

Neutral Citation Number: [2024] EWFC 157 (B)

Case No: ZW23C50105

IN THE FAMILY COURT AT WEST LONDON

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

Date: 24 June 2024

Before :

HIS HONOUR JUDGE WILLANS

Between :

THE LONDON BOROUGH OF HILLINGDON

Applicant

- and -

**(1) Simon
(2) Oliver & (3) James (by their Children's Guardian)**

Respondents

Gary Crawley (instructed by **Hillingdon Legal Services**) for the **Applicant**
Maia Love (instructed by **Fort Solicitors**) for the **1st Respondent**
Hannah Wyatt (instructed by **Slater Bradley & Co**) for the **2nd and 3rd Respondents**

Hearing dates: 3-6 June 2024

JUDGMENT

This judgment was delivered in private. The judge has given leave for this version of the judgment to be published on condition that (irrespective of what is contained in the judgment) in any published version of the judgment the anonymity of the children and members of their family must be strictly preserved. All persons, including representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court.

His Honour Judge Willans:

Introduction

1. The key individuals referred to within this judgment are the children, Oliver (“Oliver”) and James (“James”); their father, Simon (“Simon”); their older brother, Carl (“Carl”), and; their deceased mother, Jane (“Jane”) (who died on 7 February 2023). Oliver is aged 11, James 8 and Carl approaching 20. Simon is aged 44 years. I will use their forenames within this judgment without intending any discourtesy. Elsewhere I will identify other individuals who have played a role in the proceedings. This judgment follows a 4-day final hearing in public law care proceedings in which the applicant, supported by the children’s guardian, [] (“the guardian”), seeks a final care order and Simon seeks for the children to be placed into his care in Poland.
2. I have considered and keep in mind all the information placed before me although I will not reference everything within this judgment. The information includes the documents in the hearing bundle;¹ both the position documents at outset and closing submissions of counsel, and; the live evidence of the witnesses who appeared before me.² Both Simon and the Polish Assessors gave evidence remotely from Poland. The other witnesses gave evidence in person. Agreement to both Simon and the Polish Assessors giving evidence from Poland was provided via the Polish Central Authority. I am most grateful for their support in this regard. Simon required the assistance of an interpreter to take an active part in this final hearing. I am also very grateful to the assistance I received from the interpreters who appeared before me. Finally, I would record the fact that Vice-Consul from the Polish Embassy was both invited and attended throughout this final hearing. I would have hoped to have given this decision at the conclusion of the submissions. However, I judged the issues were sufficiently complex and the time insufficient to do so in a fair and confident fashion. I also considered there were quite separate benefits in providing a reasoned judgment which could be carefully considered prior to handing down.

Overview (background)

3. Both the parents and children are Polish Nationals although both children were born and have lived their whole lives in this country. The children lived with their parents until about 2017. The parental relationship included alcohol abuse on the part of Simon and domestic abuse of Jane by Simon. As a result of this Simon was sent to prison in 2017 and thereafter deported to Poland. The parents separated following the 2017 events although Jane appears to have continued to support contact between Simon and the children, including after he was removed to Poland. It is clear Jane suffered with significant poor mental health and there is a reported suicide attempt in 2014. On 7 February 2023 she made a further attempt and was sadly successful on that occasion. She was found by Carl.
4. On Jane’s death there was no one available to care for the children. Carl was away at University. It is to Simon’s credit that he gave section 20 consent for their accommodation.

¹ Together with some limited additional documents provided during the hearing

² In order, Ms Agnieszka Wojciechowska and Beata Kadzikiewicz (Polish probation officers) (“the Polish Assessors”); Lucy Gilkes (Allocated social worker) (“the SW”); Simon, and; the children’s guardian.

Whilst Oliver has no substantial challenges (other than those which obviously flow from the history detailed) his younger brother is affected by both autism and global developmental delay. As a result a decision was taken to place the children together in a residential setting, [] ("the unit") which could meet James's significant needs. This is a specialist setting which is not required by Oliver. However, it was felt the relationship between the siblings was sufficiently important to override this feature.

5. The proceedings commenced on 9 March 2023 and on 31 March 2023 the children were placed into the interim care of the applicant. The proceedings came before me for the first time on 28 April 2023 and whilst I was not the allocated Judge I have since that time managed the case at all hearings bar one. The full case management decisions in this case can be found in the bundle but I will particularly note the following: (1) there has been appropriate consideration of alternative family members but no option has been shown to be viable; (2) the obvious need for an assessment of Simon was managed via ICACU and undertaken in situ by the Polish Assessors, and; (3) I refused what I considered a very late application to transfer the proceedings to Poland on 19 April 2024 – the detail of this can be found in the ex tempore judgment given on that occasion.
6. Simon's assessment was positive. As a result the applicant planned placement of the children with Simon and to support this a visit was undertaken to Poland in October 2023 with social workers accompanying the children and during which time the children stayed with the father for three days. In broad terms the visit was successful. It was largely the delays occasioned by this visit and the further consideration arising from it that means this case comes on for determination over one-year after its commencement. For reasons which are set out below the applicant thereafter formed the view that Simon was not demonstrating the commitment and motivation expected of him to care for the children. This is said to fall into three particular categories of suggested non-commitment³ (although other criticisms are raised). This led to a change in care planning with the applicant now seeking a final care order.

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| The issues in the case |
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7. The issue for me is whether I should make the care order as sought or refuse this endorsing a transition of the children to Poland. At the outset of the hearing Simon sought an adjournment for a series of reasons. I refused this request but indicated I would keep it in mind. By the end of the hearing an adjournment was not being sought. If I make the care order then there is no substantial dispute as to the contact regime that would arise under the order.
8. A further issue relates to the placement plans for each child. The children have remained together and the applicant has sought a placement which could accommodate both children. Simon has supported this planning whilst arguing the children should be with him. Around December 2023 the applicant thought it had identified such a placement. Unfortunately this fell away and the children remained where they were. The guardian has been understandably very keen to understand how the applicant visualised the future for

³ (1) Failing to organise a medical assessment in Poland; (2) Not keeping to contact; (3) Failing to pursue a process of staying the deportation order

the children post final order. In the days before the final hearing the applicant confirmed it had changed its planning and had reached the conclusion the boys would need to be separated. Oliver had expressed a wish to no longer remain at the residential unit and the applicant accepted it was not an appropriate medium term placement for him. At the same time it accepted the search for a placement for the children together would likely fail. The applicant seeks to find and place Oliver in a conventional placement local to his brother to enable regular contact with James whether he is remaining at the unit or being placed into a specialist foster placement. Simon does not support separation although the guardian accepts it is now inevitable in this jurisdiction.

