

Private Children Law & Practice 2026: Shaping New Developments into Solution-Focused Advice for Your Clients

Relocation Cases:

How do you control - and overcome - difficulties with relocation cases, including non-Hague enforcement and the forensic quality of the competing plans?

Legal Framework

1. Welfare is the paramount consideration. Children Act 1989 s1(3) welfare checklist must feature throughout your case.
2. Modern interpretation of international re-location cases is set out in *Re F (International Relocation)* [2015] EWCA Civ 882:
 - Application by M to remove 12 yr old girl to Germany. Stated wishes no overnight contact with F
 - Order permission to remove to live in Germany, contact 6 weeks a year with F
 - Appeal by F: failure to assess welfare implications, compare plans undertake Art 8 proportionality analysis.
 - Held: where more than one realistic option, each must be compared side by side, linear analysis to be avoided. Proportionality must be evaluated.
3. *Re F* remains good law. Court of Appeal had opportunity to reconsider the proper approach in *Re S-O (Relocation and Prohibited Steps Order)* [2026] EWCA Civ 998:
 - M sought permission to remove child 6 to a Gulf State and opposed renewal of a PSO preventing her teenage son from visiting her in the Gulf.
 - Lord Justice Moylan held that the trial judge's welfare analysis was fundamentally flawed because it failed to undertake the required comparative assessment of the competing welfare options, focusing almost exclusively on the disadvantages of relocation while overlooking key evidence, including the Independent Social Worker's recommendation that relocation would best meet the younger child's

emotional needs by enabling consistent day-to-day care from her primary attachment figure.

- Para 82: *The court needs to consider the merits of each option, by considering their respective “internal” positives and negatives, as well as the comparative merits of the competing options. This is not a straitjacket but it sets out the overarching nature of the analysis which is required, in particular that the competing welfare options are sufficiently considered and compared in order to determine which is consistent with and best promotes the child’s welfare.*
- The Court also found there was insufficient evidence to justify maintaining the Prohibited Steps Order, particularly after the mother accepted that her son should remain living in England with his father.

4. Impact of domestic abuse important factor in the evaluation - *Re O (Domestic Abuse: International Relocation)* [2025] EWCA Civ 888:

- M applied to relocate to the UAE with her two children against the background of serious findings of domestic abuse, including physical assaults and coercive and controlling behaviour witnessed by the children
- The court recognised that the emotional impact of abuse remained acute
- To remain in England exposed M and children to ongoing emotional harm and instability. The proposed move offered financial security, family support and a meaningful opportunity for the mother to rebuild her life
- Useful observation on Art 8 proportionality at para 97: not a separate cross-check but “the proportionality assessment and the welfare review need to be part of the “joined up decision-making process”

Case Preparation – your client

5. Identify the actual disputed decisions:

- Is this permanent relocation, a defined temporary placement, or a holiday?
- What country and locality?
- All children or individual siblings
- Are siblings facing different arrangements?
- Do existing orders constrain travel or changes of school?

6. Then identify the facts that could change the result:

- An alleged history of obstructing contact may matter to the reliability of future commitments
 - An alleged inability to work locally may determine whether the stay option is realistic.
 - Domestic abuse may explain both a wish to leave and a refusal to agree particular contact arrangements
7. Where domestic abuse is raised, apply PD12J:
- Decide which factual issues require determination to assess risk
 - Do not automatically list every allegation for a separate hearing
 - Consider participation arrangements and safe evidence giving
8. When agreeing or seeking directions:
- Ask each for a proposal if permission is granted and a proposal if it is refused.
 - Require the important supporting documents, an annual contact calendar and a realistic budget
 - A common structure makes omissions visible without requiring enormous witness statements.
9. Try to specify Cafcass considering following:
- Benefits and disadvantages for the child under each plan
 - Effect upon relationships under each plan
 - Safeguarding
 - Child's expressed wishes and feelings in context of understanding what each option involves
10. Expert instruction - Part 25 necessity.
11. Keep close eye on fluid aspects of the case – employment offers, property availability, school places

Case Preparation – the other side

12. Housing:

- Owned or rented
- Household members
- Cost
- Convenience

13. Finances:

- Income & liabilities
- Employment status, permission to work
- Effect of termination of employment

14. Education:

- Reputation
- Admission conditions
- Term dates
- Ability to meet child's needs

15. Contact proposals

- Who where and when
- Logistics
- Time division
- Flexibility

Enforcement

16. Assumption that neither 1980 nor 1996 Hague applies. Consider Part 25 expert to advise on:

- Availability of local orders
- Attitude to English orders
- Availability of “mirror order” – rubber stamp or fresh application?

17. Retain flexibility when considering measures to secure compliance:

- *S v T (Permission to Relocate: Russia)* [2012] EWHC 4023 (Fam), [2013] 2 FLR 457
permission to relocate was granted conditional upon a mirror order first being obtained in Russia. The permission was granted notwithstanding that the judge recognised, in the light of expert evidence from a Russian lawyer, that if mother adopted a stance of complete intransigence it would at present be difficult to obtain truly effective enforcement in Russia of provisions which included substantial ongoing contact with the father in England. The judge found as a fact that the mother was unlikely to adopt such a stance nonetheless he accepted mother's offer that her equitable interest in a property should be charged against the performance of her obligations in contact.
- *X v Y* [2014] EWHC 2147 (Fam), [2015] 1 FLR 1463, [2014] Fam Law 1392
where the father and child had relocated to Switzerland with permission of the court (the court finding on the facts that it was appropriate for the address of the child's home and school in Switzerland to be withheld from mother), the father was released from his undertaking to procure a mirror order in Switzerland once it became clear that the Swiss court would insist on the address of the Swiss court local to the child being disclosed to mother.

18. Examples of steps taken by court when granting leave (whether for a temporary or a permanent removal):

- For example requiring the deposit of a sum of money until the parent with leave obtains 'authentication' of the contact order in the foreign court and complies with an order relating to the child's education: upon evidence of compliance, the deposit would be released;
- requiring the swearing of a solemn oath on the Quran;
- warding of the children; and
- undertakings

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