homologated) in that country, or at

least well on the way to being fully recognised, before he relocates there to their care. In the meantime, the LA proposes that X should be made a ward of court to ensure his ongoing protection.

8. This hearing can be properly described as the final hearing. I handed down an earlier judgment dated 24/4/25, effectively on 28/4/25, which dealt with all issues remaining in relation to s31 CA89 and the welfare determination, insofar as the court could determine welfare at that time [102-/1185]. That judgment has not been the subject of any appeal. It follows that this judgment is designed to be read in conjunction with that earlier judgment.

THE PARTIES' UP TO DATE POSITIONS

LA

9. The LA continued to seek the orders summarised above. The LA also sought a further port alert order, to continue ideally until X's final relocation to Country Z. The LA was neutral as to the 'mechanism' point in relation to M's contact, which is set out in further detail below.

M

10. Whilst M has, in large measure, not accepted the court's previous judgment, she now accepts that X should live with the uncle and aunt in Country Z. She did not raise any issue in relation to the principal orders sought by the LA. She also agreed to provide an undertaking to support, in part, the transition arrangements. There was only one small ancillary issue raised by her in relation to contact arrangements with X. She accepted the plan for contact within X's overall final care plan. She ultimately sought reference to the same in '*bullet point'* form for inclusion in the recital to the court's final order.

CG

11. The CG endorsed the LA's final case and agreed with the order sought by the LA. The CG's view was that reference to M's contact with X in the court's final order should be confined to a short cross reference to the relevant part of X's overall care plan. He was concerned that more details as to contact set out anywhere in the order may be interpreted in Country Z as a 'concrete' order as to contact, rather than a reflection of the current intentions in relation to ongoing contact

INDEPENDENT REVIEWING OFFICER ("IRO")

12. I also record, out of completeness, that the IRO has also endorsed the LA's final care plan in relation to X [416/1185].

SUMMARY OF ISSUES

13. It follows that there are no remaining factual issues for the court to determine. However, in view of the particular circumstances in this case, this further written judgment is required.

EVIDENCE / WITNESSES

14. I have a reduced core trial bundle comprising 1185 pages. In addition, I have the CG's final analysis separately before me. I also have case summary / closing position statement documents from all parties. As part of the suite of draft orders also placed separately before me, I have the above-mentioned undertaking form completed by M. I will set out the context and reasons for that document in more detail later in this judgment

15. Whilst I have received, as ever, very helpful submissions on behalf of the parties, it was not necessary for the court to take oral evidence at this hearing. I did have some brief further (unsworn) confirmation information provided by AA, the court appointed expert in the relevant law in Country Z, who briefly joined the hearing from that country.

RELEVANT LAW

16. I set out the law relevant to the issues then before the court in my earlier judgment. The over arching summary of the law relating to the welfare determination therein plainly remains directly relevant again. However, I do not propose to rehearse the contents of that part of the earlier judgment again.

17. As indicated the LA, as part of its final case, now seeks for X to be made a ward of court until he relocates to Country Z. As indicated earlier, the LA seeks a final SGO, which ideally should be recognised or homologated before X leaves for Country Z, which is likely to take c2-3 months. That order has to be made before the homologation process can begin. Also, the uncle and aunt are currently in Country Z. If a SGO simpliciter were to be made at the conclusion of this hearing, the ICO would end and the only person in this country with PR for X would be M. This would mean that the LA would have

no immediate means of ensuring his protection, which would be highly concerning in the light of the findings I made against M in my judgment.

18. I gave a brief extempore judgment granting leave to the LA to seek the wardship order sought on 22/7/25. The following is a short recital of the relevant law that applied to my determination of that application. Strictly speaking this part of the judgment should be set out in a judgment in High Court pursuant to court reference FD25P00412 but is included within this judgment out of convenience.

