Neutral citation number [2025] EWFC 34 (B)

IN THE FAMILY COURT SITTING AT OXFORD

HEARD ON 11th to 14th February 2025

HANDED DOWN ON 21st February 2025

Before

HER HONOUR JUDGE OWENS

Between

Oxfordshire County Council

Applicant

- and -

M

First Respondent

-and-

F

Second Respondent

-
-and-

B

Fourth Respondent

Representation:

For the Applicant: Miss Granshaw, Counsel
For M, First Respondent: Ms Crampton, Counsel
For F, Second Respondent: Ms Williams, Counsel
For B, acting through their Children's Guardian, Natalie Allen: Ms Rai, Solicitor

1. This judgment is being handed down in private on 21st February 2025. It consists of 30 pages and has been signed and dated by the Judge. The Judge has given permission for the judgment (and any of the facts and matters contained in it) to be published on condition that in any report, no person other than the advocates or the solicitors instructing them (and other persons identified by name in the judgment itself) may be identified by name, current address or location [including school or work place]. In particular the anonymity of the children and the members of their family must be strictly preserved. All persons, including representatives of the media, must ensure that these conditions are strictly complied with. Failure to do so will be a contempt of court. For the avoidance of doubt, the strict prohibition on publishing the names and current addresses of the parties will continue to apply where that information has been obtained by using the contents of this judgment to discover information already in the public domain.

INTRODUCTION, BACKGROUND AND EVIDENTIAL SUMMARY

2. This case was originally an application by the Local Authority for care orders for two children, A and B. M is their mother, and F their father. A is now 17 years old. B is now 10 years old. Proceedings for A were concluded in April last year when she was still 16. The proceedings for B are part-heard, the final hearing for her having last been adjourned on 2nd December 2024.
3. There is an exceptionally long and convoluted history to these proceedings, which commenced in early May 2022 and were initially allocated to another Judge. I set out the outline of that history in my judgment in this case given on 26th February 2024 and adopt those details for the purposes of this judgment. On 19th April 2024

proceedings for A finally concluded by consent, all parties agreeing that she should live with F and that there should be a Child Arrangements Order in force until she is 18 specifying that she should live with F. F was also given permission to permanently remove her from the jurisdiction. In respect of B, the Final Hearing (FH) in April 2024 had to be adjourned because F and M were challenging the Local Authority final care plan for her (M challenging contact not proposed placement at this point), and the social worker (who was by then also the Team Manager) was unable to give evidence due to illness. M did not agree that the threshold findings she agreed to (recorded at A399-A401) crossed threshold for the purposes of section 31(2)(b)(i) (ie the harm suffered or likely to be suffered by the children concerned was attributable to the care given to them or likely to be given to them not being what it would be reasonable to expect a parent to give to them). She instead sought to argue that threshold was crossed on the basis of section 31(2)(b)(ii) (the harm or risk of harm was attributable to the children being beyond parental control), but I heard submissions and made a finding that threshold was crossed for the purposes of section 31(2)(b)(i) at the FH for A on 19th April 2024. Threshold relating to both children was therefore resolved by those findings and I adopt them for the purposes of this judgment.

4. Delays in this case have not been helped by problems at times with obtaining information from another jurisdiction. The Local Authority were in contact with ICACU during pre-proceedings work and at the beginning of proceedings. The Local Authority again contacted ICACU in around May 2023, but no response was received at that point. In early March 2024, as directed by the Court, the Local Authority sent an updated request to ICACU in relation to placement options, educational provision, other resources and support for A and B if they were to move

to the other country concerned. It seems that this did not result in the information required being received via ICACU but rather the social worker had to contact social services in the country concerned directly and incorporated the information she was given into her updating statement of 4th April 2024. In March 2024 expert legal opinion was also obtained about the rights and aids available for children with special educational needs in F's home country, the legal procedure for assessing special educational needs and therapeutic services there, options for recognising decisions made here in that country and the age limit for enforcement of any orders made there (E489-E515).

5. The adjourned FH for B was next listed for 7th to 13th June 2024. On the first day of the adjourned FH, the social worker shared for the first time that there had been a conversation on 25th April 2024 with the IRO in which the IRO had expressed reservations about the final care plan. Enquiries were made about the IRO's views, and in her absence her manager confirmed that the IRO's view was that there should be further exploration of B moving to live with A and F. As a result, the FH was adjourned to September/October 2024 and an FCMH listed for 13th June 2024.
6. On 13th June 2024 directions were made for the IRO, F and paternal grandparents (who would potentially be involved in arrangements for B if she moved to live with F) to provide statements and for the social worker to provide an updated care plan.
7. A further case management hearing was listed on 1st July 2024. At that hearing I determined that the instruction of a suitably qualified and experienced Independent Social Worker (ISW) who could legally conduct assessments in the country in which F was living and who would have the requisite knowledge about support that may be available in the country in question was necessary in order to have an up to date parenting assessment of F's ability to care for B with A. Directions were

made for any properly constituted Part 25 applications to be made by 4pm on 3rd July 2024 if possible accompanied by a draft order to include timetabling directions. Unfortunately, there was a delay in the Local Authority being able to identify an appropriate ISW which meant that the requisite application was not made until 18th July 2024. The application was determined on the papers as originally envisaged, with all parties but M consenting to the application. Written submissions on behalf of M had been filed as directed and were considered by the Court. Parties were informed by the Court on 24th July 2024 that the application was granted, and an agreed Letter of Instruction was duly sent to the approved ISW who was required to provide her report by 20th September 2024. The FH was adjourned and confirmed as listed on 2nd to 9th December 2024 inclusive.

