

**IN THE FAMILY COURT AT LEICESTER**

Leicester County Court and Family Court  
90 Wellington Street  
Leicester  
LE1 6HG

BEFORE:

**HER HONOUR JUDGE PATEL**

BETWEEN:

**FATHER**

**APPLICANT**

- and -

**MOTHER  
CHILDREN (VIA THE GUARDIAN)**

**RESPONDENTS**

**Legal Representation**

Father (Applicant), Litigant in Person  
Ms Natasha Miller (Barrister) on behalf of the First Respondent  
Ms Amanda Johnson (Barrister) on behalf of the Second Respondent children

**Other Parties Present and their status**

None known

**Judgment**

Judgment date: 5 July 2022  
Transcribed from 14:36:09 until 15:24:19

Reporting Restrictions Applied: **No**

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## **Her Honour Judge Patel:**

1. The Court is concerned with an application by the father, to relocate the children, A, 17, D, 16 and E who will be referred to as Eve, aged nine (not her real name) on a permanent basis to a country in Africa ('Country A'). The father appears in person. The Respondent Mother to these proceedings is represented by counsel, Miss Miller. She has made a cross application for Eve to live with her. Ms L is the Children's Guardian and is represented by Ms Amanda Johnson.
2. I have heard this matter sitting as section 9 judge of the Family Division. All parties are agreed that given the ages of A and D that the Court will be making no orders in respect of them, however, given that Eve is part of a sibling group of three children, that the wishes and feelings of A and D need to be taken account of when making decisions for Eve.
3. The issues in the case are whether the father should be permitted to relocate with Eve to Country A or whether she should live with the mother. In the event that both the father's application to relocate is refused and the mother's for Eve to live with her is refused, what contact should she have with her mother, and whether the father should be permitted to take Eve and the other children on holiday to Country A.
4. Whether the mother should be permitted to take Eve and potentially the other children to a holiday in Europe this summer and to a country in Asia to her sister's wedding in November or December of this year, for a wedding which has not actually been booked yet.
5. Whether there should be a Prohibited Steps Order in place until Eve is 18, preventing either parent from taking her to any non-Hague Convention country, and further, the only issue that the parties agree across the board is that given the fact that the children have been the subject of proceedings for such a long time with so many applications across country, that both parents agree to the Court making a section 91(14) Order for a period of three years, so that neither of them can make any further applications in respect of Eve without the Court's leave.

### The background to the case

6. The parties were married in a country in Asia on 30 May 2004 Islamically, after which they settled in Country A. The mother was a housewife, and the father runs a business in Country A. The father, along with the boys, has dual British, European and African nationality. Eve is a British national.
7. In 2005, A was born. In 2006, D was born and in 2008, the parents separated for a period of two and a half months. The mother went to live in the Asian country where the parties married with D, whilst A remained with the paternal family in Country A.
8. After two and a half months, the mother returned to Country A and she gave birth to their third child, Eve, in Spring 2013. In December 2013, the family moved from Country A to a second country in Africa ("Country B"). The father continued his business in Country A and travelled frequently between the two countries.
9. The primary purpose of the move, as set out in the judgment of Judge Ambrose, to which I will return later, was to enable the children to access better education and

health facilities in Country B, especially due to A's possible special needs and some learning difficulties and speech and language delay.

10. In December 2015, the father divorced the mother Islamically by pronouncing a *talaq* and on 22 March 2016, the mother applied to the court in Country B for sole guardianship and permission to relocate with the children to England. The children have therefore at the very least been the subject of multiple proceedings across different countries for the last six years of their lives.
11. The mother was granted interim custody of the children on 24 March 2016, and the father was granted interim contact. During contact on 19 August 2016, the father abducted the children to Country A, which he continues to deny was the case. The mother later discovered that the father had taken her passport and those belonging to the children from her home.
12. On 23 August 2016, at a hearing in Country B, the father was found to be in contempt of court and an order was made for him to be arrested and detained at the border entry point between Country B and Country A.
13. On 3 December 2017, the father removed the children from Country A and brought them to England where he retained them without the mother's consent and proceedings were issued in the High Court of England and Wales.
14. The children and the father were initially residing in a city in the South of England from December 2017. He then remarried and in February 2019, he moved to a city in the East Midlands where many of the extended paternal family live.
15. The mother came to the UK in around the end of 2019, with considerable support from Southall Black Sisters who supported her housing applications and payment of rent, as she had no recourse to public funds.
16. At a Fact Finding Hearing in those proceedings on 3 October 2019 (there is a transcript of the judgment of Ms C Ambrose sitting as a Deputy High Court Judge) the Court found that the father had abducted the children to Country A from the mother's care in Country B and then to England and that he had stranded the mother in Country B and denied her contact to the children.
17. The Court also found that since being in the father's care, that the children's contact with their mother has been limited and this was because of the father's coercive and controlling behaviour towards cutting off her financial support so that she was left destitute in Country B and when allowing her overnight contact only doing so on his terms and in his home.
18. He was also found to have restricted telephone contact between the children and their mother in:

**“Significant ways.”**

For example, refusing telephone contact on A's birthday and then refusing to let the mother call D who was a teenager at the time and insisting that she stick to the rules of only calling him on a Sunday, despite the fact that D had called her seven times

and the father then threatening that if she rang on other times, he would take D's telephone for good.

