WHITE PAPER CONFERENCE 2021

PRIVATE CHILDREN LAW

RELOCATION:
WHAT COUNTS AND WHAT WILL SWAY THE COURT IN RELOCATION CASES?
IS A DISTINCTION STILL BEING DRAWN BETWEEN INTERNAL AND EXTERNAL RELOCATION?

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Introduction

1. So it is nice to know at a time of continuing uncertainty that some things don't change. And here I am again in November, taking part in my favourite speaking engagement of the year, the White Paper Conference, and, as last year, speaking about relocation, a subject area that I genuinely find fascinating.

2. Last year, I was talking about the reported case of ***AY v AS***,[1] in which I had acted, contemplating the sage words of that noted turn-of-the-century, Irish philosopher, Ronan Keating: "Life is a rollercoaster, Just gotta ride it," positing that those words, whilst of general application, seemed most apt to describe life in the court of Mr Justice Mostyn, who had heard that case.

3. And lo and behold, one year on, I have just been up and down that very same rollercoaster. By the time this lecture is viewed, you will all be aware of his reported decision on security for costs that, as I sit here now, comes out tomorrow, the first reported decision on security for costs in family proceedings since the Family Procedure Rules came into being – an absolute tour de force of a judgment in which he not only cites case-law from the 18th century but in which he goes even further back to a statute from the reign of Henry VI. And, yes, be in no doubt, I am going to make out that I put those authorities before him. Well, if Boris Johnson can tell fibs and get away with it, why can't the rest of us.

What counts in a relocation case

4. And mention of Mr Justice Mostyn neatly sets up my first and perhaps most obvious point when answering the first question asked of me in this lecture – that of what counts in a relocation case. And that is the judge.

The judge

5. In some senses, that may be so obvious a point that it seems trite to make it. But roll back just over 10 years ago, to the days before ***K v K (Relocation: Shared Care***

[1] *AY v AS and Another (Relocation)* [2019] EWHC 3043 (Fam), [2020] 1 FLR 536.

Arrangement)[2] provided that first, important and very necessary appellate qualification of ***Payne v Payne***,[3] to a time when most relocation cases involved a sufficiently defined primary carer and when Lord Justice Thorpe's well-known discipline and emphasis on the emotional and psychological well-being of the primary carer[4] effectively dictated the outcome, and it did not really seem to matter who your trial judge was.

6. Indeed, I think back to 2007 and ***Re F & H (Children)***,[5] my first foray to the Court of Appeal in a relocation case, defending a decision of Mrs Justice Hogg to allow a primary carer Texan mother to relocate to the US – a case in which Lord Justice Thorpe (who invariably sat on relocation appeals) described the first instance outcome as "both conventional and predictable", a case in which just as predictably I was not even called upon to respond to the appeal orally.

7. If it did not matter who your judge was then, now it really does. It matters first because relocation, especially external relocation, is not an issue, in my view, capable of purely objective appraisal. Yes, the judge will aim to carry out an essentially objective evaluation of the facts and balancing of the factors in play in the given case, but, in the same way as in money cases there will be judges whose reputation is to be either pro-payer or pro-payee, so there are judges who, in my experience, are more open to relocation and conversely judges who are instinctively resistant to it. And, with such judges, at least to some extent, the facts and factors of a given case will be viewed through the lens of their own individual perspective on the issue of relocation, particularly of the international kind.

8. To some degree that is born of their built up experience doing these cases on and before the bench, but it also entails, in my opinion, a very subjective view of how to approach (what might loosely be called) the unhappy parent, of fundamentally whether it is the

[2] [2011] EWCA Civ 793, [2012] 2 FLR 880.
[3] [2001] EWCA Civ 166, [2001] 1 FLR 1052.
[4] At [40]-[41].
[5] [2007] EWCA Civ 692, [2008] 2 FLR 1667.

right thing to allow a parent whose underling rationale to be in this country no longer subsists to exercise the freedom that, but for the incidence of parenthood, they would have to go and live in another country or whether, in the interests of their child or children, they should be expected to stay.