19. The court has been taken to s100 CA89 as the legislation framework that sets out the relevant criteria to be applied in such applications. In particular, the court noted the restrictions imposed upon local authorities pursuant to s100(2) CA89 and the requirement for leave in s100(3) CA89. The court was not taken to any specific authority directly relevant to points as to whether leave should be granted in the presenting scenario set out above in this case. The first point submitted to me was that the LA is not being required to discharge an ongoing role in relation to X. I was taken to Re E (Wardship Order: Child in Voluntary Accommodation) [2013] 2 FLR 63 which is an illustration of where a local authority was granted leave where a parent had provided consent pursuant to s20 CA89. I digress to comment that the directly comparable legal situation within Wales would be pursuant to s76 Social Services and Well-being (Wales) Act 2014.

20. I was also referred to other authorities for broadly illustrative purposes, namely Re D (International SGO) [2024] EWFC 353; Re K, T and U (Placement of Children with Kinship Carers Abroad) [2019] EWFC 59 and Re S (Inherent Jurisdiction: Transgender Surgery Abroad) [2023] EWHC 347. I was also reminded, inter alia, that resort to the court's inherent jurisdiction should be used sparingly and with restraint, where there is no other way to address a deficit in the CA89 statutory regime. Its deployment is confined to circumstances that are strictly necessary and proportionate. If leave is granted the court must make decisions in relation to the subject child on the basis of his / her best interests.

21. I was ultimately satisfied that the specific circumstances arising at the conclusion of this case mean that there is no other way, other than invoking the court's inherent jurisdiction, for the court to ensure that X is kept safe during the transitional period until he relocates to Country Z. In short, I was satisfied that the criteria within s100(4) CA89 were met by the LA.

UPDATING BACKGROUND / LITIGATION HISTORY

22. At the conclusion of the hearing on 24/4/25 the court directed a further 'risk assessment' in relation to the uncle and aunt in this country in order to assess, inter alia, their response to the court's judgment, their continuing commitment to X, their capacity to keep X safe if he was placed in their care and further detail about the 'dynamic' in the maternal family. The LA filed its further updating assessment plan in relation to this exercise on 6/5/25 [392/1185].

23. The uncle and aunt duly arrived in the UK on [date] 2025. The LA's further assessment sets out the extent of their engagement with them and their contact with X over ensuing weeks [393-/1185]. In outline, this report once again made for positive reading. They then returned to Country Z on [date] 2025.

24. The Issues Resolution Hearing ("IRH") took place before me on 3/7/25. By that date there was broad consensus between the parties as to the way ahead, in large measure as a consequence of the further updating positive assessment of the uncle and aunt. The CG's legal representative recommended wardship as to the way ahead to address X's needs during the transitional period until his relocation. The LA agreed that this was helpful proposal. There were some further issues identified for AA to address. Provision was also made for M to confirm whether she would not object to the homologation process in Country Z or to explain why she would not give that reassurance. M was also required to file and serve documentation in relation to her asylum application

25. As indicated previously, the LA issued its C99 application on 10/7/25. The LA's final care plan is dated 14/7/25. The answers to further questions posed to AA was received on 16/7/25 [96-/1185]

SUMMARY OF FURTHER EXPERT / PROFESSIONAL EVIDENCE

Further opinion evidence by AA (on relevant law in Country Z)

26. Further to the earlier advice from AA, he has provided further expert assistance since the last judgment which may be summarised. He confirmed that my earlier judgment did not alter his earlier advice, which is summarised in his earlier responses. He noted that its reasoning, grounded in the "*best interests of*

the child" and due process of law, is consistent with the legal principles applied in Country Z. He confirmed that a foreign judgment can only produce legal effects in Country Z after it has been formally recognised or homologated by the relevant court. Whilst the process of homologation can take between 2 and 12 months, much depends on the regularity of the documentation and absence of any challenges to the process. The relevant court generally prioritises cases involving the rights of children and adolescents.

27. In order for the homologation process to proceed efficiently, the following is required:
    a) The foreign decision is final and unappealable;
    b) The decision must observe due process of law in the country of origin;
    c) Authentication by the Consulate (or such other approved government agency in the light of the further information from the Consulate) accompanied by a sworn translation carried out by a certified translator in Country Z.

28. It was also confirmed that homologation could commence before X is relocated to Country Z. The physical presence of the subject child in Country Z territory is not a requirement. It is also possible to request the temporary appointment of a guardian in Country Z. However, it is unnecessary for me to set out the further detail in this respect. It is AA's opinion that what is proposed for X is sufficient to ensure his legal protection and the continuity of his placement with his uncle and aunt in Country Z.