19. The judge said in that case that the father's restriction and interference with the mother's contact with the children amounted to controlling, coercive behaviour that was damaging to the children and failed to show insight as to their needs.
20. The case was transferred to Leicester Family Court after the Fact Finding Hearing in respect of future child arrangements. During the course of those proceedings before Her Honour Judge George, the father applied for permission to remove the children to Country A. A Children's Guardian was appointed to represent the children, who supported the father's application.
21. The Guardian recommended that the Court should not make final orders until such time that the plan was tested for the children to return to the UK to spend time with their mother during school holidays for a minimum of twice per year facilitated and paid for by the father. The Guardian suggested that if that was successful, final orders could be made or in the alternative, the children's living arrangements should be reconsidered.
22. Judgment was handed down at a hearing on 1 December 2020 by Her Honour Judge George and the Court refused the father's application and directed that the children should move to live with their mother in a city in the South of England, where she resides, from no later than 21 December 2020. The father was given permission to notify the Court by 11 December that if he chose to remain in the UK and to be the children's primary carer, that if that were to happen then the matter would be listed for directions and the children's move to their mother's care would be suspended.
23. The father emailed the court on 8 December expressing a wish to remain in the UK and to care for the children. In that judgment, Her Honour Judge George found that both parents were equally capable of looking after the children. In weighing the pros and cons of the children moving to Country A with their father or moving to live with their mother in a city in the South of England, the Court recognised that the likely change in circumstances for the children would be significant, whatever the decision.
24. However, a fundamental factor of concern for the Court was whether the father recognised the impact of his past behaviour on the children which had caused them to have a limited relationship with their mother for three years.
25. The judge expressed no confidence in the father's reassurances that he would return the children to maintain a relationship with their mother because, in effect, he placed little value on that relationship. In his evidence, he asked the question:

“What has she done for the children?”
26. Judge George did not consider that the positives of relocation outweighed the negatives, and in the end, the father decided not to go, so the issue of all the children living with the mother fell away.
27. At the final hearing on 8 February 2021, a final Child Arrangements Order was made in respect of time for the children to spend with their mother. Since that hearing in

February 2021, the father has spent periods of time in Country A whilst the children have remained in England and have been cared for on occasions by the mother.

28. In November 2021, the father reapplied for permission to remove the children to Country A on a permanent basis. This is therefore his second application, eight months after the last application was refused.
29. The father is a businessman and runs his own company based in Country A, which he runs with one person working under him.
30. The mother is not in receipt of a salary from the company which she started in May of 2022 with an associate. However, she does receive universal credit and financial support from the maternal family, who all live in a country in Asia, save for a cousin in the East Midlands and another cousin in Europe.
31. In respect of her immigration status, the mother has confirmed that she was granted 30 months limited leave to remain on a ten year parent route and is due to renew her visa in January of 2023. That is therefore based on a child living with her or having contact with her children.

#### The parties' positions

32. The mother opposes the father's application to relocate and seeks an order that Eve lives with her. She wants permission to take Eve to Europe and then to a trip to a country in Asia, which is a non Hague Convention country, for her sister's wedding.
33. The father's primary position remains that he seeks to move to Country A with all three children. His secondary position is that he seeks to travel with all of the children, including Eve, to Country A during the children's school holiday. The final alternative he proposes is that if the children are to remain in the UK, for them to spend the school holidays with their mother allowing him to travel for business purposes, although in his closing submissions, he told me that it was too late for that offer to be open to the mother now because she has procrastinated and that he and the children have had to sit and wait for two years for a decision about whether they could go.
34. It was clear from both parents that despite the fact that each of them agreed that the third proposal is a practical way forward that could meet the children's needs to have a relationship with both parents and the needs for the father to work in Country A, that both remained reticent in their first positions that they wanted to argue, and that this was despite the very clear and justified recommendations of the Children's Guardian.
35. The Children's Guardian's final analysis is dated 24 June 2022. She has met with all of the children on several occasions, including in both of their parents' care and she makes the following recommendations: the father should not be granted permission to relocate to Country A with Eve; a Lives With Order should be made for Eve to continue to live with her father; a Time Spent With Order should be made specifying that Eve should spend time with her mother on alternative weekends from Friday through to Saturday for the entirety of school half term, Easter and Christmas holidays and for half of the summer holidays.