9. No case in the private children law sphere has drawn more comment and criticism over the last 20 years than ***Payne v Payne***, and there is no doubt in my mind that the Court of Appeal's resistance until ***K v K*** to revisit the case at all and even now not to let complete go of ***Payne v Payne*** has served to entrench judicial views. On the whole, I believe, judges have a view about Lord Justice Thorpe's guidance in ***Payne v Payne***. They tend either to think it should not be there at all and that the court should adopt an exclusively welfare checklist approach to the relocation question or they view it as a helpful way of approaching the relocation issue.

10. Those who heard my talk on ***AY v AS*** will know that I tried in that case, without success, to engage Mr Justice Mostyn on the subject of "selfishness and sacrifice", mindful of what he had memorably said in ***Re AR (A Child: Relocation)***,[6] the case which had kicked off his High Court career in characteristically low-key fashion with his calling upon the Supreme Court to urgently review the law on international relocation. Nothing like trying to hit a home run off the first ball of the innings.

11. You will all recall that, in his attack on ***Payne v Payne***, Mr Justice Mostyn had said this:

> "[12] … Certainly the factor of the impact on the thwarted primary carer deserves its own berth and as such deserves its due weight, no more, no less. The problem with the attribution of great weight to this particular factor is that, paradoxically, it appears to penalise selflessness and virtue, while rewarding selfishness and uncontrolled emotions. The core question of the would-be relocator is always "how would you react if leave were refused?" The parent who stoically accepts that she would accept the decision, make the most of it, move on and work to promote contact with the other parent is far more likely to be refused leave than the parent who states that she will collapse emotionally and psychologically. This is the reverse of the Judgment of Solomon, where of course selflessness and sacrifice received their due reward."

[6] [2010] EWHC 1346 (Fam), [2010] 2 FLR 1577.

12. Dependent on the circumstances of the given case, the concepts of selfishness and sacrifice, I argued, were capable of cutting in different ways, and not just in a way that only reflected badly on the would-be relocator – selfish for wanting to pursue what they wanted, not prepared to make sacrifices for the greater good. There would be, I suggested, parents resisting relocation, especially those who had effectively lured the other parent to this country, who could properly be criticised for being selfish and unwilling to make sacrifices.

13. But, if my experience is anything to go by, I think the prevailing judicial mood is broadly in tune with what Mr Justice Mostyn expressed in ***Re AR***. It is a case that took on somewhat totemic significance for the ***Payne*** resistance movement and that passage is still cited in first instance judgments now, even though it preceded the Court of Appeal's decision in ***K v K***.

14. On the whole, there is far greater and broader scepticism about the distress argument that once was so powerful and correspondingly a far greater expectation that the parent dissatisfied with living in this country ought to get more of a grip, be stronger, show some selflessness and sacrifice, make life in this country work – for themselves and far more importantly for their children.

15. We have now reached a position in the case-law where we have moved over the last 10 years from the primacy of ***Payne v Payne*** to first in ***K v K*** the guidance in ***Payne v Payne*** being described as "valuable" to it now being viewed as entirely optional – something that may or may not assist the court to identify the relevant issues in the case.[7] And what is so striking about – what might be described as – a straight welfare checklist approach to the question of international relocation is how much harder it is to argue the case for relocation without that implicit steer that came from Lord Justice Thorpe's discipline.

16. It always struck me as something of an anomaly that status quo arguments seemed to

[7] See for example Mr Justice William's bullet-point summary of the relevant principles in *Re C (Relocation: Appeal)* [2019] EWHC 131 (Fam), [2019] 2 FLR 137.

carry force in all areas of private children law, save for the relocation scenario. Well now, it seems me, we have very much moved from a position pre ***K v K*** where the question was "why shouldn't the would-be relocator with the reasonable plans be allowed to go?" to a scenario where the onus is very much on that would-be relocator to establish that relocation would be better for the child than not.

17. So your judge matters, first and foremost because they are likely to have a view about relocation, especially international relocation, and unquestionably that view is more likely to be resistant to relocation than it was 10 or so years ago.