29. I digress at this point to note that the CG's solicitor submitted an extensive note annexed to her position statement dated 3/7/25 as to the relevant law concerning the recognition of foreign judgments in Country Z [35-/1185]. In addressing specific questions in his further response, AA confirmed that this note accurately reflects the recognition process. He confirmed that there is a mechanism for a relevant party to object to the homologation process. He opined that, assuming the timely submission of all required documentation (duly translated and certified) the estimated timeframe for recognition of the judgments and final order in relation to X, with an undertaking from M not to oppose the recognition process, is c2 to 3 months. The period would be c6 to 12 months without any such undertaking. In order to conclude the process as swiftly as possible, in addition to the procedural points already set out above, he recommends an application is made for procedural priority at the relevant court

on the basis of X's welfare, invoking the constitutional principle of absolute priority for children. The formalisation of M's undertaking not to oppose the recognition, and not to encourage others to do so, is likely to minimise the amount of judicial time required. He concludes by saying: *".....With proper documentation, strategic procedural steps, and, if applicable, a formal undertaking from the mother, the process is likely to proceed swiftly and favourably".* He briefly confirmed to the court that there is no forthcoming 'vacation' period in the relevant court in Country Z.

Further assessment of the uncle and aunt

30. The earlier judgment summarises the earlier assessment of the uncle and aunt facilitated by CFAB. This further judgment focuses on the further assessment of them.

31. I have already set out, in outline, the outcome of that further assessment and referred to the various assessment / contact sessions. I do not rehearse all the positive comments in relation to them that appear in the report. It is clear that they initially required some assistance to navigate and take on board my judgment. No criticism is impliedly or expressly directed at them as a result. They are not lawyers and have no experience of such court proceedings. X's social worker was ultimately satisfied that they both understood and accepted the contents of the judgment relating to M.

32. The assessment of their interaction and commitment to X, as indicated, makes for very positive reading. Initially, X was wary of them as they were strangers to him. That is to be expected. They also spoke to him, entirely understandably, in a language that is not currently his first language. Over time X settled and became more at ease with them. They later met with X and his foster carer at a contact centre. The foster carer was positive about how the uncle and aunt interacted and provided care for X. She requested that future contact was held at their accommodation. Contact was held on a daily basis for the first week. A meeting was convened on [date] 2025 to discuss progress and to timetable for the following week's contact. Contact was progressing well, with the result that the duration of contact was increased for three/four hours per day. This was supervised both at the accommodation and in the community. A further meeting took place on [date] 2025. Contact going forward was changed to be on a loosely supervised basis, with varying times each day. A sleepover at the couple's accommodation was arranged. It was reported that X settled, with no

concerns arising. During all contact they observed X's routine and acted upon the advice of all child professionals at all times.

33. The evaluation of the uncle and aunt's introduction to X was assessed as *"very positive*". They demonstrated "…*flexibility, dedication and commitment"* to X. At the end of the assessment period he was happy and comfortable in their care. It was the social worker's assessment that "….*despite only meeting [X] three weeks earlier, there is developing a loving bond between the couple and [X]".*

34. I digress to observe that the foster carer confirmed that she would facilitate ongoing indirect contact between the uncle and aunt and X following their return to Country Z

35. The assessment report also records that the uncle and aunt complied with all the 'ground rules" . It is specifically noted that the aunt acknowledges that the court's decision is *"supreme*" and "*must be respected*". If the court deems that the parents require restrictions or supervision for X's well-being, she accepts this outcome.

36. The further assessment notes that X's primary attachment will naturally develop in time towards the uncle and aunt as his full-time carers. Whilst M should be permitted contact with X in Country Z, his social worker is of the view that M should stay at the home of the maternal grandmother and only visit X's home.