36. Travel abroad by either of the parents with Eve should be limited to Hague convention countries and that there should be a section 91(14) order to bar any future applications by either parent without the Court's permission and a C2 application for that purpose was made on 29 June 2022. At this hearing, it was clarified that she supports a period of three years for this order until Eve is 12 years old.
37. The Court further records that at a previous hearing, the parties agreed dates for Easter holiday contact, but ultimately only Eve went with the mother for contact. D expressed a wish to remain in Leicester to revise for his exams and A did not give any reason for not wishing to attend.
38. The boys and Eve did have contact with their mother for Eid al-Fitr on Monday 2 May, however, this was not in accordance with the order on the last occasion, which stipulated that the children would be dropped to a city in the West Midlands for Eid contact at 2.00pm on Sunday. Since then, the boys have not attended contact with the mother on alternate weekends.
39. However, on 24 June, the father notified the mother that he would be dropping the boys to her care for ten days whilst Eve was at school. She had a day's notice, but agreed and she then returned the boys yesterday morning on 4 July.

#### The law

40. The authoritative case providing guidance on international relocation is *Re F (A Child) (International Relocation Case)* [2015] EWCA Civ 882. The Court must concentrate on the statutory welfare question before applying the following framework.
  - a) The only authentic principle is the paramount welfare of the child.
  - b) The implementation of section 1, subsection 2(a) of the Children Act makes it clear that heightened scrutiny is required of the proposals which interfere with the relationship between the child and a parent.
  - c) The welfare checklist is relevant as to whether the case is brought under section 8 or section 13.
  - d) The effect of previous guidance in the case such as *Payne* may be misleading unless viewed in its proper context, which is no more than it may assist the judge to identify potentially relevant issues.
  - e) In assessing the paramount welfare and international relocation cases, the Court must carry out holistic and nonlinear comparative evaluation, other plans proposed by each parent. In complex international relocation cases, that may be of some sophistication and complexity.
  - f) In addition to article 8 rights one must factor in the rights of the child to maintain personal relations with direct contact with both parents on a regular basis unless that is contrary to the child's interests.
  - g) That the Court must also take into account the article 8 rights of the parent in the usual case, the child's article 8 rights will take priority over the parents', but that should not cause the Court to overlook the article 8 rights of others affected and the Court should balance the competing article 8 rights; and finally
  - h) The effect of an international relocation is that the article 8 rights of the child are likely to be infringed and the Court must consider the issue of proportionality and interference.

41. Whilst the child's wishes and feelings are a factor to be taken into account, they are only ever one factor to be considered when arriving at what is in their best interests. As the father has applied for relocation to a non-Hague Convention country, the Court must also have regard to the magnitude of risk of breach of any order if permission was given and the magnitude of the consequences of the breach if that were to occur and the level of security that may be achieved by building in to the arrangements all available safeguards.
42. It is fair to say that usually in a non-Hague Convention country case, there would be some sort of specialist advice available about the risks of retention and the way in which the court might be able to secure the return of a child, but I note that this has not been available in this case, and in fact, was not available to Her Honour Judge George when she made her decision in December of 2020.
43. When considering the mother's application for a Live With Order, the Court should have regard to the welfare checklist as set out in section 1(3), but of course the child's welfare remains the paramount consideration and in relation to section 91(14), it is clear that the Court has the ability to make this order in the interests of Eve. I will not labour the point too much, but of course there have been further amendments to that section under the provisions introduced by the Domestic Abuse Act on 19 May of this year, although that is not particularly relevant to the facts of this case at this stage.
44. Finally, under section 9(6) of the Children Act, no court should make a section 8 order to have an effect for a period which will end after the child has reached 16, unless it is satisfied that the circumstances of the case are exceptional. This is the test that I must consider when looking at whether a Prohibited Steps Order should be made until Eve is 18, which would in effect, ground her internationally from being taken to any non Hague Convention country by either of her parents.

#### Summary of the evidence and assessment of the witnesses

##### The father

45. The father has filed statements in January and March and May of 2022. In these statements, he sets out his case for relocating the children to the capital city of Country A. The father also gave oral evidence. He started off by telling me that he has to go back to Country A with the children because he has no one else to care for them here in the UK and he was critical of the mother, that she has been around for the last three years, but has not offered to care for them and has not even babysat them for one day.
46. He was annoyed that despite the fact that he had offered the mother all of the holidays to care for the children that she had said no. However, he then went on to say that he had doubts, in any event, as to whether she could even look after all of the children and meet their needs.
47. He accepted that the children remaining in the UK would give them a better quality of life. He accepted that his main motivation for wanting to relocate to Country A is due to his business, and not because it is necessarily in the long term interests of all the children. He accepted that the UK education system is the 'best in the world',

although he commends the quality of education provided by the School where he proposes to enrol Eve.