18. But also often wrapped up in a judge's views about relocation will be a judge's views about shared care. If my experience and that of many of my colleagues is anything to go by, we have now moved to a situation where not only is shared care far more prevalent than it ever was but where, with many judges, it is considered the default optimum form of arrangements for the care of a child. And, more than that, within the broad spectrum of what might be described as shared care, we are seeing judges far more readily countenancing arrangements of equal or near-equal care than ever before. And not only generally but even in scenarios, such as high-conflict cases and ones involving very small children, where such arrangements were previously rarely considered advisable.

19. And it stands to reason that, if you are a judge who believes in shared care as some kind of ideal, then you are going to take a lot of persuading that relocation, and especially international relocation, is a desirable option for a child, because, in the vast majority of cases, relocation and shared care are mutually incompatible concepts.

The underlying factual matrix

20. Next on my list of what counts in a relocation case – and again it seems trite to point it up – is the underlying factual matrix.

21. Whilst it is quite tempting to talk in terms of relocation as an entity, the reality is that relocation cases come in a variety of different forms. Later in this lecture, I will be

addressing the extent to which internal and external relocation cases are treated the same in law and practice. But at this stage I just want to highlight a few factual aspects which do tend to count and weigh in the judicial balance and in certain cases tip that balance.

22. Picking up on what I have just been saying about judicial perspectives, for me the most influential determinator of the judicial outcome in the relocation case is the pre-existing care arrangement. Yes, the law to be applied is just the same whether that pre-existing care arrangement is one of shared care or is more accurately described in more traditional primary and second carer terms. Yes, the guidance in ***Payne v Payne*** has potential relevance to all kinds of relocation case.[8] But there can be no doubt about it – it is far easier to succeed in a relocation application if the applicant is the indisputable primary carer of the child, conversely it is now extremely difficult if, at the time that the relocation decision comes to be made, there is in place an arrangement of genuine shared care, especially if that arrangement is of long standing.

23. When I reflect on my case of ***AY v AS***, a case involving a very small child, I cannot help but think that the outcome may well have been different had the judge hearing the father's interim child arrangements application not awarded the father three overnights a week in circumstances where the mother was opposing overnights at that stage and the father was only actually seeking two.

24. Yes, the case-law steers us away from taxonomical arguments about whether an arrangement is more aptly described in primary care or shared cared terms. But there can be no doubt that the make up of the underlying care arrangements do count, and significantly so, in the relocation balance. And unsurprisingly so. The more time the child is spending with their would-be left-behind parent, the stronger their relationship is likely to be, and the greater therefore will be the loss to the child consequent on relocation. And, if those underlying care arrangements can be described uncontentiously in shared care terms, then without question that is helpful to the parent

[8] *Re F (International Relocation Cases)* [2015] EWCA Civ 882.

seeking to defeat the relocation application.

Proposed contact arrangements

25. Which in itself leads on to my next point, when considering what counts in the relocation case. And that is the level of the contact arrangements being offered to the would-be left-behind parent and the extent to which those proposals are realistic and realisable. And I always break that point into two. Because ostensible generosity of proposed contact arrangements is one thing. Whether that will likely translate into the implementation of those arrangements in practice can be something very different.

26. In my experience, the court will look first to see whether the would-be relocator is, in making the contact proposals they do, serious about maintaining the child's relationship with their would-be left-behind parent.

27. But, second, it will look to see whether that would-be relocator is likely to make good on their contact promise, especially where contact at the level proposed will involve a not insignificant commitment of time, effort and usually finance on their part. So, if this is a case of parental hostility and/or one where there is evidence of contact not being honoured in the past, then the court will often and unsurprisingly be sceptical about whether a talking of the contact talk by the relocation applicant will be accompanied by a walking of the contact walk by them.

28. And, third, the court will look to see the extent to which the would-be left-behind parent can travel to the country of the intended relocation. There will be some relocation cases where the ties that the would-be left-behind parent has to this country will not be especially strong, where it can realistically be suggested that they could move to the country to which the would-be relocator aspires to relocate. But, short of that, if for example the would-be left-behind parent is someone who travels freely and regularly, for work or otherwise, such that contact other than in holiday periods is opened up as a realistic, viable possibility, then that will be a factor likely to count in the relocation balance.