8. The ISW duly provided her report (E537-E569), which concluded positively in terms of F's ability to care for B if she were to live with him and A out of the jurisdiction, and the Local Authority liaised with the relevant authorities for the country in question via ICACU about practical and other requirements should the Court permit B to relocate to live with F.

9. On 1st October 2024 the solicitor for the Local Authority informed M's solicitor that the social work team were concerned that they had not been able to contact M since 19th September 2024. M had also not had contact with B since then. On visiting M's accommodation, social workers discovered that she had been sectioned under the Mental Health Act for two weeks and was thus an in-patient in a psychiatric hospital.

10. On 4th October 2024 the Local Authority filed its updated final evidence and revised final care plan for B as directed (C996-C1012 and D69-77). The plan was for B to transition to the care of F and to move to live with F and A out of the jurisdiction by

the end of December 2024 with Child Arrangements and Specific Issues Orders for these purposes. No public law order was sought by the Local Authority and in the interim, pending B leaving the jurisdiction, B would remain in her placement here under a section 20 Children Act 1989 agreement. Supported family time between B and M was recommended, at least once a month, to be face to face supported by her placement whilst she remained here, with F needing to explore what could be provided by family members or professionals supporting in the other jurisdiction to assist with face-to-face family time between B and M there in due course.

11. On 30th October 2024 F filed his final statement in which he expressed concerns about the timing of the Local Authority transition plan because of the potential emotional impact on B of moving during the festive holiday period and instead proposed a longer transition period so that she could adapt more calmly without the pressures of seasonal celebrations (C1014-C1015).

12. On 6th November 2024 M's solicitor notified parties that she had visited M in hospital and observed her to be very unwell. Her solicitor was then on leave for 10 days but indicated that she would be filing a C2 application for an assessment due to her concerns about M's litigation capacity. A 'fit for work' form was also circulated by M's solicitor which confirmed that she was unfit for work until 22nd December 2024 due to psychosis, but which did not address her fitness to attend court.

13. On 7th November 2024 an advocates' meeting was held to discuss the situation given the part heard FH due to commence on 2nd December. Whilst all were keen for the FH to be effective, M's solicitor remained concerned about M's litigation capacity.

14. Also on 7th November 2024 M's solicitor made an application for a capacity assessment of M which was granted on 11th November 2024. On 18th November 2024 Dr Wilkins confirmed that M did have litigation capacity. In answer to specific questions in the Letter of Instruction Dr Wilkins also provided some recommendations to facilitate M's participation in the proceedings.
15. On 11th November 2024 the Guardian filed her Final Analysis and Recommendations in which she confirmed that she supported the Local Authority revised final plan for B (E570-E584).
16. M's final statement was due on 20th November 2024. The Court was updated about M's situation by email and indicated on 20th November 2024 that urgent consideration should be given to M attending the hearing on 2nd December 2024 remotely if practicable since that was also in line with Dr Wilkins' recommendations.
17. At an Advocates' Meeting on 28th November 2024 M's solicitor indicated that an application to adjourn the FH would be made that day so that a medical report could be obtained into a head injury that M asserted had happened when she was sectioned in September, and for there to be a further Intermediary Assessment to establish what support she would need to participate in the proceedings and give instructions.
18. At the FH on 2nd December 2024 I granted the application to adjourn but not for the reasons put forward by M, rather I found that the adjournment was necessary because there were yet again concerns about M's litigation capacity and so Dr Wilkins was directed to undertake a further capacity assessment. I concluded that no further Intermediary Assessment was necessary given the earlier comprehensive Intermediary Assessment completed in these proceedings (C246a-C246am). The FH was adjourned part-heard to 11th to 14th February 2025

inclusive with a Pre Trial Review (PTR) listed on 28th January 2025. F was permitted to participate remotely on any day when he was not giving oral evidence.

19. On 24th December 2024 Dr Wilkins confirmed that M had litigation capacity and made some further recommendations about participation measures to assist her in the proceedings, including that consideration should be given to allowing M to attend hearings remotely if she wished.

20. On 20th January 2025 M made an application to attend the PTR remotely. Unfortunately, judicial ill health meant that the PTR had to be moved from 28th January to 5th February 2025. M also sought other participation directions to enable her to have support at the PTR and the FH. Those measures included her participating remotely for the whole of the FH and having the support of a worker from MIND instead of a Court funded intermediary.

21. The PTR was conducted wholly remotely on 5th February 2025 and directions were made to ensure that the part-heard FH was effective. The FH was moved to wholly remote with the consent of all concerned to facilitate M's involvement, but also that of the solicitor for the child and to avoid some of the potential risks associated with hybrid hearings even though the court to be used for the final hearing was equipped with hybrid equipment.

22. This case has been plagued throughout with issues around the provision of interpretation services, primarily for F since M only required an interpreter for her evidence and even then, only potentially for the odd word or phrase. As Ms Williams for F noted at the end of her closing submissions, at least five hearings in the history of the case had no interpreter for F despite court directions. What is very surprising about this is that the language in question is a standard European one, and one where there are numerous qualified interpreters in this jurisdiction.