48. In cross-examination by the mother, he came across as arrogant, telling me that his life is very flexible and that he could get another wife to help him care for the children if he wanted to. He had given little thought to the impact of a second set of proceedings on the children issuing this application to relocate only eight months after the last one which Her Honour Judge George had refused.
49. He provided shallow reasoning, in my view, for the children needing to be in Country A, saying that they needed to get out of the city where they live in the East Midlands and to experience the beach and sunshine and different cultures and not just staring at the walls in the East Midlands, as if the children's relationship with their mother was holding them back from experiencing the world.
50. He also is someone who holds very rigid traditional religious and cultural views about the roles of a man and a woman and that of a mother. It became very clear that because the mother does not fit in to the mould of his expectations of what a mother should be, cooking freshly made meals for the children and even sending food for him, he is highly critical of her.
51. I was very concerned about a number of aspects of his evidence. He kept referring to the fact that if he was not caring for the children, and if he did not take them with him to Country A, then there would be no one to care for them, giving little regard to the care that the mother has provided to the children when he has allowed it. He was making the point that he did not think that the mother was capable of caring for the children on a full-time basis over long periods of time. This is despite the fact that she did care for them for a four-month period in his house last year on his terms whilst he went away on business, giving her no agreed return date.
52. He struggled to say good things about her from the children's point of view. He struggled to demonstrate an understanding of the importance of the mother's role in Eve's life, asking the question:

“What has that got to do with the case?”

53. He was unable to demonstrate any insight into the impact on the children, in particular Eve, of not seeing her mother on a regular basis.
54. I found him to be a very self assured and egocentric about his own ability as a parent and as a husband, stating that he ‘forgives the mother for everything she has done’ and that he has been a ‘father and a mother to the children, so he thinks like a mother’.
55. He denied that A is disrespectful and dismissive to the mother because he has been influenced by his father's attitudes, but then in closing, he told me that A is trying to copy him. He admitted that on 4 June, he booked tickets to Country A from 10 July to 21 August this year for him and all the children to go and that on 24 June, he decided that the boys should go to their mother's for ten days instead.
56. He blatantly admitted in his evidence that this was at short notice with no regard for the mother's commitments and that if she had said no, he would have used that



against her. During the ten days that the boys were staying with their mother (until yesterday when she brought them back), he admitted that he had WhatsApped the boys his and the mother's statements and the Children's Guardian's final report.

57. He admitted that the boys had been told of the story about how the mother had got him sent to prison, stating that it was the children that have protected him and that there is no one else to protect him.
58. During his evidence, he did not think he had done anything wrong by sharing this information, asserting that he was just sharing with the boys the two different plans that the parents had each proposed and the views of the Children's Guardian. He showed no insight that this was inappropriate, and it was giving the boys too much information that was not necessary to burden them with, given the issues remain adult issues between the parents.
59. He struggled to explain how he had respected Contact Orders when he admitted to unilaterally changing arrangements for Eid, stating that it was his right to spend the last day of Ramadan with the boys because they had fasted together, and he was too tired to drop them to a city in the West Midlands on the Sunday as agreed at the last hearing.
60. He was then entirely inconsistent by suggesting that it was the mother's fault for not chasing him and insisting that the children were delivered to her on the Sunday, given that the city in the West Midlands is not that far away, stating:

"She wants me to fail and not follow the court order."

61. He asked the Court to trust him, despite all of the above, in bringing Eve back for contact with the mother from Country A during the school holidays and clearly thinks that Eve seeing her mother for three months of the year during school holidays would be enough to meet her emotional needs.
62. In respect of the mother's case to care for Eve, he disagreed that the boys will move out and on to university and therefore will not be at home with their little sister in the next few years. A is unlikely to go to university. Both A and D are likely to end up at the local college for A levels or further education if A makes the grades. He says both are likely to remain at home with him as their homebase for many years to come and that they are very close to their little sister as she is to them.
63. He struggled to talk about how he will cope with supporting Eve through puberty, and indicated that it was horrible to talk about, but that if and when needed, and he will do, and in any event, she has aunties and a grandmother to discuss these type of issues with.
64. Again, he deflected his position by saying that her mother had not shown her the love and attention and the interest that she needs, that she has not even provided her with a proper meal and that Eve has shared with him that her mother is more interested in friends and having fun, so she has just told her dad:

"To just leave her."