Legal principles

9. The decision I reach for each child must give paramountcy to their welfare. I will approach this through the welfare checklist at s1(3) Children Act 1989 and have regard to all the circumstances of the case. I would wish to make a short point in this regard. Whilst I appreciate the distinction between s1(3) and the extended checklist in the 2002 Act⁴ and whilst I particularly record the distinction in the 2002 Act requiring the Court to have regard to the child's welfare 'throughout his life', I do not consider this precludes the Court from reflecting on matters which have impact beyond childhood under the 1989 scheme. That this is the case should not be controversial given that in nearly all cases the Court when considering significant harm does not limit the effect to age 16-18. Rather the Court can and does reflect upon caring deficits which have the potential to impact on a child beyond childhood, for instance on attachment styles and the impact a dysfunction in the same has on life long relationships.
10. I can only make the care order sought if the legal threshold for the making of the same is found to be crossed.⁵ This is a test based on the finding of behaviour which causes or is at risk of causing significant harm to the child. In this case the threshold is agreed as being crossed and I do not intend to spend further time on this aspect of the legal principles other than to record that I accept the threshold as drafted. However, the crossing of the threshold does not mean an order must be made. Rather, it is a threshold which permits a public law order to be made, but only after the Court has considered the child's welfare and applied a test of proportionality to the outcome sought and established the order as being justified. Given a Care Order is a profound interference in the private life of the family members it engages article 8 ECHR and requires consideration of the proportionality, reasonableness, necessity and legality of the order sought. These feature compell the Court to consider whether there is a lesser form of interference which would meet the child's welfare needs. In a case such as this in which I am considering the options of placement in care or with Simon it is important to look at each option in a holistic fashion identifying both the positives and negatives associated with each and comparing the options against each other. By this route the Court ensures it gives a proper regard to each option and does not drift into reaching a conclusion without proper regard to the other option.
11. Finally, I wish to make brief reference to the authority of **Warrington Borough Council v TN & JN [2020] EWFC 79 per MacDonald J**. I reference this case not with specific regard to the

⁴ Adoption and Children Act 2002 section 1(4)

⁵ Section 31 Children Act

facts of the case but with regard to the observations of the Judge as to the respect the court in this jurisdiction should give to a foreign jurisdiction and the limit to which Court's should seek to demand information from foreign institutions:

Finally, this case demonstrates once again the importance of having proper regard to the principle of comity as it relates to judicial and social care arrangements in different jurisdictions in those cases involving children and families that concern more than one jurisdiction....[T]he desire of the Children's Guardian to ensure that JN's care by the mother is properly supported when she returns to Lithuania is entirely understandable and, indeed, consistent with the proper discharge of the professional obligations of the Children's Guardian. But care is also needed in cases involving an international element to ensure that professionals do not simply assume that the child protection system in a foreign jurisdiction operates in the same way as the system in this jurisdiction, or that because the system in another jurisdiction operates differently it is necessary to impose on that system the expectations and approach that is taken in this jurisdiction. At certain points in this case the Children's Guardian appears to have approached the Lithuanian State Child Rights Protection and Adoption Service as if it were an English local authority over which the court has jurisdiction, rather than an agency in a foreign sovereign State subject to the laws and practices in that State and over which this court has no jurisdiction.⁶

These observations have some bearing on the circumstances of this case.

Analysis of evidence

12. I do not intend to recite all the evidence I received over the days of the final hearing. I have kept a good note and continue to have reference to it. I consider a much better approach is to identify the key matters which have shaped the parties' respective positions and set out both the substance of the evidence I received and my conclusions in such regard. I will do so using appropriate headers.

Oliver's wishes and feelings

13. These have oscillated over the course of the proceedings. Early on Oliver was expressing a positive view as to the prospect of moving to Poland to live with his father. This appears to have still been the position at about the time of the trip in October 2023. I note the guardian's evidence as to Oliver at various points talking in terms of a willingness to leave 'when he had completed his primary education' (summer 2024). I note the guardian's consideration as to whether this in fact indicated reticence on the part of Oliver with him not wishing to expressly state opposition to a move but pushing it further away. More recently, Oliver expressed a level of opposition to moving voiced through a concern on his part around his ability to fit into schooling in Poland given that, whilst he speaks Polish fluently he can neither read or write in his native language.
14. Oliver is an 11-year old child. The Court has regard to his wishes and feelings but the weight given to the same has regard to his age, maturity and level of understanding around the issues in question. Oliver has plainly had a very tough life in recent times with his mother's death and his placement together with his brother into a somewhat artificial home setting. It seems likely he will have also been significantly affected by the dynamic between his parents that existed prior to his mother's death. It may be due to this or a simple fact of their upbringing that Oliver and James share a very strong bond. I am in no doubt the separation of their parents and then the untimely death of their mother will have reinforced their

⁶ §37-38

commitment and reliance on each other. Placement into a residential setting will have further fortified a sense of their relationship being one of the few stable and continuing facts of their life and it is easy to understand why the relationship has gained importance for the children.