Despite this, the HMCTS contracted service provider for interpreters, the BigWord, consistently failed to provide an interpreter for numerous hearings despite the best efforts of court administration to ensure that they did. The lack of provision was often notified at the very last minute leaving no option to source alternative 'off-contract' provision, and on more than one occasion the Court was simply not notified that an interpreter would not be provided. This resulted in the previously allocated Judge, HHJ Lloyd-Jones, directing that local court administration were permitted to book interpreters 'off-contract' for all hearings where F was participating and where M would be giving evidence to try to avoid abortive hearings arising from absent interpreters. This arrangement is not without considerable cost to local court budgets and is not something that can be done routinely as a result. An interpreter was duly sourced 'off-contract' for this remote FH, however that individual seemed to have significant difficulty with participating in a remote hearing and in accurately translating for F. Whether this was due to apparent technical issues with her sound and equipment, or something else was not clear. These technical issues persisted throughout the hearing, despite the best efforts of court staff to assist the interpreter with resolving them, and eventually it was agreed on day three that the interpreter in question should be replaced by the interpreter booked to translate for M's evidence, M's requirement for an interpreter not being at the same level as that of F since she gave her evidence in English and only had an interpreter if she did not understand the odd word or phrase, something that the second interpreter could pause and assist with if required. In her closing arguments Ms Williams made it clear that she was not seeking to argue that F had not had a fair trial because of the issues with the first interpreter, but she did want to highlight the impact that issues with interpreters

had overall on the extraordinary delays in this case. I share those concerns about the delay caused by problems with interpreter provision and noted them in my previous judgment. It is also very unfortunate that what should have ensured adequate interpretation for F for this FH did not actually achieve that, but the interpreter concerned came from the National Register of Public Service Interpreters and knew that it would be a remote hearing, so it was a surprise that they were not as well equipped for a remote hearing and did not translate as well as might be expected. It is fortunate, as Ms Williams also pointed out, that both M and F in this case speak and understand English to a good enough standard to be able to follow and contribute in English at points and were thus able to proceed despite the issues around interpretation.

23. In the course of this FH I have read the evidence in the Bundle, as well as heard evidence from the Independent Social Worker (ISW), the social worker, F, M, and the Guardian. I heard oral closing submissions on day 4 and reserved judgment (as I had warned may be required when the witness timetable was produced), with this judgment being distributed in draft form to all advocates and parties on 19th February and the perfected judgment handed down remotely on 21st February 2025.

PARTIES' POSITIONS

24. The Local Authority revised final plan for B is for her to transition to the care of F starting from the beginning of March 2025 and to move with F out of the jurisdiction on 16th March 2025. The Local Authority does not seek any public law order and instead asks the Court to make a Child Arrangements Order for B to live with F and

a Specific Issues Order permitting F to take B out of the jurisdiction permanently. Contact between B and M is recommended to be at least once per month face to face, supported by another adult, and no order is sought for this. Pending B moving out of the jurisdiction, during the period of the transition plan, she would be accommodated here pursuant to section 20 of the Children Act 1989. The Local Authority will assist F with obtaining legal advice and assistance to apply for mirror orders in the other jurisdiction.

25. M accepted, as she did for A previously, that she cannot care for B and does not put herself forward as a potential carer as a result. In her closing submissions, Ms Crampton for M accepted that there were two realistic options for B at this point, either to remain in her current placement here or to move abroad. M does not want B to move to live with F out of the jurisdiction. She has concerns about F's ability to meet B's needs and the support that would be available if B were to move abroad. She is also concerned about what will happen in relation to her contact with B if the Court endorses the revised final care plan and allows B to relocate abroad. She is also concerned about the speed of the proposed transition plan in view of B's additional needs. M is also worried that she won't receive information about B's education, health and welfare if she is abroad. As a result of these concerns, her first position is that B should remain here in her current placement, subject to a final care order. If the Court finds that it is in B's welfare interests to move to live with F, M's second position is that B should remain here under a final care order until the end of the summer term this year. Her third position if the Court grants a Child Arrangements Order for B to live with F and a Specific Issues Order for B to move abroad with him is that the move should not happen until the summer holidays.

26. At the outset of this FH F raised a concern about the proposed timing of the transition plan for B. Due to the time he has spent in this country, it seems that this has impacted on his finances which are not due to be resolved for some months and he was worried that he would not be in a financial position to support B if she moved to live with him in March. However, the Local Authority considered this and rapidly agreed to provide financial support for a period of three months to effectively bridge the gap whilst F resolved his finances. As a result, F then agreed with the Local Authority plan for B to transition to his care in March this year and for him to be permitted to permanently remove her from the jurisdiction on 16th March 2025. He would agree to B being accommodated by the Local Authority pursuant to section 20 of the Children Act 1989 during the period of a transition to his care. He agreed with M having face to face contact with B and for that to continue once a month abroad, and for that to be supported contact. He also agreed to provide M with important information about B's health and education.
27. The Guardian supports the Local Authority care plan for B and agrees with the Local Authority and F that it is in B's welfare interests to move abroad to live with F and A.

RELEVANT LEGAL CONSIDERATIONS

28. Threshold has been determined in this case by my findings in April last year as I have already noted. The decision at this point for B is about what is in her welfare interests, and whether any public law order is necessary and proportionate if she is to remain in this jurisdiction.

29. In considering applications to permit relocation outside of the jurisdiction, I have borne in mind the principles in the leading authority of *Re F (A Child) (International Relocation Case) [2015] EWCA Civ 882*. These principles are, in summary:

a) The issues as to relocation and the appropriate child arrangements are all answered by the application of the child's welfare as paramount. The welfare checklist highlights factors that will always assist the decision making of the Court. The extent to which an individual factor weighs will turn on the circumstances of the case and in most cases certain aspects of the checklist will have greater weight, but each of the factors and all of the circumstances of the case should always be brought into the assessment.

b) The Court must conduct a global, holistic evaluation of the options before it. Each realistic option must be validly considered on its own internal merits taking into account all the negatives and positives of each option.

c) *Payne v Payne [2001] EWCA Civ 166* identified additional factors that might be relevant in relocation cases, but these do not usurp the welfare principle.

d) The impact of the decision making of such applications may have profound implications for the maintenance of family life and so likely engages Article 8 rights. As such, proportionality must also be borne in mind.

e) A step as significant as the relocation of a child to a foreign jurisdiction where the possibility of a fundamental interference with the relationship between one parent and a child is envisaged requires that the parents' plans be scrutinised and evaluated by reference to the proportionality of the same.