Motivation and reasons for relocation

29. One of the curiosities of the relocation case-law is that, whilst the court will often consider expressly the motivation of the would-be relocator and want to be satisfied that their motivation is not malign, in the sense of wanting to defeat the child's relationship with their would-be left-behind parent, the actual reason for the relocation is not expressly pointed up as a factor for the court to consider.

30. Yes, the law applicable to all kinds of relocation case remains the same, but, in my experience, the underlying reason for the relocation is a factor that almost always has some bearing in the relocation decision-making process. And, unsurprisingly so, because the more objectively understandable or even unavoidable the relocation plan, the more likely it is to succeed. Hence the 'chasing the dream/life-style' relocation case was always considered the weakest kind. And I would venture to suggest that that kind of relocation case will rarely succeed these days.

31. But what has been interesting to observe over recent years is the extent to which the rationales in other kinds of relocation case, especially of the international kind, have come under far greater scrutiny.

32. The 'going home' relocation case was traditionally seen as the strongest kind, especially in the wake of a recent separation and after a relatively short relationship and experience of living in this country. And it still is strong when a life of desperate loneliness can be established in this country, with a corresponding asserted need for that parent to have the nature and level of support that they would have were they back in the country that would truly call home.

33. But now that case is met, more persuasively than ever before, with counter-arguments about how much, if relocation were refused, the would-be relocator would be able to see their homeland family and friends in person anyway – whether through their travelling home or through their family and friends travelling here, and with the would-be left-behind parent often offering to take on more of the child care to facilitate that. And also about how much support can be provided virtually, now that virtual

communication has become so much a part of the fabric of our daily lives.

34. The 'employment/opportunity' relocation case again was traditionally seen as a strong kind, but, in my experience, courts will look differently upon a parent who has worked for the same company for a considerable period of time, whose job has been relocated or who has been offered a significant promotion abroad, than upon a parent in similar circumstances with a track record of moving firms every couple of years. And, especially in the latter scenario, the court will look carefully to see what other job opportunities might be available in this country if the relocation case is put on the basis that, if the application is refused, then the would-be relocator's job will be lost.

35. And similar scrutiny, in my experience, is now brought to bear on the 'partner' kind of relocation case – a relocation driven by the relocation or intended relocation of the would-be relocator's new partner. Whereas once those kinds of case, especially those with a primary carer model, were approached with a heavy emphasis on the desirability of the children's new family structure not being undermined, they are nowadays approached with far more circumspection and with far greater focus on whether the partner's relocation is fundamentally a matter of choice rather than necessity and, in the former scenario, with a corresponding focus on the viable alternatives within this country.

Children's views and experiences

36. Finally, under the heading of what counts in a relocation case, I would want to point up the views and experiences of the children themselves, especially when those children are of an age and level of maturity where it is appropriate to take those views into account.

37. In my experience, a careful, rationalised and influenced view, whether for or against relocation, expressed with eyes wide open as to the consequences of the decision and especially where the child has experience of spending significant time in the intended relocation destination, is something that does count with the court.

What will sway the court in a relocation case

38. As to the second question that I have been asked to answer in this lecture – namely what will sway the court in a relocation case – I propose to answer it in a number of different ways.

Possibly nothing

39. Having set out my summary of what, in my experience, counts in relocation cases and started with the instinctive views of the judge, whether pro or now more commonly anti relocation, it would be wrong not to recognise that there will be certain cases where in reality possibly nothing will sway the court. But, for most relocation cases, I would suggest that that will not be so.

The section 7 report

40. In the finely balanced relocation case, the section 7 report will not only count but will often have considerable sway. Not least because it provides the court with a steer with what is inevitably a binary decision, likely to cause distress whichever way it goes, and one which the court will not infrequently find really difficult.