15. It is for this reason that the applicant took the step of placing both children in the residential setting required for James even though the same is not suitable for Oliver. This reality has now caught up with Oliver who is expressing a wish to leave the unit. I do not criticise the applicant for prioritising this approach but it was always likely to be a plan which would need to be terminated at some point. Separation as envisaged should not by necessity cause a fundamental dislocation of the sibling relationship. I accept on the facts of this case in particular that were this to be the case then the children would suffer a real loss and significant emotional harm. So the applicant makes clear its care planning for separation will proceed on the basis that the boys remain geographically in close proximity to enable regular contact. I do not want to overlook the relationship between these children and their older brother. This is also a very important and it seems likely Carl may have provided a level of care for the children during periods of crisis for their mother. Whilst the evidence is not clear in this regard there is a reasonable basis for reaching this conclusion. The evidence suggests that the presence of Carl in proximity is also an important consideration for Oliver.
16. In considering Oliver's wishes I need to take care not to create a situation which either makes him a form of carer for his brother or forces on him an inappropriate sense of responsibility for James's outcome. At 11-years of age Oliver both deserves and needs the freedom and space to grow and develop. There is a real danger that he may feel an obligation to be there for his brother and this may act to stifle his own personal development. The risk of this is heightened if he has the sense of James and himself being isolated in some sense. I also need to first identify and then take an objective and realistic approach to his worries. The Court is able to consider concerns with the perspective that a level of distance and experience gives. Oliver's worry about fitting into school in Poland is both natural and understandable but does it really amount to a feature which should have the potential to shape his future life? I must look beyond the short term and assess the prospects of Oliver making the transition successfully and without these concerns materialising to the point at which they impact negatively upon him. At this point in time he will likely have a level of worry about the move to secondary school in any event. Many children do and yet after the event the same child can come to realise the worries were overstated or unjustified. I must assess whether these concerns justifiably impact on my decision making.
17. A related point is as to my duty to have regard to the reasons why Oliver may be hesitating as to moving to Poland. The guardian raises this as noted above and I consider her approach to be a respectable professional attempt to look beyond the simple words used to ascertain the underlying feeling. I consider she may be right in her analysis with the suggested delay indicating hesitation about the move itself. But that is not the end of the matter. Although it is a challenging task and one which can come with no certainty there is a purpose in asking why it is that Oliver may be hesitating. One reason may be that he does not want to live with his father at all but is too polite or otherwise concerned to articulate this feeling. However, it is also possible that his views mask a different and unarticulated concern. It seems to me

there is at least a reasonable likelihood that Oliver is modifying what he wants based on his assessment of what he thinks is going to happen to James. I consider there are grounds for believing he considers James is staying here and that moving to Poland will be Oliver only moving to Poland. Given my analysis above it would be easy to see why this might shape his attitude to moving. I do not consider this to be a fanciful possibility. Oliver has only recently come to understand he will likely not be with his brother. It is likely he may have a sense that he is responsible for this as he has said he does not want to stay in the unit where James may remain. In such circumstances to oppose a move to Poland might be seen as the price he has to pay for staying close to James. There is a reasonable likelihood he does not appreciate that James might also move to Poland when he considers his own options. It may be his view is not based on a full understanding of the options before the Court.

James's longer term care

18. In the section above I do not reference James's wishes and feelings. It appears agreed that in the light of his age and developmental delay any views would be treated with care. I do though repeat (1) the point made as to the strength of the sibling relationship and its meaning and importance for both boys and (2) the link to the older brother. My strong sense for both boys is that it is their inter-relationship which is primary with their relationship with Simon, whilst important, having less value to them.
19. The evidential focus has been on the manner in which James's significant needs are being met and how they will likely be met in the future. The applicant would like James to be placed into a family home but accepts this would require a specialised level of foster carer and proceeds on the basis that this may not happen. The applicant relies upon the unit as a default alternative. At this time I consider the evidence suggests James will likely remain in the unit. I am satisfied James has been receiving a good level of care at the unit. It is a specialist setting and he appears well settled. I conclude that were I to approve the care plan proposed by the applicant then James would continue to receive good levels of care and would likely remain at the unit into the foreseeable future. I am also satisfied the applicant would identify and place Oliver into a foster placement relatively quickly with this being proximate to the unit to permit ongoing contact between the brother's. I reach this conclusion having regard to the fact that Oliver does not have any particular challenges that would otherwise impact on his placement. It is clear from the above that I do not find it likely the boys will end up placed together into the future.
20. Having heard the evidence I consider both the social work team and the guardian place significant premium on the positives of this placement continuing. This is seen as a working solution for James in an area of provision which has challenges as to resources and availability. In listening to the evidence I have sensed a degree of risk-adverseness to a change to this planning given it arises in a context in which the alternative is unclear as to detail. There is a danger that this leads to the exclusion of options which may have potential value for James but suffer from uncertainty.
21. I must reflect on James's future life expectations and the relevance of the same to my decision making process. It is in this way that his life long welfare comes into focus. It seems likely James will continue to require care into adulthood due to his developmental needs.

Within this jurisdiction and absent other factors this would likely involve some form of residential setting. Furthermore, he may need the oversight of the Court of Protection and a Deputy. These features suggest he may need and would certainly benefit from an adult who could act as an advocate for him to ensure his needs are prioritised. One of the challenges of the applicant's planning is to envisage how this will operate in circumstances in which Simon is in Poland and the future for Carl and Oliver is unclear into adulthood. At about the time this situation arises Oliver will be aged about 21 and it would be wrong to pass to him at such an age a responsibility for his brother. I have to have regard to the potential my decision making today effectively sets in stone the future for James and in doing so makes future relocation to Poland on attaining his majority a more challenging proposition. Whilst I appreciate this point has a level of speculation surrounding it I do consider it is reasonable to raise this prospect and attempt to work through the benefits for James on attaining his majority here or alternatively in Poland. There is a legal imperative on the Court in carrying out its article 8 assessment to have regard to the interference in family life occasioned by the order made. By its very nature a care order has a significant effect. But in this case I need to keep in mind the impact may not just separate a child from family, subject to contact, during his minority but may entrench this situation into his adult years and throughout his life.

22. I have sensed a potential unconscious bias towards care provision within this jurisdiction. This plays out as noted above in a unconscious lean towards the maintenance of the current provision with a lack of enthusiasm towards considering what a Polish outcome for James might look like if that were also within a residential setting. This has translated in this case to a somewhat false comparison between James being cared for in this jurisdiction within a specialist unit and being cared for in Poland exclusively by Simon. It is in analysing these alternatives that the professionals find themselves favouring a placement in this jurisdiction. I have questioned the professionals during the hearing as to whether this is in fact the only appropriate comparison to undertake? It seemed to me necessary to have regard to the potential, maybe likelihood, of James ultimately receiving residential support in Poland close to his family. What would that mean for James? What would that mean for Oliver? How would that compare with the planning in this case? I appreciate (see below) the challenges to Simon as to his failure to provide a transparent package that would come into operation in these circumstances - but also see my analysis of this argument below. This has left the applicant in a position of being blind to the actual default that would come into play were James to move to Poland and were Simon, against his best intentions, unable to meet these needs and require a form of support similar to that in place for James at this time.
23. Despite uncertainty it does seem to me this Court should proceed on some basic propositions when considering the point. First, James has challenges but these are not in anyway unusual or so particular as to require a caring team only found within this jurisdiction. I can proceed on the basis that there will be many children in Poland that share James's characteristics. Second, I am bound to proceed on the basis that a developed European democracy has in place a structure for safeguarding the needs of such children. Of course each country will shape its care structure to suit its populace and societal norms. But third, it would be wholly wrong to proceed on the basis of a form of English exceptionalism with regards to care available to James. To do so would be parochial and plainly wrong.