30. In this case, the Local Authority final care plan proposes that B remain here during the transition plan prior to moving abroad, and that her placement here continue pursuant to section 20 of the Children Act 1989. If a Child Arrangements Order is granted for B to live with F, section 20(9) would mean that F's consent to those arrangements would be all that was required, and that M's consent would not be required.

31. Re S (A Child) and Re W (A Child) (s20 Accommodation) [2023] EWCA Civ 1 is also relevant to this case. It considered whether final care orders or section 20 should be used

and concluded that the aim of the Court should be to make the least interventionist possible order. Findings that threshold was crossed for the purposes of section 31 do not automatically lead to the making of a care order. In conducting its welfare analysis, the Court has to have the 'no order' principle in mind. King LJ conducted a comparison of section 20 and care orders, concluding that a care order is the more draconian order and more interventionist, not least because ultimately under a care order the Local Authority is able have the final say if this is necessary to safeguard the child or promote their welfare if there is an issue between the parents. Section 20 is described as facilitating partnership, and where it is functioning well under an agreed care plan, not only is the making of a care order not necessary but it is disproportionate. If there is a Child Arrangements Order naming a person with whom the child is to live and that person agrees to the child being accommodated, then no other person with parental responsibility may either object to the placement under section 20(7) or remove the child from the accommodation under section 29(8). The case went on to endorse the guidance about appropriate use of section 20 set out in the Public Law Working Group report and Best Practice Guidance issued in March 2021.

ANALYSIS AND FINDINGS

32. The first welfare checklist heading is the ascertainable wishes and feelings of B, taking into account her age and understanding. B is 10 years old, but has complex needs and is thus unable to fully verbalise her wishes and feelings. It is clear from both the final social work evidence (C998) and that of the Guardian (E578), and also from their oral evidence to me, that B loves spending time with both of her parents but has regularly made comments which suggest she is struggling with being separated from F and seeing him less since he returned abroad with A. The evidence does not show that she has expressed similar comments about not seeing M when M's mental health has prevented her from attending planned contact, but the evidence clearly records that when contact has resumed B generally enjoys their time together and positive interactions are observed. It

thus seems that B would want to spend time with both of her parents. M's case at this final hearing is that B does not speak the language which is the primary language in the other jurisdiction where F lives and seeks to relocate B to. The evidence of the social worker, F and the Guardian was that B does seem to respond to F who communicates with her using both English and the other language in question, as well as sign language, and that she has used odd words from the other language at times too (and see also C165). It is also not disputed that B lived in the country in question from her birth until she moved here in 2020 and thus would have been exposed to the language and culture of the country for a very significant proportion of her life, even if English was mostly used around her at home as M suggested. It also seems as if she may have an understanding of what may be said in the other language and even on M's case that B should remain here until the summer to learn the language in question, B would have the ability to learn it. There is no credible evidence before me to enable me to conclude that B is in any way opposed to learning and using the language in question. In fact, I am satisfied she appears comfortable with it being used around her and curious about learning and using it. She would also associate its use with F and that this would be a positive association for her given her positive relationship with him.

33. Physical, emotional and educational needs of B is the next heading. As noted above, she has complex needs and as a result has an Education, Health and Care Plan (EHCP). Those complex needs and the inability of M to care for her have led to B being in a specialist residential placement and receiving specialist education provision. She is described by the Guardian as a *"bright, engaging child who has a love of dinosaurs, cars and crafting activities. She has lots of energy and loves to be outdoors exploring" (E577)*. She is noted to be making excellent progress in her school. All parties agree that it will be important for B to ensure that her complex needs, including for educational provision, are met and the evidence before me for this final hearing supports that conclusion. It is also clear from the evidence before me that it is important that B's emotional and psychological needs are met by ensuring her relationship with both of her parents and her sister. As was

noted by the Guardian in her oral evidence to me, a sibling relationship is likely to be the most enduring of all relationships and thus it is not in B's welfare interests for her to continue to be denied the opportunity of rebuilding her relationship with A. A, as is not disputed in this case, is vehemently opposed to returning to this country even for a short visit. B's contact with A is thus only remote while B remains here.

34. M's objections to the revised final care plan are partly because she believes that the detail about how B's needs would be met abroad is not before the Court. The evidence from the parenting assessment conducted by the ISW, and the ISW's oral evidence to me, acknowledged that it is not currently clear whether there would be a place available for B in an equivalent residential setting. However, the ISW was clear that this was because assessment would be required once B was resident in the country in question, and that in the interim social services there would be able to provide additional support whilst B lived with F and attended a mainstream school. The ISW had confirmed this with a social worker there, and F also gave evidence about this too. Those conversations had also identified support that could be in place to help F meet B's other needs apart from education too, pending the identification of a suitable residential placement for her if that was the conclusion of the assessment of what B would require once living with F. The fact that some of the assessment process has been delayed is not just because B is still here, it seems from the evidence before me and as the social worker confirmed in her oral evidence that M's refusal to sign certain documents has also delayed it as well as some outstanding medical evidence. Although M believes that she has valid reasons for that refusal to sign it has nevertheless contributed to delay in progressing this so it is surprising that she is therefore critical of a lack of information arising from the delay in that assessment.