65. It was clear that when this comment appears to have been made, the father did little, if anything, to reassure Eve that this was not the case and that is - on his own evidence. He was also very critical of the mother's decision to remain in a city in the South of England, stating that it was dangerous, had no shops close by or any restaurants for the children to eat in.
66. He then listed his objections to Eve being taken to Asia for her aunt's wedding, like the pollution and the fact that the mother might lose Eve as if she were a toddler, but it very quickly became clear that his objection was a 'tit for tat' because the mother was not agreeing to him going to Country A for a holiday with Eve.
67. In respect of Europe, his objections were less relevant, and he accepted that the boys and Eve should go if the mother can show where they would all live, have separate bedrooms for the boys and Eve with her mother and that she has the relevant funds for this trip.
68. Even in the father's closing remarks, the only thing he said, in my view, that was reflective was that the children are not proud of their parents because after their parents have divorced they remained having such a poor relationship, but then immediately he went back to being critical of the mother again.
69. I found the father to be inconsistent and self centred. He has not moved at all in his views about the valuable contribution that the mother makes and will continue to make to the children's lives. On the other hand, I also accept that he has not tried to remove the children from the UK, despite holding their passports and he knows that if he were to do that, this mother would follow him to the ends of the earth wherever the children were to fight for their return.

#### The mother

70. The mother has filed two statements in April and May of 2022. The mother indicated in her oral evidence that she is fearful that if the father is allowed to go to Country A that she will lose her relationship with Eve and she will become totally estranged from the boys.
71. Her relationship with A is already strained. He seems to think that the mother's new job involves her mixing with undesirable people who encourage her to drink alcohol. She told me that on the way home yesterday, A threatened her by saying that he would kill her before he would let her drink cider. Whilst this comment is extremely alarming, it appears that she did little to reassure A because in her words, she did not want to 'upset' him further.
72. It is clear that her relationship with D is different. He is very talkative and expressive with his mother. She has a very positive relationship with Eve, who enjoys spending time with her mum. The mother also accepted in her evidence that all of the children are very close to each other.
73. In respect of her wish to have Eve live with her, she argued that the city in the South of England is a safe place for her where she has found friends and a supportive network outside of her family. She has been able to have access to university and studies, start a business, and that there are positive opportunities there, but also support for Islamic culture and life.

74. Her view about her life in the East Midlands was that she was looked down on by the father's community as a 'divorced woman' and she felt that whilst it might be hard for Eve to initially uproot from the East Midlands, her brothers are likely to move away from their father's home for studies and that she will be able to give Eve the stability that she has lacked in the father's home, which has included a change of school, moving from South of England to the East Midlands and also losing her stepmother, who has moved back to Country A.
75. Whilst it is clear that the mother has good intentions, I struggled with her limited insight on the effects of Eve moving to live with her. Whilst she told me that she has considered moving closer to Eve's current life in the East Midlands, she was adamant that she has to prioritise her life in the South of England because that will allow her to best meet Eve's needs in the future and now, and it will allow her to make something of herself and for the children to be proud of her.
76. What troubled me about the mother's evidence was her inability to reassure Eve about her apparent embarrassment of her mother taking her to school in March of last year when she was caring for the children, when the father was away on business, because the school and the community believe the father's new wife to be Eve's mother.
77. I struggled with her inability to recognise that if she found that difficult, how was she going to explain to Eve her reasoning for separating her from her brothers to live a new life in a city in the South of England against her expressed wishes and feelings. The mother was clear that despite the fact that she has a teaching qualification, she wishes to persist in running a business which currently yields no income for her and means that she is reliant on her family in Asia subsidising her income from benefit.
78. It also seemed to me that she had made a number of assumptions that if Eve moved to live with her, then D would follow because he was happy going to college or university in the South of England and that she has somewhat decided that there is little that she can do to repair her relationship with A. Again, this was evident from the fact that even when she knew he had been sent case papers by his dad, she chose not to speak to him about it and reassure him.

#### The Children's Guardian

79. In her oral evidence, the Children's Guardian stood by the recommendations in her report. In that report, she describes meeting with Eve and ascertaining her wishes and feelings. She described Eve as having a fixed idealistic view of what life would be like in Country A because she believes that life would be fun and easier eating ice cream and visiting the beach with less emphasis on her education.
80. On the Guardian's second visit, Eve said that she does want to go on holiday to Country A, but she doesn't want to live there. Equally, she did not want to live with her mother, and she wants to live with her father where her best friend lives and her school is.
81. The Guardian was troubled by the parents' evidence, but on balance, she felt that her recommendations are the 'least worst' option for Eve. The father has evidenced that he has no respect for the role of the mother in Eve's life and he does not see the value

or benefit she brings to the children and when he offers her extra time, it is because it benefits him.