Indeed how could such a position be maintained when for instance one reflects on the poor level of resources known to be available in the area of children's mental health support in this jurisdiction or the provision of resources to meet the challenging needs of those children who fall into the territory of DOLS provision. The simple fact is that there is no sound basis for taking the view that it is her and only here that James could receive the support he needs. I have heard in general terms of the existence of equivalent provision in Poland and I consider I should accept the basic proposition that suitable care is available for James in both jurisdictions. That I cannot identify the name of a unit that would take James at this time does not change this.

Carl's future plans

24. I am not improperly straying into a welfare consideration relating to this adult 'child'. However, Carl has featured in the evidence placed before me with regards to the welfare of the younger children. At one level I am asked to consider the possibility he will return to this country to complete his degree and as such be part of the local support available to the children. Alternatively, reference was made to him being in Poland and the potential support he might offer to any placement with Simon. Finally, Simon was questioned / criticised for a suggested failure to encourage Carl to return to complete his degree course. I understood this was raised to indicate gaps in his parenting capacity.
25. I cannot know what the future holds for Carl. At one point it seemed he might provide a statement for the final hearing but this did not materialise. It seems the guardian sought to speak with him but he did not make himself available. My sense is of a young adult with his own interests and needs who has no wish to participate in these proceedings. As such I consider it would be unwise to place too much emphasis on his future role with respect to either Oliver or James. I do not intend to proceed on the basis that he is a factor which balances the outcome one way or the other. Having said that at this point in time he is in Poland and has interrupted his education to return there. Simon tells me he has obtained employment and is learning to drive. It seems to me there are grounds for questioning the likelihood that he will return to this country. This may mean that were the children in this country they would see less of their brother than were they in Poland. However, either way this time may somewhat limited in scope rather than extensive in character.

Family Support

26. During the proceedings alternative family placement has been considered but has not been found viable. This does not mean there are no family members who have an interest in the future for the children. I have received a statement from the paternal aunt, BL, who lives close to her brother in Poland. She was put forward as an alternative carer but withdrew. She offers her support if the children return to their father's care. In this jurisdiction lives the maternal uncle, PW, and his partner. They were assessed and it seems came close to offering a potential home for Oliver. At that time the firm plan was for the boys to be together and this option fell away. However, when the plan changed to separation they were approached again but confirmed they could not offer a placement for Oliver. Still, they have maintained contact with the children and this has undoubtedly benefitted both of the boys.

27. The applicant points to PW as being an important cultural and family connection in this jurisdiction. It is argued through this relationship the boys Polish and family identity can be maintained. There is no reason to believe these adults would not remain committed to a relationship with the boys and I judge this would have value for both of them. But, I believe I have to view this as a comparatively limited relationship arising on an occasional basis (the care plan puts this contact at 3-4 times a year). Simon points to his sister (and Carl) as being part of his support network in Poland. I have commented on Carl above. In regards to BL it seems likely she will offer support to her brother and I would not wish to understate the benefit this will provide. On the basis of her evidence it will not amount to full-time support or anything like that. Rather it seems it will be the standard form of occasional but regular support offered by a geographically close relative. This will include helping out on occasion and being available to child mind when the need calls. I have regard to Simon's expressed view that she is not reliable but I interpret that not so much as a personal comment as to her character but more a statement of factual availability. This supports my view that her support should not be overstated albeit it is a relevant feature of the case.

The October trip to Poland

28. A central challenge of this case posed for the professionals has been obtaining appropriate insight into how Simon would manage in caring for the children given the limited ability to assess this in situ. Following his deportation Simon has not been able to return to this jurisdiction. As such any direct evidence of his physical engagement and caring skills is restricted. Within the proceedings the Court obtained the ICACU assessment. Whilst I am grateful for this support the form of the assessment was very different to what one would expect were the same to have been undertaken in this jurisdiction. The assessors were no more able to see Simon with the children than were the social workers. In their evidence the Polish assessors accepted that their report was not a parenting assessment. Rather, it appears to me to be a systematic overview of the practical circumstances of Simon's life. It addresses his employment and accommodation together with an overview of any issues of criminality and engagement with services. It reaches a positive conclusion which amounts to saying there are no contraindications to suggest Simon could not care for his children.
29. In this context the trip to Poland was informative. I remind myself it occurred at a point in time when the applicant was supporting placement with Simon. I also remind myself that in the light of the visit the applicant did not change its planning. This indicates the trip did not cause the social work team to re-evaluate the potential benefits offered by a placement with Simon in Poland.
30. I have had the chance to read the case note relating to the trip and it is clear it does not undermine placement with Simon. I draw attention to the following features which I consider of relevance. First, it is significant as to the positive anticipation the children have for the visit. I make this point given the potential impact the history of the case might be thought to have had on the children's feelings about meeting their father. It has to be borne in mind that but for some quite limited contact they would hardly have seen their father in the proceeding 6 years. Second, I am struck by the relative ease with which they settled into

his home environment. This is particularly so in the case of James given the suggested challenges that he faces in respect of transition. Third, the evidence of Simon's interactions with his children is very positive. He was seen to be naturally warm and sensitive to their needs. Fourth, the visit confirmed the assessment evidence of the practical arrangements within the home. It is a marker of the positives of the visit that the children stayed overnight unsupervised with Simon. I do not overlook the single issue arising during the visit when James managed to get out of the house and had to be tracked down locally. But no party suggests Simon holds any blame for this event and there is a real issue as to whether he was in fact warned this was a risk when caring for James.

31. I consider this visit to be an important part of the information available to me. It has provided an insight into the likely care provided by Simon - I accept it can only be an insight given the limited duration - and also indicates the potential strengths that arise out of direct family care for a child with developmental needs. It also puts to rest any suggestion of a fracture or difficulty in the relationship between the children and their father. I note Oliver is continuing to express a wish to spend time with his father even if he does not live in Poland and the care plan envisages travel to Poland on a number of occasions each year were I to approve the applicant planning.

Specific criticisms of Simon

32. I turn to consider specific points raised within the hearing which are said to support the applicant's care planning. One can see through the chronology of the case that it was following the October visit that Simon's difficulty with regard to the first of these matters caused the applicant to reappraise its assessment and move away from the plan to transition the children into their father's care and favour a Care Order instead.