35. The Guardian also noted the issues around the information about how B's educational needs would be met abroad in her final analysis at E581: *"there is no doubt that it is a risk to move her from [her current] placement when there is still some uncertainty about what a future placement…might look like. It is hoped that a residential educational facility will*

be identified…that can meet B's enhanced needs however this cannot be confirmed at this time. It is therefore possible that B will remain in F's case rather than a residential placement and she will attend school daily instead. The parenting assessor has however concluded that F has the necessary skills and ability to meet her needs and he has a good understanding of these". The Guardian went on to note that it was significant, in her view, that A also has complex needs and previously required a residential placement however F was able to meet her needs to a good standard and she has made excellent progress in his care (E581 para 35). M was concerned that A has now chosen to end her academic education, and again relied on that in support of her case that F would not be capable of ensuring that B's educational needs were met. However, as the social worker told me, it is important to remember that A is nearly 18 and has made this decision herself after F has supported and encouraged her to continue with academic education. As the social worker and F told me, what A wants to do is actually some form of apprenticeship which is still a form of education, so it is not a case of saying that her education has simply stopped. Rather, it sounds as if she has made an informed choice about her future and what is likely to suit her at this point, and F cannot be criticised for that. In fact, his support for her and ability to meet her needs to a good standard is no doubt part of what has enabled A to make this sort of decision for herself, I find. Whilst it might not be what M thinks is best for A, M's view fails to acknowledge A's agency in decision making at A's age and in view of her understanding. M's views also do not acknowledge that she failed to ensure that the children's educational needs were met in her care (A401) and she has unreasonably challenged the school that B has been attending here and delayed the process for F applying for an equivalent to the EHCP in his home country which has led to a lack of precise detail about provision there if B were to move. As was submitted by Ms Williams, the Court does not have to conduct a detailed assessment of precisely what would be available in the other country, but rather consider whether the evidence satisfies me that B would be afforded good enough provision to ensure that her needs were met to a good enough standard. As is clear from the expert legal opinion at E490-E492 and from

the ISW's evidence to me, there is clearly provision in the country in question that is equivalent to the EHCP here, and that includes a range of options to ensure that B's needs are met including potentially specialist educational provision. This includes support that may be provided without the completion of the EHCP provision (E507) and this is in line with the 'long arm' support that the ISW described as available pending any assessment of B's longer term needs and which would enable her to attend her local school with that support as F also explained to me. In addition, as the ISW also told me and set out in her report at E567, the geography of where B may be living if she moves to live with F may also enable options of specialist placements in an adjoining country to be investigated and that may reduce any waiting time for a place to become available for B.

36. Likely effect on B of any change in her circumstances is the next welfare checklist heading. To some extent, after these proceedings end there will be a change for B whatever decision I make. If she remains here indefinitely she will see less of F because he will not be able to travel to see her face-to-face as often as he has done during proceedings, partly because of the practicalities involved and partly because of the other demands on his time caring for A and earning a living. Those were part of his reasons for having to return home in early 2024, after all, and despite a concerted effort on his part to explore moving here permanently. B would remain a looked after child with state intervention so that would not change, but she would also not be able to rebuild her relationship with her sibling which would mean a long-term change to her family relationships. As Ms Williams put it, it could lead to the long-term fracturing of B's relationship with her sibling. On the other hand, if B moves to live with F, it would mean a change in placement from one that she is settled and happy in. It would also mean that she might not be able to see M as often as she has been able to here. It is accepted by all concerned and confirmed by both the social worker and Guardian in their oral evidence to me that B's complex needs also mean that she struggles with change and will need time to adapt. However, the parenting assessment by the ISW is positive about F's ability to cope with the challenges that such a change is bound to create. The Guardian also relied on the ISW's conclusions in drawing her own

professional conclusion that F was capable of meeting B's needs and coping (with support) with the challenges that the transition to his care under the proposed transition timescale would bring. She also highlighted both in her final analysis and recommendations (E574) and in her oral evidence to me that B's current placement staff, whilst not experts, also noted that F has been consistently observed to have a good understanding of and ability to meet B's needs during the time they have spent together. Family time between F and the children is recorded to demonstrate F being able to keep B safe (C158), is consistently warm and both children are calm (C163), and F is notably able to hold B's attention for longer periods than anyone else and is clearly attuned to B's needs. This, in the view of the Guardian, adds weight to the evidence of the professionals that F would be able to meet the challenges of the impact of change on B. I agree with that conclusion on the evidence before me now. I was also struck by F's own evidence about this which very honestly acknowledged that B would be likely to find the change challenging and would need preparation and time to adapt. He was clearly thinking about this from B's point of view and has clearly been proactive in liaising with social services in the country in question about support that he may need.

37. The impact on B of the change from being able to see her M so frequently is a more complex issue. There are two aspects to this, I find, one is that M's own vulnerabilities mean that travel is less easy for her and therefore less likely to be undertaken as frequently as would be ideal for B. The other is that the conflict between M and F which formed part of the threshold findings also means that, while they do communicate and share information about A and B by email and text, B's welfare requires that their face-to-face communication should be limited to protect her from any acrimony. Whilst the evidence of the ISW and from F shows clearly that he will have support from his parents in caring for B, the extent to which the wider paternal and maternal families may be able to help support M to spend time with B face-to-face is also limited by the previous conflict as well as the geography of the various locations concerned. F told me that he has spoken to his local social worker about possible support for this if B were to live with him and that he had