82. The mother, on the other hand, showed a lack of empathy for Eve as to the impact of flipping her living arrangements to an area that she does not want to go and live in and which will result in uprooting her and separating her from her brothers. At least, said the Guardian, the father's third proposal keeps all of the children together.
83. She accepted that the father's move to Country A carries a massive risk of him breaching court orders and not promoting contact with the mother and that whilst he has frustrated contact here in the UK, at least he does comply with orders to some extent and makes Eve available to go to the city in the South of England and he collects her.
84. Whilst the father has shown little ability in being able to help the mother repair her relationship with A, equally the mother has shown a lack of proactiveness in speaking to A about, for example, the father sending him pages of the evidence and the Guardian's report, so the Guardian felt that there is a level of acceptance by the mother that there is nothing she can do about this relationship which is also tied in with the dynamic of her lack of implementing firmness or boundaries in her parenting for fear that the children might want to stop going to have contact with her.
85. On balance, whilst the Guardian had no doubt about the mother's commitment to Eve and the boys, her professional assessment is that she appears to be fixated on living in an area where she has little roots, little stability and could move closer, even if not directly in to the city in the East Midlands, but be physically closer which would allow the children, and in particular Eve to have a sense that she is closer and at hand for them to rely on.
86. In respect of holidays, the Guardian was clear that Eve should not be taken by either parent to a non-Hague country until she is 18, unless it is for an educational trip with the school. She proposes that this order should be in place until then on exceptional circumstances of the history of this case and because of the dynamics between the parents and fundamentally because the father does not accept any wrongdoing in the past and he does not accept the findings made in the High Court by two different judges.
87. In respect of the country in Asia, she accepted that whilst there is no evidence that the mother would retain Eve in Asia, the parents have a hostile relationship and she is concerned about the impact of this on the mother's decision making and the fact that Eve does not want to go, although the Guardian accepted that some of Eve's views about this trip have been influenced by the father.
88. The Guardian was concerned that a huge wedding for Eve is likely to be overwhelming. She has no existing relationship with her maternal family, and she would not be spending quality one to one time on this trip with her mother. The Guardian supports the trip to Europe and believes that Eve would enjoy this with her brothers and that equally, the father can be trusted not to remove the children from Europe to Country A if both parents were permitted to travel within Hague Convention counties because since he has held all of the children's passports, he has not attempted to do that.

89. Her concern in respect of flipping Eve's living arrangements are that the mother's priority appears to be her business venture, rather than what is in the best interests of Eve and that even now, it is unclear what life would look like on the ground for Eve given that the mother has a one year tenancy, has only been in that property for four months, has had to move already and has been working on her business venture with no income for the last four months and stays in a city in the South of England, where to be fair, other than the support from the Black Sisters of Southall, she has no roots.
90. More fundamentally, this proposal is against Eve's expressed wishes and feelings and separates her from her brothers. I found the Guardian's analysis to be thorough and to be balanced.

#### The Court's findings and decision

91. I have carefully listened to all the oral evidence and considered the bundle. Eve's welfare is my paramount consideration when considering all of the applications before me. I accept that both parents each love the children a great deal and I remind myself that I am dealing with two parents who have strong cultural and religious beliefs, but also parents who have very different parenting styles.
92. The mother appears to be more friendly with less boundaries, and the father appears to be more disciplined with clear boundaries and expectations of the children. I accept that the father is a doting father who has sought to provide the children with a good quality of life, and he has worked hard, continuing to run his business remotely through the pandemic and then infrequent visits to Country A like the one in March 2021, when the mother agreed to care for the children in his home.
93. I also accept that the mother is interested and concerned about the children. She is worried about Eve moving towards puberty and adolescence and she believes that she is now in a position to provide Eve with the long term stability that she needs, that she worries that Eve will grow up in a household with a father that has strong views about the role of women and has expressed negative views about her as a mother.
94. It is clear to me that the father's main motivation for relocating to Country A is to continue his business interests and to potentially resume his relationship with his wife, from whom he is separated. I have to say when considering his evidence, I was not impressed by the father at all. I find on balance that the father's behaviour which he blatantly admits and which includes i) dropping the boys to the mother's on 25 June, giving her one day's notice for ten days; ii) booking tickets to Country A for the children for six weeks with no regard to the children having any summer holiday contact with their mother; iii) whilst the boys were with their mother, during those first four days sending them WhatsApp copies of his and the mother's statements and the Guardian's report and iv), unilaterally changing Contact Orders like stopping the drop offs on Fridays to send the children to mosque instead, were all designed to put pressure on the boys to support his case and to put pressure on the mother to get his way and I find that when he does offer contact to the mother it is when it suits his needs and in the context of him booking a holiday to Country A, he did this with no consideration to the time that the children would spend with their mother.
95. His behaviour in relation to sharing court documents with the boys has been entirely inappropriate, and it gives little regard to the consequences of him drawing the boys

deeper into his conflict with the mother. I find on balance that whilst he demonstrates little to no insight or apparent little to no insight, in fact on the contrary, he knows exactly what he is doing and that his behaviour is inappropriate.