(1) Simon failing to be sufficiently proactive

33. The genesis of this issue can be found in the case management order of 27 October 2023 in which the following recitals were recorded:

And Upon the local authority confirming that they continue to support a care plan for both Oliver and James to be placed in their father's care in Poland provided that clarification being provided as to the support father requires to be able to care for the children, including education, support services for James and respite care, and that with such assistance being available that father considers that he is able to care for the children...And upon the guardian seeking further information and clarification as to the support, specialist services for James and educational provisions for both children before she can make final recommendations for the children.

In the light of the above Simon was directed to provide a statement addressing both the support he would require and that which would be available to him were the children placed into his care in Poland. In addition provision was made for a further trip to Poland to facilitate any assessment required there as part of such educational or health support.

34. Whilst Simon filed his statement there has been no assessment appointment with respect to obtaining the certificate of disability that would underpin the support for James were he to be in Poland. It is particularly in this regard that both applicant and guardian are critical of Simon, although there are broader criticisms as to gaps in the full planning for the children were they to relocate. Simon claims it has been challenging to organise such a process whilst

he neither cares for the children or has them in the jurisdiction. Although he claims to have organised an appointment in February 2024 this did not go ahead given the applicant required written confirmation as to the appointment and detail as to the plan for the appointment. Simon argues this was not possible and the appointment did not proceed. At the date of the final hearing Simon had organised an appointment and provided written confirmation of the same. Unfortunately this was after the date of the final hearing.

35. The applicant and guardian suggest this demonstrates a lack of motivation and commitment on the part of Simon. That it speaks volumes as to his likely parenting approach if the children were in his care in Poland, and given James's need for a strong advocate, the potential for this care to be inadequate. Furthermore, the guardian questions whether this indicates Simon in some way subconsciously messaging his understanding that he cannot care for the children without wishing to expressly accept the same. For my part I have a degree of sympathy with these criticisms. Our understanding of the future for James in Poland would be assisted had this process have been completed. Second, it does to an extent present Simon as an individual somewhat lacking in the ability to act proactively as required. There is little doubt that, if one of the benefits for James of Poland is in being close to family who may act on his behalf, then it is important that those close to him have this ability in the first place. My sense of Simon is that he is an ordinary working man who likely passed central care giving duties to the children's mother when they were together. He is a mechanic by trade and it may well be (my assessment is impacted by the use of interpreter and other features of the case) that his skills do not lie in navigating the social care system. This does not mean he is not a caring parent who wants the best for his children. There will be many parents with children with specialist needs who find this reality daunting and overwhelming. But it does suggest he will find managing the care of a child with greater than normal care needs a particularly challenging task.
36. But I also have some sympathy with the position faced by Simon. During the hearing I raised with the professionals what would be the likely position were the situation reversed and were a parent in this country seeking to obtain specialist appointments and outcomes in this country for children who are neither in the care of that parent or living in the country (or ever having lived in the country)? Moreover how successful would that process be if it was not being substantially supported by the agency actively caring for the children? For my part I have doubts such a parent would make much in the way of progress pending the children being here and registered within the system. The Court has experience of the challenges of obtaining support services for children who are in fact in this country and being supported by the local authority. This is only likely magnified in the circumstances faced in this case.
37. I accept that Simon's difficulties in this case may be seen as a marker of his commitment to the future care of the children but it has to be significantly tempered by his demonstrated commitment to the process and the challenges noted above. I would be very wary in attributing to him a subconscious or unexpressed intention which runs entirely contrary to his open position.

(2) Revoking or staying the deportation order

38. Within the October case management order reference was made to the staying of the deportation order. I recall at that time discussion around the steps that would need to be taken and it seemed the somewhat limited circumstances in which this might be successful. This has not happened, or been pursued, and this is a further criticism of Simon. He replies that he received advice that to do so would be very expensive, he did not have the funds to enable the process and was informed the prospects of success was in any event low. I can deal with relatively quickly. For my part I am not persuaded this should have material impact on my decision making. I accept the process of staying the order would have uncertain prospects and note the purpose was to enable Simon to visit this jurisdiction to further enable assessment of his time with the children. Secondary to this it might be used as a launchpad for Simon to apply to remain and care for the children here. In any event if it were to happen it would make post-care order contact more flexible. But I have the benefit of the October trip and I am unsure as to the necessity of additional overview given the applicant was not proposing this as being necessary post-October visit.

(3) Contact

39. Separately, Simon is criticised for not keeping to the indirect contact regime set up by the applicant. It is said this indicates poor commitment and motivation and suggests a lack of understanding of the impact on and needs of the children. Simon responds that he struggled to manage the contact around his own obligations, struggled to communicate with the unit when there were issues with the links for contact and, in any event has continued to maintain indirect contact outside of this by indirect telephone calls with Oliver. In evidence the professionals did not seek to challenge his evidence as to informal indirect contact but noted that this could not be monitored and considered in the way monitored contact could and moreover the visual video indirect contact would be better for James given his needs than overhearing his father on the phone when speaking to Oliver.
40. I agree this failure on the part of Simon reflects poorly on him. Contact is established for and has many purposes. Centrally this is to enable the relationship to be maintained but it also enables a form of assessment to be undertaken and an opportunity to identify strengths and weaknesses in the relationship. I separately agree that Simon demonstrated particularly poor insight in failing to send to the children presents at Christmas 2023. This is particularly so given present giving is part of the family style and this was the children's first Christmas without their mother. Simon acknowledged this criticism and was right to do so.
41. This feature is one that continues to bear consideration. It does have to be considered in the light of the fact of contact taking place by telephone. I bear in mind there was a fall off in compliance with the organised contact following the October visit but I cannot interpret this as being a change in commitment from Simon given his continual role in the proceedings and the fact contact continued in a different form.

(4) Failure to have in place arrangements for the children if they live with him

42. Simon was questioned as to the arrangements around the children were they to live with him. He was asked about the schools that would be selected and how his working timetable would fit with the children's school timetables. He was questioned as to the detail of the

support he would receive and the nature and funding of a residential placement for James were one required. I was asked to conclude his responses again betrayed a lack of planning which in turn suggested insufficient motivation/ commitment.