been assured that something akin to a contact centre might be available. The ISW was asked about this in her oral evidence by Ms Crampton and told me that she had not explored this in her enquiries, nor had she come across this in the cases she had been involved with. This does not mean that it is not potentially available as F believes, simply that, as the ISW told me, she was not asked to explore this in her instructions or any questions in clarification. F was very clear that he thought it "essential" that B have regular face-to-face time with M, and he was not challenged about his evidence of seeking to improve his relationship with the wider maternal family as part of both ensuring that B can have a relationship with them and as potential support for M's time with B. I found him to be a very compelling and credible witness about this. He was asked by Ms Crampton about the distances and logistics of the maternal family potentially supporting contact and he accepted that they were too far away to make the journey in one day. The main issue with B spending time face to face with M if B moves abroad thus seems to be M's difficulties with travelling and the practicalities of where it would take place and who would support it. Her final statement suggests that she is learning to drive and, until she does so, she expects that she would only be able to afford to travel to see B four times a year (C1022-C1023). She hopes to have passed her driving test (having already completed the theory test) by the summer of this year (C1024) and is also open to the possibility of returning to live in the country in question which was, until she moved here, where she was living permanently. It is thus entirely possible on M's own evidence that from when she passes her driving test M would in fact be able to travel to see B more frequently than four times per year. Whilst she would have to source and potentially fund accommodation as part of those arrangements, all her maternal family are based in the country in question so, apart from the distance between where F lives and where they are, she may be able to stay with her family at times. None of this is particularly unusual where two parents live a considerable distance apart and, of course, it is of note that when M relocated both children to this country she inevitably limited their chances to spend face-to-face time with F regularly purely because of the geography and logistics involved (this is quite apart from

her allegations about F which were ultimately not relevant to these proceedings in light of Dr Allam's risk assessment of him). When considering the impact on B of a change in circumstances by her not seeing F as frequently, it is very relevant that there is compelling evidence of her reacting very badly to not seeing F as frequently since he returned to his home country (see for example C163 and C1000). Her behaviour has become more dysregulated recently as the social worker told me, and based on this the adverse impact on B has not been alleviated by B having video contact with F instead. In relation to the impact on B of not seeing M as frequently, there is no doubt she does enjoy spending time with M but it is significant that B has experienced long gaps and inconsistency in the time that she spends with M as a result of M's fluctuating physical and mental health and has done so without any apparent evidence of B reacting badly to this. B is thus more likely to be able to cope with longer gaps in not seeing M face-to-face than she would be with longer gaps in seeing F face-to-face, I find, and the greater adverse impact on B would be from continuing to have longer gaps in seeing F face-to-face.

38. B's age, sex, background and any characteristics of hers which the Court considers relevant is the next heading. I have already mentioned her complex needs and age. Her background is also important because she has a mixed heritage and has now lived in two countries. As I also noted earlier, she spent a significant period of her life from birth living in the other country concerned and has the right to know about her dual heritage and cultural identity in that other country. All her paternal and most of her maternal family apart from M are also in the other country and her opportunity to spend time with them will only be when she is in that country. Given her complex needs, B is not going to have the option of travelling between the two countries frequently either as a means of helping meet her identity and family relationship needs.

39. Any harm which B has suffered or is at risk of suffering is next. Threshold findings record the significant harm that B suffered and was at risk of suffering in the care of M and F (A399-A401). M has very bravely accepted that she is not capable of caring for B and that she needs support with contact so it is not necessary to consider to what extent she may

still pose a risk of harm to B. There is now a wealth of professional and expert evidence about F's capacity to keep B safe from harm, gathered while assessing his parenting capability in these proceedings. There is no evidence of F posing a risk of harm to B at this point. Although M alleged that F would not be likely to share information about B with her, F's evidence about this was credible and compelling and he was clear that he would share significant information about B with her. It would not be reasonable to expect him to share every single detail with M, though, as the Guardian noted in her oral evidence to me. M's case is also that she needs to know the precise address that F would be living at with B, telling me in her evidence that this is necessary to enable her to contact schools and doctors directly. F, understandably given the history of conflict between the parents, does not agree to M having his address. M clearly knows the area in which B would be living with F if she is permitted to move there at the end of this hearing, and F was very clear in his evidence that he has no objection to M having the details of schools and doctors etc to enable M to contact them directly to obtain information about B. It is not uncommon for children here and in the country in question, in my judicial experience, to live with a parent who cannot provide their residential address to the other parent because of concerns about the conduct of that other parent. It is also not unusual for that other parent to still be able to access information from schools and medical professionals without needing to have the child's address so clearly that is possible in this case despite M's fears. I am sure that F would also agree to a recital on the face of the order that he would provide any necessary consents to institutions sharing information about B with M if she were to contact them direct and that may be a way of addressing M's concerns about this too.

40. Risk of harm also relates to the issues around the impact on B of remaining here or going to live with F abroad. As I have already noted, each option carries a potential adverse impact on her emotional and psychological wellbeing through the potential to disrupt her face-to-face time with either parent. In addition, there is a need to consider whether there are other risks of harm to B arising from either option. In essence, this is part of weighing

the negatives of either option for her. M has very clearly set out in her written evidence, most recently in her statement dated 17th January 2025 (C1019-C1025), that she is worried about B's needs not being met in the care of F and B therefore suffering harm. As I have noted earlier in considering her needs, B does have complex needs and everyone agrees that F would need some additional help and support to meet those needs. As the professional and expert evidence from the ISW shows, F is capable of meeting B's needs with support and it seems more likely than not such support will be available if B were to move to live with him even though the precise detail of that support cannot be confirmed unless she moves there. Any gap in B's education provision whilst she is assessed in relation to residential placement can be met by what the ISW referred to as 'long arm' support, which I take to mean arm's length support from both state and other service providers in that country having read her assessment and considering her oral evidence. The Guardian and social worker were both clear that what was proposed would ensure adequate education provision for B in the interim. Any language issues for B could also be part of educational support for her there based on my experience of other cases where children have relocated to the country in question. In addition, B already has some knowledge of and familiarity with the language in question as I have noted earlier, and she also uses sign language to assist with communication which will also help her when communicating other than in English. There is the risk of disruption to B's relationship with M as I noted earlier, but there are ways to mitigate this such as use of video contact and M taking the steps she herself has identified in her final statement such as learning to drive which will increase and improve the options for M to travel to see B. As I have also earlier noted, B has sadly already demonstrated an ability to cope with inconsistent contact with M and sometimes significant gaps in that contact, so that will also mitigate any risk of harm to B arising from this if she moves abroad.