96. His protests that he has done ‘nothing wrong’ are meaningless when he knows full well that A already has a difficult relationship with his mother. His actions were designed to feed into the narrative that A ‘hates his mother’. I have no doubt that A does not hate his mother, that he loves his mother very much, but that he has struggled with being the subject of proceedings since he was Eve’s age and I am satisfied that with time and patience from his mother and with some proactive attempts on her part that there is still time for him to have a respectful and meaningful relationship with his mother.
97. Frankly, I found it incredibly disappointing that after all these years and despite so many hearings, that the father would suggest in his oral evidence that A has hated his mother since he was five. It fills me with little confidence that in the event that he were allowed to relocate with the children to Country A, that he would continue to support A’s relationship with his mother.
98. I accept the mother’s case that all the children would be at risk of being completely estranged. I find that the father has changed terms of orders and he has frustrated them, changing contact on a Friday evening by sending the children to mosque.
99. The father does have very traditional and religious views about the roles of men and women and where the mother has not fulfilled that expectation, he has been highly critical of her, and I find that he has not hidden that from the children.
100. I understand why she found living in Leicester difficult during the four months that she stayed in his home last year and I can see why she is concerned about how Eve will be treated as she grows up and it is clear, as highlighted in the father’s evidence that he acknowledged that he would struggle to talk to Eve about puberty and adolescence. In my view, he rather naively thinks that he might not need to do that for many years to come.
101. However, I was not particularly impressed by the mother either. In the pursuit of her own career aspirations, which despite starting a business in May 2022 that has not yielded any income for her, she prefers to live in the South of England where none of the children want to live or have any connection. She also struggled to show a good level of insight into the impact on Eve of completely changing her living arrangements to living with her mother and more importantly, to living without her brothers.
102. On that basis, considering Eve’s best interests and the factors as set out in the welfare checklist, I make the following decisions. In terms of the mother’s application for Eve to reside with her, I agree with the Children's Guardian. A change of living arrangements for Eve to live with her mother in the South of England is not in Eve’s best interests. This is not a realistic option because whilst the mother has lived in the South of England for the last two years, there is not the same level of stability in respect of her life as there has been with the father’s, particularly in respect of the mother’s employment and finances.

103. She does not receive a salary, she is reliant on universal credit and financial support from her family in Asia and I am concerned that although she is able to meet Eve's needs, how she would actually and physically meet those needs in the context of the lifestyle that Eve has been used to having with her father.
104. More fundamentally though, I do not believe she has fully considered the emotional impact on Eve from a change of living arrangements of living with her father who has been her primary carer and who she has a warm and loving relationship with. Further whilst I accept that it is inevitable that Eve's relationship with her brothers will change over the coming years, I reject the unattractive argument that they are likely to move away for studies and for this sibling group that this would be akin to being separated.
105. The fact of the matter is that their lives with their father and the home they have with him will continue to be their primary home base for many years to come and I am satisfied that in the event that Eve was removed to live with her mother, that would have a huge emotional impact on her of losing her father as her primary carer and losing the opportunity to live and continue to grow up with her brothers.
106. I accept at the very least the father's submission that his main goal in life has been to ensure that all of the children stay together, wherever that may be and whilst he struggled to articulate support for Eve going through puberty, that in itself is not a reason to change her living arrangements.
107. I accept the Children's Guardian's view that both parents will need support and guidance moving forwards and I will be inviting them to undertake the Solihull Parenting Programme in the interests of Eve.
108. In relation to the relocation application, for the same reason that Eve's living arrangements should not be uprooted for her to live with her mother, she should not be uprooted by her father to live in a country which she has no memory of, does not know the language of and where a change in her schooling is simply not warranted. I have no reason to again depart from the views of the Children's Guardian.
109. I am satisfied that if Eve were to relocate to Country A, her relationship with her mother will not be promoted or encouraged by the father, and in my view, that would cause a complete breakdown of their relationship.
110. I accept that A has an estranged relationship with his mother and the father has shown no ability to help heal this. I am satisfied that the father did make a comment when telling the children 'good luck' when it came to spending time with their mother. This is because he did not genuinely support or encourage contact, and particularly in the context of knowing that A holds negative views, he has done nothing to try and alleviate those difficulties.
111. Having considered the pros and cons of the father's proposal for a life in Country A for the children, I accept and I find on balance that the magnitude of risk is so high for exactly the same reasons that Her Honour Judge George refused the application, I do too. It is not in Eve's best interests, and she should not risk losing her relationship with her mother which has taken at least the last three years to rebuild to be on a positive footing where she now enjoys the time she spends with her mother.