37. There was a specific session for the social worker to assess the dynamic in the relationship between the uncle and aunt and M. They informed her that they had been overwhelmed at seeing M for the first time in a number of years and under challenging circumstances. The LA recognise and accept that it may be difficult for family members to manage their emotions. However, it is the LA's assessment that the uncle and aunt are able to recognise the responsibility placed on them in the future to ensure X's welfare and safety. They fully accept that X "….*would always be their priority."*

38. The maternal grandmother plainly occupies an important place in the wider maternal family. That was noted in the first assessment. There was a negative 'Viability Assessment' on her as a possible alternative carer shortly after this case commenced. She had been noted to be very emotional on her visit to the UK in

2024. She is, understandably, also eagerly awaiting the Court's decision and continues to support her children. She has expressed the view that M has been suffering greatly due to the separation from X. This has raised the LA's concerns as to where maternal grandmother's loyalty may lie, namely with M rather than X. As a consequence, the further report recommends that she should be required to undertake not to allow M to have unsupervised contact with X. Further to this point, the LA is concerned that M has not been fully open and honest with her own mother in respect of the concerns relating to her.

39. In the course of the further assessment M stated that for the time that it was her intention to remain in the UK and to appeal against the decision to allow her to remain. That said, M did not rule out returning to Country Z if her appeal is rejected. M informed the uncle, aunt and social worker that if and when she returned to Country Z, she would not attempt to remove X from their care, or attempt to have any unsupervised contact as she would not want to jeopardise him remaining in their care. She said that she respected what they were doing for X to keep him within the family. It is the social worker's opinion that, although untested, she has no reason to believe that the uncle and aunt would allow this to happen in any event. She adds she has *"….no doubts that they are able to protect [X]".* She feels that they have demonstrated that they would be able to seek assistance, advice and clarity from police and/or other local authorities.

CG's analysis

40. The CG in his analysis draws upon the detailed overall assessments on the uncle and aunt. He is satisfied that assessment of them has been robust. He records that placing X with his family in Country Z offers significant benefits for his sense of identity and cultural belonging. The care plan will allow him to remain connected to his heritage, language and traditions. He also notes that, throughout the uncle and aunt's assessment process, no major concerns were identified. Any issues that did arise were effectively addressed.

41. The CG also notes the LA's final care plan and provisional transition arrangements. He is satisfied that the risks of M trying to remove X from the care of the uncle and aunt unlawfully are addressed as fully as is possible. Whilst he notes that M is now cooperating with the plan for X, and that this may be an indication of increased stability and cooperation on her part, it is his view that M's history of dishonesty means the situation in Country Z *must* (my emphasis) be approached with caution.

42. In considering the most appropriate outcome for X, the CG confirms that he has considered all relevant options available to the Court. It is clear to him that "*…the trajectory for [X's] care would be with his maternal aunt and uncle in [Country Z]".* It is his recommendation, albeit with an acknowledgement of some ongoing risk, that the proposed SGO is the most appropriate and proportionate outcome. He is firmly of the view that X needs court protection until he is safely relocated to Country Z in the care of the uncle and aunt.

M: UPDATED EVIDENCE / UNDERTAKING

43. I can be appropriately brief in relation to M's updated evidence. Whilst she does not accept all of my earlier findings about her, she accepts the welfare decision for X's future. She accepts that he should be allowed to live with the uncle and aunt pursuant to an SGO. She further agrees, in the form of a court undertaking, not to object to the homologation process to help minimise the likely period for the court procedure in Country Z. For the avoidance of any doubt, I confirm that M was not compelled to do so. She could have declined to give the undertaking, albeit the court would have required an explanation from her. She was also fully legally advised in relation to that part of the process and the ongoing proceedings more generally.

WELFARE DETERMINATION

44. In my earlier judgment I addressed the welfare checklist pursuant to s1(3) CA89 in some detail and deployed a holistic analysis of the options before the court in relation to X's future. I do not propose to rehearse that exercise again, save for brief updating.

45. For the avoidance of any doubt, I accept the professional evaluation before the court as to the capacity of the uncle and aunt to meet all of X's diverse basic and more nuanced needs. Whilst I have to acknowledge that there remains, inevitably, some risk posed by M, I find that I can repose fundamental trust and confidence in them to keep X safe.