41. B remaining here is also not without risk to her based on the evidence before me. B would either remain here in the long or short term under M's alternatives to her moving as proposed by the Local Authority and two of M's options would require B to remain subject

to a care order. A care order is a draconian order, bringing with it the highest level of ongoing state intervention in B's life. It would mean she has a level of permanency but not the same level as might be achieved by placement with a parent. Remaining in her current placement would be subject to regular review and would be dependent on continued availability of the placement and of Local Authority funding with no guarantee that either would continue for the remainder of her childhood. She is only 10 so that would be another 8 years of state intervention if she were to remain here for the rest of her childhood. M's second option is for B to remain here until the summer under a full care order, and then to move abroad. Again, this would mean that B would remain subject to state intervention under a care order for longer than is proposed under the Local Authority final care plan with many of the same risks as already identified, but for a shorter period which may mitigate some of those risks such as the placement no longer being available. However, it would also bring with it a need for someone to apply to discharge the care order, thus recommencing proceedings for B and bringing a further period of uncertainty for her as a result. That uncertainty would be highly likely to pose a risk of harm to B, especially given her complex needs and wishes and feelings about spending time with F.

42. M's third option of B remaining here under a child arrangements order until a move in the summer is not clearly articulated in any detail, and it seems she proposes that there should be an order for B to live with F, but that B would remain living here at her current placement, presumably under s20. It was not put to the social worker or F as to whether they would agree to this. Even if the Local Authority were prepared to continue to fund this placement, F would need to consent and could withdraw his consent at any point, and this could create even more uncertainty about B's situation under this arrangement. It also overlooks the fact that M proposes an order for B to live with F when F would not be in this jurisdiction with B for most of the period in question, which would be a very unusual arrangement under a Child Arrangements lives with order and brings into question the appropriateness of this from that perspective as well. As I have also noted earlier in this judgment, B remaining here would also mean a significant reduction in the time that she is able to spend

face-to-face with F. The adverse impact on her of this and the potential for this to cause her emotional and psychological harm is clearly evidenced in her adverse reaction to the reduction in contact with him since he returned abroad, I find.

43. The next checklist heading is how capable each of B's parents, and any other person in relation to whom the Court considers the question to be relevant, is of meeting her needs. M has bravely accepted that she is not capable of meeting B's needs as I have already noted. She deserves credit for coming to that realisation, though it would have prevented some of the delay in these proceedings and some of the uncertainty for B if she had been able to accept this earlier. The fact that she did not is not a criticism of her, simply a likely consequence of her own vulnerabilities. F has been comprehensively assessed in terms of his parenting capability by both social services here and an ISW with knowledge and experience of social services and support available in his home country. The conclusions of the assessments are remarkably consistent: F can parent B to a good enough standard, with support from social services in his home country and from B's paternal family, and he can also do this whilst parenting A who also has complex needs and presents with her own unique challenges as a result. The conclusions of the social worker, the ISW and the Guardian also acknowledge that a transition to F's care is likely to be a challenging experience for B. F very openly accepted this in his evidence to me but also gave compelling evidence to demonstrate his willingness to engage with professionals here and in his home country to ensure that he was actively pursuing support when required. This supported the social worker's and Guardian's conclusions that F was capable of advocating for B, something that they both accept would be likely to be required at times.

44. Ms Crampton questioned the ISW about her failure to observe F with A and B as part of her assessment, suggesting that this was a fundamental gap in her evidence. It is frequently the case that a parenting assessment may be completed without the assessor observing the time the child spends with the parent in question or with other siblings. This may be for a variety of reasons, but it is important to remember that B has been exposed to a high number of professionals over a prolonged period and that any direct involvement

of a child, especially one with complex needs, in an assessment may carry a risk of harm to them. To some extent the same concerns might apply in respect of A, though she is no longer part of these proceedings and therefore I am not determining any question with respect to her upbringing and so her welfare is not paramount. As the ISW said in answer to Ms Crampton, she had had access to a range of sources of other evidence including what is recorded about the interactions between B and F and which are all noted to be overwhelmingly positive and her own interviews with F. There is also a Together and Apart Sibling assessment of A and B which was completed in December 2022 (C139-C153). The ISW was clear in her evidence to me that she had been able to assess F's ability to meet both of A and B's competing needs despite not being able to observe him with both A and B. Her conclusion, which she repeated in her evidence to me, was that F understood the needs of both A and B, as well as the challenges that might arise from both together and he was able to have a plan on how to manage those competing needs if they were both together and he was clear about the contingency planning he would have in place should those challenges become unmanageable. She also spoke to the paternal grandparents who would be part of the contingency planning. As I have noted, the ISW's conclusions about F's parenting ability were positive and remarkably similar to the previous assessments of him, and in line with the observations of those working with B and other professionals involved in the case.

45. It was also put to the ISW by Ms Crampton that her assessment did not consider future arrangements for B to see M in sufficient detail. The ISW accepted that she had recorded what F told her about his plans (E562), and she was also aware that the paternal grandparents were keen to support the care plan and contingency plan but she had not discussed them supporting contact with M nor had she discussed contact with the social services she had spoken to in F's home country. Despite this, she was clear in her view that F could promote B's relationship with M and agreed that what was proposed in the final care plan at D73 relied heavily on someone from either the wider maternal or paternal family to support, or someone from social services. She told me that it was not part of her

knowledge about what could be available through social services abroad to support contact and, in fairness, this was not part of the original Letter of Instruction and no questions were asked in clarification about it either so it was not something she was asked to address in the sort of detail that M's case was implying was required. I do not find that there is a lack of thoroughness or gap in her assessment. Rather, it is a robust and thorough assessment as the Guardian described it in her final analysis and it confirms that F is capable of meeting B's needs whilst meeting various significant challenges including also caring for A, and that F has a commitment to promoting B's relationship with M and will be able to make the necessary enquiries with social services abroad to help with arrangements for face-to-face contact between B and M, and that F has suitable contingency planning in place should any of the possible challenges in caring for both A and B become unmanageable.