112. I agree with the Children's Guardian that the third proposal offered by the father is in Eve's best interests. This will enable him to travel to Country A during the school holidays and to spend time on his business whilst Eve spends time with her mother and her brothers in a city in the South of England.
113. I reject his assertion that it is too late for that proposal when in fact that is the single proposal, in my view and in the view of the Children's Guardian, that makes complete sense for this family.
114. In regards to trips abroad and the application by the Guardian for a Prohibitive Steps Orders, I have to say on balance and having heard all of the evidence and the findings that I have made, I fully agree with the Children's Guardian that a cautious approach is necessary and that therefore neither parent should be permitted to take Eve to countries that are not part of the Hague Convention, including Country A and the country in Asia that the Mother seeks to travel to with Eve.
115. It is my view that Eve can still have enriching experiences visiting countries that form part of the Hague Convention. I acknowledge that Eve and her siblings have extended family in Asia and Country A and that there will be a level of disappointment, particularly for Eve and probably A in relation to not being able to travel to Country A for a holiday.
116. However, it is my view that family members do have the opportunity to travel here for contact and I appreciate that whilst the maternal family are old, I am not told that they are infirm so that they cannot travel. The reality is that neither of these parents trust the other. Their relationship is so poor that they both hold negative views of the other although I accept that the mother does not openly share her views with the children like the father does.
117. I find on balance that whilst there is no evidence that the mother would retain Eve in the country in Asia, the dynamics of the parents' relationship, the history of this case and the way that the mother has been hurt and is still being hurt, no doubt, by listening to the father's evidence and his scathing descriptions of her failures that I am, as the Guardian is, concerned about all of that and the impact of it on the mother's decision making which creates a risk.
118. She would be taking Eve to the same maternal family that had to endure the father's behaviour towards their daughter, that have had to support her through this and continue to financially support her life in this country. That means I am less confident about what her intentions might be if she were permitted to take Eve to the Country in Asia, especially in circumstances where Eve does not want to go and the father maintains a huge objection to it, albeit on a tit for tat basis.
119. In my view, the Guardian's analysis is the safest and fairest course of action to take, which is to ground Eve from visiting any non Hague Convention countries until, and I find this is both proportionate and necessary, she is 16 years of age, save for school trips without a parent. I do not find there are exceptional circumstances on this particular application and on the facts of this case to permit me to ground her until she is 18, when both parents and the Children's Guardian accept that at this current time with A being 17 and D being 16, if they chose to go to Country A now, either to live or to visit, that that in fact would be their choice. So I am not prepared to treat Eve in this circumstance differently to her brothers.



120. That is not a decision I take lightly, and I am sure that Eve would love a holiday in Country A, and I am sure she would love a holiday in Asia to celebrate her aunt's wedding, but trips to either of these countries carry a risk and I am not satisfied that any route for return is one that can be easily as achievable as if there were a visit to a Hague Convention country and if an unlawful retention were to occur.
121. Had the parents' relationship, the dynamics, the history of this case been different, I would have reached a different decision, but I have made this decision to preserve Eve's relationship with both of her parents and I am satisfied that the father will not abuse the Court's trust in allowing a trip to Europe to result in a removal to Country A.
122. Permitted travel to Europe at the end of August, in my view, is something that is in the interests of Eve with her mother, and I would hope that the boys would be able to accompany Eve on that trip. The father should also be permitted to travel to Europe for a holiday in the first half of the summer holidays, unless of course he wishes to go to Country A and leave all the children with the mother for this year, so all of the school holidays. That is a matter for him to decide and give the mother notice.
123. From October of 2022 onwards, each parent will have to provide to the other, eight weeks in advance of any planned trip going forward, the details of the plans for taking the children on holiday in Hague Convention countries.
124. In relation to section 91(14), because Eve along with her siblings have been subject to court applications for a number of years across different countries, I am satisfied that it is both proportionate and necessary and in order for Eve to fully invest in her life in the UK and to continue to having her relationship with her mother without fear of repeat applications, that a section 91(14) Order should be made and that order should be made for the next three years.
125. I am concerned that in making the decision that I have that the father might be unable to resist the temptation to blame the mother for standing in the way of relocation and I am satisfied that it is really important that the Children's Guardian should deliver this decision to each of the children and in particular, Eve and my reasons for it.
126. This is a decision that the Court has made having considered what is in Eve's best interests and her long term relationship with both of her parents and I am satisfied when considering the article 8 rights of the father that he is going to be able to continue to run his business by going to Country A during the school holidays, given that he has managed to continue to do this successfully over the last five years and throughout the pandemic.
127. So the orders I make are as follows. One, I refuse the application of the father to relocate to Country A. Two, I refuse the mother's application to reverse Eve's living arrangements. Three, there will be a Prohibited Steps Order preventing either parent from removing Eve to a non-Hague Convention country until she is 16 years of age unless that is for an educational trip without a parent present, and that there will be a section 91(14) Order to remain in place until 4.00pm on 5 July 2025.

128. I will also invite the parents to undertake the Solihull Parenting Programme. Of course, I do not direct that, it is a matter for them, and I will invite the Children's Guardian to deliver this decision to the children this afternoon. That is my judgment.

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**This Transcript has been approved by the Judge.**

The Transcription Agency hereby certifies that the above is an accurate and complete recording of the proceedings or part thereof.

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