43. This was a mixed picture in my judgment. Insofar as Oliver is concerned the position was tolerably clear and workable. There is a very local school which Oliver would attend and could travel to independently and whilst there would be a short period before and after school when Oliver might be alone with his father at work, this did not appear to raise a real concern. I bear in mind there are no particular challenges for Oliver and he is due to commence secondary school this autumn. I did not see these gaps as carrying great weight. I did not find much weight either in the argument as to lack of respite care within the proposals so far as Oliver was concerned. I can identify no basis for believing he could not be cared for by a single parent (as he was cared for by his mother with all her own personal issues between 2017-23).
44. The position with regard to James is different in that one does not have a clearly identified school and support structure. One does however have a potential role for a local agency sharing parental responsibility and evaluating the situation to include the consideration and provision of services (see below). I accept there is local provision for children with his needs and I accept in principle there are residential units should the same be required. I accept there is a level of support likely to come from BL and Carl albeit in the latter case to a limited extent. Importantly, as a matter of fact James would have a parent in relative close proximity to him; in a context in which his parent can speak the local language and engage directly with any services. I consider these points must be brought into any consideration.

What would be the local social services engagement on transition?

45. In this case I have received a reasonable amount of information both directly and indirectly as regards the likely response to the children arriving in Poland. I am most grateful for this assistance. There have been instances within the proceedings when there has been an obvious tension felt by the Polish authority as to these proceedings and they have themselves clearly expressed a view that it is intolerable for Polish children to be retained in this jurisdiction in circumstances where their father has been positively assessed. I accept these concerns as being entirely understandable and whilst they can only be part of the picture I have regard to, I do treat them with appropriate respect.
46. It is very clear from a number of letters received in this case that the Polish authority are willing to engage with the issues in this case and provide appropriate assistance and assurances. I have particular regard to:
- i) An email from Poland in response to applicant enquiries dated 14 March 2024 which sets out the (a) Education; (b) Health, and; (c) Social Services features were James in Poland. Importantly, it notes the conclusion of the ICACU assessment which concludes if the children are placed with Simon then this should be in conjunction with him sharing parental responsibility with a 'curator' being appointed to monitor the situation of the children and in the case of James his health. Within my hearing the notion of the 'curator' was likened, correctly in my view, to a form of enhanced

supervision order (enhanced in that PR is shared). My experience of private law proceedings suggests that the notion of sharing PR and limiting PR is far more common-place within the European continent than in this jurisdiction. Subject to the point above as to shared PR, the note references the need for a parent to take the lead in pursuing support and highlights the centrality of the medical assessment and certificate of need. It is through this that services are considered and supplied. The email confirms and identifies a local school resource which has been spoken to and appears to meet James's needs. The email confirms information as to health and notes how social services may be asked to intervene by a parent or upon reports.

- ii) A letter dated 31 May 2024 from the Polish Vice-Consul (Head of Care Proceedings Unit) repeating many aspects as noted above but additionally setting a route the Court may take if it considers transfer of the children to Poland but additionally considers it would be beneficial for there to be monitoring of the arrangement. The letter confirms the willingness of the Polish Authorities to work with the applicant to ensure any transition is such as to secure the children's development.

Analysis

47. I have set out significant detail of my analysis in the foregoing section. One can find observations as to the wishes and feelings of the children, their needs and Simon's capability addressed. I now turn to my completed welfare analysis in the light of these points.

Wishes and feelings

48. I have spent some time considering Oliver's wishes (§13-17 above). I have reached the conclusion these wishes are not ones which firmly point in favour of remaining here in contrast to relocation to Poland. In my assessment Oliver's expressed wishes are on balance likely to be skewed by uncertainty as to James's future and impacted by his worries around schooling. In my judgment neither should be points which determine the outcome in this case. They betray something of the immaturity and lack of understanding of the issues in the case that will arise given his age. In my assessment these views should be approached with caution and there is a need to weigh in the balance the longer term implication of the decision being made. I do have regard to the strong wish of the children to retain their relationship at a high level and the benefit of incorporating Carl into their future. In my assessment this need can be equally met in Poland as here. It seems likely the children will retain an ongoing relationship in whichever jurisdiction they live. My best estimate is that the additions of close family life will be better met in Poland.
49. I consider this is a case in which wishes are expressed and come to be considered but when approached with care they can be seen to shed limited light on the best outcome for the children.

Needs

50. I have set out a detailed analysis of James's need above (§18-23). For reasons which I have explained in some detail I consider a somewhat blinkered approach has been taken to the placement options for James. This has led to a somewhat targeted approach to the current

unit to the exclusion of other options. I consider this has been shaped in part by the late change in planning. In my assessment there are valid options for James in both jurisdictions.

51. I consider any assessment of the children's needs comes back to their strong relationship and the light this sheds on their mutual support following the loss of their mother. This means there is a heightened need to find an outcome which will provide a caring home in which this trauma can be addressed sensitively and homes which permit the boys to maintain the relationship which plainly offers them important comfort. Standing back it is clear this will arise from a position of separation in this jurisdiction albeit I accept the evidence as to ongoing contact. However, in Poland there is at least a potential for the children not to be separated but if they are I struggle to see the outcome as being materially different to that in this jurisdiction. Furthermore, in Poland it seems there must be at least a real likelihood of Oliver remaining in his father's care. Plainly, it would be wrong not to take this potential just because it might not be the outcome for James so long as the outcome for Oliver permitted the relationships to be maintained.
52. I consider their personal and joint needs include the opportunity to re-establish family life if possible. I consider it would be a significant loss to the children if a plausible placement with their father was not pursued in circumstances where it had potential.
53. I do not consider Oliver to have significant personal needs above and beyond those of a child of his age. He does have a personal need to retain his relationship with James which has I am sure helped carry him through the recent difficult times. The forthcoming separation will have a negative impact for each of the children. If it can be avoided then this would be welcome. But if not it would help for the placements to be secure ones which provide the maximum emotional support required by each child.

Personal characteristics

54. I reflect on the children's age; their shared recent history and James's developmental needs in particular. I also place weight on their Polish identity and the significant dislocation from this arising under the applicant's care plan. At this time Oliver is showing resistance to reading in Polish and this is a matter of concern. There is a real prospect of their cultural identity being diminished if the children remain in this country cared for by individuals who do not share their identity. I appreciate this may often be an inevitable outcome but in this case this risk has to be seen in the light of the proposed alternative return to Poland. I accept the experience the children share means the Court should avoid an outcome that is precarious and likely to breakdown causing further trauma. However, this is not the same as saying any outcome must have a guarantee attached. In reality this is not possible and some level of uncertainty has to be accepted. This is particularly so if there is a basis for believing any failure could be managed without a significant additional impact.