CARE / SGO SUPPORT / TRANSITION PLAN

46. I have carefully considered the LA's care plan [406-/1185] which incorporates the SGO support plan [414-/1185] and a tentative transition plan

[412-/1185]. The permanence plan therein is for a SGO in favour of the uncle and aunt. I note the extent to which the LA will support that placement, including the provision of funds to provide an extra bedroom for X and to assist with any litigation involving him in Country Z. No issue has been raised by any party as to the extent of support to be offered to them. The provisional plan also appears sensible, with one or both of the family carers travelling again to the UK to collect X. Hopefully, the homologation will be completed within 3 months. The parties, in fact, invite the court to review the progress, albeit in the context of ongoing wardship proceedings in 4 months' time. I accept that a careful judgment call may be needed at that time in the event that the homologation process is not complete. For the avoidance of any doubt, I approve the final care plan.

CONTACT

47. For the period following the making of the final order and until X is placed in Country Z, contact with M will be reduced to one session per week for two weeks. Then there will one session every two weeks until he is placed. Contact will be for one hour duration and will be fully supervised. As X will need to settle into his new placement in Country Z, following the move, contact will not take place between M and X for a period of eight weeks to allow him to settle.

48. If M remains in the UK, remote contact will then commence on a monthly basis for thirty minutes duration per session this will take place via 'WhatsApp'. Direct contact should take place in Country Z on two occasions each year. Depending on the length of M's stay, direct contact takes place on three occasions per week, for a period of four hours per session. All contact is to be arranged via the uncle and aunt and is to be fully supervised.

49. In the event that M returns herself to live in Country Z, following the above-mentioned 8 week settling in period, direct contact with X is to take place on a monthly basis for four hours duration per session. All contact once again will be arranged via the uncle and aunt and will be fully supervised.

50. In relation to all direct contact, M is not to remove X from the care of the uncle and aunt and is not to seek to have any unsupervised contact with him.

51. For the avoidance of doubt, these are the contact arrangements that are currently felt by the child professionals to be suitable. They can be kept under review over time. I am satisfied that these plans appropriately and safely meet X's needs for contact with M in the light of my findings about her in my earlier judgment and are hereby specifically approved. I have also already found that the contact part of the care plan can be included, in 'bullet point' format, within the recital to the court's final order as a reflection of the intentions in relation to future maternal contact at this time.

CONSEQUENTIAL DIRECTIONS / DECLARATION

52. I am therefore satisfied that the only outcome that prioritises X's welfare is his placement in the care of the uncle and aunt subject to an SGO. In view of my findings about M in my earlier judgment, I am entirely satisfied that the LA must be able to continue to protect X until he is safely placed in the care of the uncle and aunt in Country Z. I am satisfied that the only way to do so is to make X a ward of court until his relocation to Country Z. I am also satisfied that a further port alert order for a defined period is also required to ensure his safety.

53. I am also satisfied, in the light of PD 12D 2.1 to 2.3, that I should not transfer the warship proceedings to the Family Court in view of the fact the LA is a party and that there is a substantial foreign element to the proceedings.

54. For the avoidance of any doubt, as a Deputy High Court Judge of the Family Division, I hereby declare as follows: *"This order is made with due regard to the best interests of the child, in accordance with internationally accepted principles of child protection, and after ensuring that all parties were duly heard or given the opportunity to be heard, in accordance with the principles of due process."*

55. I also direct, again for the avoidance of any doubt, that this declaration shall also be included within the final order relating to X.

FINAL REMARKS

56. I have already noted that some residual risks will inevitably remain once X is relocated to Country Z in the care of his maternal uncle and aunt. However, I have found that I can and do trust them. I am also satisfied that

the balance of advantage in acceding to the LA's care plan for X to live with his family clearly outweighs that remaining minimal risk. I make no apology for recording once again that this plan meets X's needs in terms of nationality, language and rich cultural heritage that is, frankly, his right and entitlement.

57. Finally, I am, as ever, grateful to the parties' legal representatives for their continuing assistance to the court in this complex and challenging case.

HHJ Paul Hopkins KC, sitting as a Section 9 Judge of the High Court, Family Division.

The Cardiff Civil and Family Justice Centre / Cardiff District Registry of the High Court

23 July 2025