46. In terms of whether there needs to be greater detail about the practical arrangements for B to spend face-to-face time with M, as Ms Crampton submitted the Court must carefully scrutinise F's plans for this as part of considering his relocation application. The evidence of the social worker, the ISW and the Guardian to me was clear that, in their professional opinion, F is genuinely committed to B having a relationship with M and that includes B spending time with her face-to-face. As I have noted, B cannot travel regularly due to her complex needs, and M's fluctuating physical and mental health may also prevent her from travelling frequently. To some extent F is therefore presented with factors affecting the frequency of contact which he cannot control and for which it is difficult to see how anyone could easily provide mitigation in a way that enables B to spend frequent quality time face-to-face with M. The professional and expert evidence in this case overwhelmingly confirms that M will need support with face-to-face contact due to her issues. To her credit, M does not dispute this. F clearly accepts this in his evidence to me and from what he has said to the social worker, the ISW and the Guardian. The issue is how that support could be achieved. It is clear that F cannot provide that support due to the historical parental conflict and, to be fair, neither parent is suggesting that this would be appropriate. F has given

credible and compelling evidence about conversations that he has had with social services in his home country about ways in which contact can be supported there. As I have noted earlier in this judgment, the ISW was not asked to consider this as part of her assessment and M did not ask a question in clarification about this in advance of the ISW giving oral evidence, so this is not something the ISW had an opportunity to investigate. Unusually, given the history of parental conflict and the threshold finding about this, M and F can communicate by text and email which will assist with making arrangements for contact if B moves to live with F. I am satisfied that F is committed to ensuring that B maintains a relationship with M and that includes B having face to face supported contact with M. The precise details of the practicalities of that will be subject to factors that he cannot control such as M's physical and mental health and ability to travel to see B including her funding the means of travel and accommodation when she arrives, and factors that he can control such as continuing to liaise with social services in his country to identify appropriate resources to enable supported contact taking place, as well as liaising with the maternal family about supporting contact if they are able to travel to minimise travel for B. I have also borne in mind that it is B's welfare that remains the paramount consideration and not M's welfare so, although M does have vulnerabilities, those do not take precedence over B's welfare needs and that includes not expecting contact arrangements for B to require B to travel too far and too often given her complex needs.

47. The range of powers available to the Court under this Act in the proceedings in question is the final welfare checklist heading. All parties in fact agree that this is not a case where no order is an appropriate outcome for a variety of reasons. The Local Authority, F and Guardian all agree that no public law order is required if a Child Arrangements Order for B to live with F and a Specific Issues Order permitting him to relocate B out of the jurisdiction permanently at the end of the transition period are granted. The Child Arrangements Order would not be recognised outside of this jurisdiction but would enable the implementation of the transition plan for F to take over the care of B while she is in this country and then would assist F with seeking a mirror order in his home country. It would

also enable B to remain in her current placement during the transition period with F's consent pursuant to section 20 and prevent M from withdrawing her consent during that transition period, and without the need for a final care order. A Specific Issues Order would enable F to relocate B out of the jurisdiction permanently in line with the final care plan for her and would be required because M does not consent to B's removal. Both section 8 orders can only be made if I find that they are in B's welfare interests and, since they would represent an interference with the article 8 rights of B and M, would have to be a necessary and proportionate interference with those rights. A final care order would also be potentially possible but only if the Local Authority were to agree to amend their final care plan, since a Court cannot force a Local Authority to do this nor can a Court direct the detail of the content of a care plan. As noted previously in this judgment, a Court would not only have to conclude that a final care order is in B's welfare interests but also that such a draconian and interventionist order is necessary and proportionate as it would also represent a significant interference with the article 8 rights of B, M and F.

48. I am also asked to consider an order permitting disclosure of certain key documents from within the proceedings to be made available to the authorities in F's home country if B moves to live there with him. Having considered the brief submissions about this made in closing, as a minimum it seems to me that the following documents should be disclosed if B moves abroad: my judgments of 26th February 2024, 19th April 2024 and this judgment, the threshold findings, the Together and Apart Sibling Assessment dated 13th December 2022, the parenting assessments of F including that of the ISW, the Guardian's Final Analyses of 9th April 2024 and 11th November 2024 and the final orders from this FH.

CONCLUSIONS

49. Considering my analysis and findings above in relation to the various welfare checklist headings, I am satisfied that it is in B's welfare interests for her to live with F and for F to be permitted to relocate B to his home country. I am also satisfied that it is in B's welfare interests for the transition to F's care to be in accordance with the transition plan and

therefore for her to move out of the jurisdiction in March this year as set out in that plan. It is not in her welfare interests to remain here subject to a final care order, nor in her welfare interests to delay her move to live with F abroad until the summer of this year. I will therefore grant a Child Arrangements Order for B to live with F, and a Specific Issues Order for F to be permitted to relocate B permanently out of the jurisdiction in line with the transition plan in March of this year. Expectations around supported face to face contact between B and M once B has left the jurisdiction can be recorded by way of a recital on the Child Arrangements Order, and those expectations are as recorded in the final care plan for B at D73. It may also be helpful for all concerned to record any expectations about virtual contact, though at present M has been resistant to this so it will be up to her as to whether she is able to reconsider her position about this as the final care plan notes (D74).

50. I will also permit disclosure of the documents identified as necessary for the authorities in F's home country.

HHJ Eleanor Owens

21st February 2025