Risk of harm

55. The background to this case clearly identifies a level of chaos in the family home that will have been damaging for the children. Domestic violence was part of their home life together with alcohol abuse and mental health difficulties. These features will have been damaging for the children and underpin the threshold placed before me.

56. Simon claims to have made progress since that time. Some 6-7 years have passed and I have received evidence as to his having addressed his alcohol use and engaged with mental health support. The assessment undertaken confirms no identified ongoing issues and there are positives that can be drawn from his maintained employment and settled housing. It was no part of the cases put by either applicant or guardian to suggest this was not the case. I have the evidence of the October visit which fits with such an understanding.
57. I acknowledge the risk associated with relocation followed by breakdown in placement. I have addressed this above. But, I do not consider there is a broader risk which merits consideration under this heading.

Impact of a change of circumstances

58. It is clear there will be a change whatever occurs in this case. The boys will (1) be separated and Oliver will face a new home in this jurisdiction; (2) transition to Poland and live with their father; (3) transition to Poland and live out of the care of their father. I have sought to address the risks around this factor in my analysis above. In this jurisdiction it seems James will remain where he is and this will give him support but he will need to come to terms with the removal of his brother. In Poland successful transition to their father will be a change but plainly an acceptable one. However, if the children move to Poland and end up in social care there the situation might well be viewed as the worst outcome. I distinguish that though from a situation in which Oliver remains with his father whilst James is placed into a residential setting. That is different and in my assessment appears preferable to the plan favoured by the applicant.
59. In approaching this question I have regard to the October 2023 visit (see detailed consideration at §28-31 above) and the potential for family support (at §26-27 above).

Simon's capability to meet the children's needs

60. I have a positive assessment of Simon. I accept this is somewhat general in its format. I also have the positives that were seen in the October visit. I bear in mind the planning of the applicant at that point in time. I note the change in planning but have spent some time assessing these points. I am less concerned having undertaken this assessment than the professionals in the case.
61. I accept Simon will find caring for the children challenging and I have expressed a level of reservation within this judgment. I consider it is questionable as to whether Simon will be able to meet James's needs but I do not reject this possibility. I bear in mind Jane was doing this prior to her death and it may be that social and family support in Poland is sufficient to make this manageable. But I have considered matters in the alternative and not ignored the potential for James to be placed away from his father.
62. I have struggled to identify the evidential basis for concluding Simon lacks the ability to meet Oliver's needs taken alone. I note the success of the October visit and the evidence which underpins a plan for future contact arrangements in any event. It is clear Oliver continues to value the relationship and wants it to continue. His reasons for not moving to Poland are not

expressed in a manner which suggests principled opposition to his father. He has no meaningful challenges that would make his care difficult.

63. The real challenge is with respect to James. But this needs to be contrasted with the option for James in this jurisdiction. Whilst I appreciate a breakdown in Poland may be damaging I have no evidence to suggest Simon would act towards either boy in a callous and uncaring fashion. As such there must be grounds to believe any 'breakdown' would be managed and treated sensitively. If this were the case and James were to end up placed in a residential setting then this would be little different from the outcome in this jurisdiction but would benefit from access to family in a way unavailable here.
64. I have regard to the information provided from the Polish authorities.
65. I have considered in detail a number of the criticisms made of Simon. In my assessment they do not go directly towards his capability to provide care. In general terms I consider they have purchase on the planning around James's care rather than issues relating to Oliver. I have addressed these points at §32-44.

Holistic analysis

66. I consider the proposal for placement in this jurisdiction has strengths in having a greater level of confidence around it. It will provide James with good and stable care and will likely provide Oliver with a home from which he can maintain a relationship with James. It is an outcome consistent with Oliver's expressed wishes and will permit and be supported by maternal family in this jurisdiction.
67. The challenge of such a placement is that it will both continue placement away from family and will likely set this in concrete limiting future change. It has the potential to have life long implications for James and the potential for him to re-establish family links. It is inconsistent with a positive parenting assessment for Simon and the evidence from the October visit. It potentially places over emphasis on a view expressed by an 11-year old child in a situation in which the views may be shaped by a range of factors which are open to question. It leaves two essentially Polish children displaced from their cultural and heritage identity.
68. The positives of placement with Simon are in the potential for a placement with family in a culturally appropriate setting. It benefits from having access to wider family. It offers a potential to help address the emotional harm that will have arisen from the children's life history. It is as likely if not more likely to involve the older brother. There is evidence of this care being positive and sensitive. It has the potential to construct a stable life-long plan for the children. It avoids a future complication surrounding James's adult care needs.
69. The negatives of this placement surround a question as to Simon's ability to meet James's needs and a level of doubt as to his commitment. It involves a step somewhat into the unknown and will bring challenges for both children. It has the potential to involve two changes for James in first a move and later, if unsuccessful a transition into care. It is not at face value consistent with Oliver's wishes and feelings.

Conclusions

70. Having considered the competing cases I have reached the conclusion the welfare outcome which is best for each child individually, and also when taken together, is a rehabilitation transition to Poland with a plan for them to both reside in their father's care.
71. Taken individually I consider this is the best outcome for Oliver as very importantly it permits him to entrench at this stage in his life a link to his cultural identity and a place in which the vast majority of his family links reside or have strong connection to. I am concerned that with the best will in the world his links to Poland will wither on the vine if he is to remain in this jurisdiction. I consider that would be a very significant loss for him and I question whether he would come to regret that loss as he ages and comes to have a broader and more mature viewpoint on his future life. I worry that his wishes are reflective of his concern for his brother and I am concerned he will regret this decision making over time. In the case of Oliver I can find little in the way of evidence to support the suggestion that Simon lacks the commitment, motivation or capability to care for his son. In my assessment the issues in this regard are peculiar to James and the challenges he poses. There is nothing in Oliver's presentation or demands nor is there anything in the evidence of his interaction with his father to suggest these needs would not be suitably met after a period of transition and bedding in. I do have regard to his expressed wishes but it appears to me these are equivocal and have to be assessed in the light of the uncertainty identified earlier in this judgment. I stand back and consider his age and understanding and this leaves me with some reservation in following these suggested reservations to their ultimate conclusion. My assessment of his need places significant importance on an opportunity for family life. His circumstances are ones in which he has experienced real loss and he deserves the opportunity to re-establish a place in a family home if possible. This is likely to be the environment most suited to meeting the sensitivities of care in a manner which appreciates his loss and works around it. I consider there is a role for wider family members in helping him through this and into the future and whilst I don't place an unrealistic weight on BL and Carl, I do consider they do offer a likely positive in a Polish setting. The contrast is with stranger care and occasional family direct contact. I appreciate there is a possibility of breakdown in Poland and I accept this would be traumatic for Oliver. Yet the prospects of breakdown in his case have to be viewed through the prism of the available evidence relating to the relationship between Simon and Oliver and the limited challenges associated with the same. I also have to have in mind the alternative proposal of stranger care in foster care and the downsides of such care – to include the stigma associated with a corporate parent, regular medical checks and looked after reviews. This is by no means an entirely positive outcome for Oliver it struggles by way of comparison with the option provided by Simon. I am concerned the merits of this outcome for Oliver have been lost in the consideration of what is best for James. I consider the support requested from the Polish authorities as set out below will buttress this placement. In summary the benefits of security of outcome in this jurisdiction are outweighed by the profound benefits of success in Poland. Neither of course come with guarantees but the latter is the one favoured by a welfare approach.
72. James's situation is markedly different for the reasons articulated in this judgment but the outcome for him is the same. The fundamental point to keep in mind for James is that he will in fact remain in a care environment if he stays in this jurisdiction, he will be separated

from his brother for most of his week, and he will likely transition into adulthood within a non-independent environment. Once one accepts this reality one must identify what it would be about a similar structure within Poland that would suggest his needs are not being met to at least an equivalent level. In my assessment I can identify no material additional benefit of the UK option other than the maintenance of the current residential environment. Yet the applicant is not in fact committed to this and is looking, understandably, for a more natural specialist foster placement. I accept the doubts that exist in this regard but it cannot be overlooked as a potential outcome. James speaks Polish and would benefit from family support that is available and can stay around him through into adulthood. Subject to my conclusion above with respect to Oliver, he would also have the ongoing support of his brother reinforced by his father and wider family. It can be seen I am comparing an outcome for James in Poland within a residential setting rather than at home with his father. I am approaching the question in that manner as I can foresee some challenges for Simon with respect to his care of James. Whilst I would not wish, nor could I, rule out his successful care of his son, I have some doubts as to whether he will be able to do so into the medium term. I am in no doubt he will try his best but this may not be enough and so I recognise and seek account for this potential. This being the case how do I allow for what would be a reality of a failed placement attempt in Poland before removal into residential care? First, I wish to make clear a failure need not be a traumatic event arising out of a crisis. It could be a managed move supported by professionals and agreed by Simon. That would be very different from the breakdown which I perceive was in the minds of the professionals when considering this outcome. Second, should I allow the possibility of breakdown to rule out taking a chance at successful family placement. In my assessment were Simon in this jurisdiction then it is highly likely a tested rehabilitation would be considered and likely undertaken. The concern for the professionals is the outcome being out of their control were this to happen in Poland. However this runs the risk noted elsewhere of decision making based on a comparative assessment of the qualitative care available in Poland against that in this jurisdiction. If one puts that to one side then a significant aspect of the concern can be seen to be open to real question. Why should James not have the possibility of a family placement? Why should this not be tested even if the effect of failure may be placement in a residential setting closer to family from which he would be able to continue a relationship with his brother and also his father and wider family? In my assessment I can and should accept a level of risk in this planning on the basis that it opens up a positive outcome as a possibility for James but leaves open a suitable fallback if that opportunity does not succeed.

73. I also reflect on the brother's parasitic welfare needs. I am in little doubt each would suffer on a fundamental separation from the other. But in my assessment this need not occur to a dissimilar degree in either jurisdiction. In this country James will be separated from Oliver. That is the current planning. Their relationship will be materially diminished as a result. In Poland they may experience a similar outcome but (1) they may have a chance to avoid this outcome and (2) were they to be separated this would not be seen by Oliver as a function of his decision making but a consequence of his father's inability to care for James after a period of testing. I consider for Oliver this would be an emotionally more helpful outcome removing responsibility from him and placing it within the adult sphere.

74. I appreciate this conclusion departs from the views of the social workers and the analysis of the guardian. In my assessment this has arisen because they have each embedded into their thinking the understandable wish not to separate the boys. Assessment of Simon has led to a justified worry that this would separate the boys and do so in an environment out of the control of the parties. Yet the case has moved on and the plan is no longer for the boys to be together. In my assessment this calls for a complete revisiting of the available options. I sense this has not really happened. This is understandable given the very late change in planning. But even during the hearing there was suggestion that the relationship between the boys would not be materially effected by their separation due to the contact being proposed. I suspect that represents a continuing unwillingness to meet head on the stark reality of this planning and the implications it has for alternative options. Once one accepts this reality the decision for Oliver vis a vis his father changes fundamentally. If one accepts Poland can provide equivalence to UK then it is difficult to see why James should act as a brake to revised planning.
75. For the avoidance of doubt I do not consider there is merit in further prolonging the proceedings to undertake further assessment or transition planning. In my judgment the evidence supports the outcome set out above and I can see no obvious benefit in seeking to obtain further evidence to support or challenge my assessment. The same is not necessary in any event. The plan I endorse for the children has a central purpose but I have also reflected on the overarching benefits, particularly for James should it not be maintainable into the medium term.
76. This is my decision. Given the significant demands that will fall on Simon I judge there should be a clear request to the Polish Authority to accept a direct role through a curator on the boys return with initial monitoring and reporting as per the advice received. This is not to say I fear Simon will fail but that he will require at least initial support and guidance following return. The move will bring challenges and it would be deeply regrettable if after this period of consideration there was a failure due to a lack of oversight and support.
77. I will now send this judgment to the parties representatives. The contents can be shared with their clients and I will permit the judgment to be disclosed to the Vice-Consul. I will see the parties at the adjourned hearing listed on Thursday, 27 June 2024. I approve an advocates meeting to work through the structure and timing of the transition under this planning. There may be a sense in giving thought to a limited delay to enable Oliver to conclude his summer schooling (as he wishes) and to prepare Simon for their return. This may also allow clear appointment planning as referenced in this judgment. I will hear as to whether any delay should be under a continuing ICO or s20. I hope agreement can be reached.
78. I would welcome any corrections and requests for clarification by 4pm on 23 June 2024. Absent views to the contrary I would intend to publish this judgment with the names of the key participants being replaced with anonymised names. I will circulate a proposed redacted copy. If there are any separate proposed redactions or objections to publication then can these be provided by the same time as noted above.

His Honour Judge Willans