41. But, to that perhaps unsurprising general proposition, I would add two caveats in current times.

42. First that section 7 reports, especially Cafcass ones, are of varying quality and as practitioners we should not hesitate to subject them to the kind of rigorous scrutiny that would be commensurate with their potential importance. I have read some which are extremely good and some which are not hard to criticise, and the section 7 recommendation should be seen only as strong as the report is sound in its enquiries and approach.

43. While the case-law may have reached some point of unobjectionable stability, it is striking that there are still Cafcass section 7 reports which still approach the relocation question predominantly if not exclusively through the prism of Lord Justice Thorpe's discipline in ***Payne v Payne***. And indeed earlier this year I persuaded a court at a DRA

in effect to disregard the section 7 report that had been produced by Cafcass and countenance a new one to be prepared by an independent social worker. The former, which had come down in favour of relocation, I successfully argued, had failed to conduct the holistic welfare evaluation of competing options now mandated by the case-law and had instead approached the case in an impermissibly linear way. And, lo and behold, the ISW report, once produced, delivered a contrary recommendation on the back of a purely welfare checklist approach.

44. The second caveat is this and it is reflective of just how much harder it is these days to succeed in a relocation application. I would suggest that, if a well-researched and well-argued section 7 report comes down in favour of relocation, then it is game on for that application, but, if conversely it comes down against relocation, then in all likelihood it is game over for the application.

Preparation, compliance and child focus

45. I am sensing, though, that what the question – what will sway the court – is really getting at is what we as practitioners can do to sway our tribunal.

46. To which my answer is three-fold: preparation, compliance and child focus.

47. Whether you are seeking to contend for relocation or to mount a case against it, the vital importance of proper preparation from the very start, in particular getting that first statement just right in terms of content and tone, cannot be underestimated. A good relocation case and a good relocation defence are not things that can be thrown together as the trial approaches. From that very first meeting with the client, we as practitioners need to be thinking about the judgment that we would want to receive from our court in the event of the case proceeding to final hearing and in particular need to be thinking about the arguments that are likely to tip the balance in our client's favour, because those are the ones that should be front and centre in our client's initial evidence and in any correspondence preceding it.

48. I have seen potentially good relocation cases self-torpedoed from the start by failing

to provide at the outset the information as to practicalities and detailed contact proposals that a court would customarily expect to see set out evidentially and by instead being unnecessarily contentious and over-confident about the outcome. Equally I have seen potentially good relocation defences self-destruct through a surfeit of complacency – a misplaced conviction that no court could conceive of countenancing relocation even though the relocation statement which the respondent's statement was answering was plainly well-researched, well-considered and well-argued. And that need for proper, careful and focused preparation runs throughout the case, all the way to the Practice Direction documents that are put before the court at trial.

49. From the first point comes the second. Compliance. Not infrequently will a court now in a relocation case set out at case management stage precisely what the statements on both sides should address. And yet it is amazing how often one or sometimes both of the resultant statements do not cover all the bases. Litigation is not rocket science. Ultimately a relocation case is all about persuading one person – the judge. And, if the court has set out the matters that it wants covered, it is a brave or foolish statement that does not do so.

50. And thirdly child focus. Perhaps it is because it is an area where the stakes are so great and in consequence participant emotions run so high, perhaps it is because historically the case-law has placed such emphasis on the impact on the would-be relocator themselves of the refusal of their reasonable relocation plan, but it is striking how often relocation cases get distracted into arguments and issues that are essentially adult in nature.

51. Ultimately these are cases that are first and last about the welfare of the child, where the party that succeeds is the one that paints the more positive picture of the child's future – be that in this country or abroad. If the relationship between the child and the would-be left-behind parent is not particularly good or strong, then the loss to the child on relocation will not be so great. Equally, if the child is likely to be relatively unaffected by the disappointment and distress experienced by their would-be relocator

parent in the event of refusal, then that disappointment and distress ought to be largely irrelevant to the court's ultimate decision. It is striking how many would-be relocators still think that all that they need to show is that they have acted reasonably in advancing the relocation plan that they have, when that is no more than the gateway to potential success.

52. As Lady Justice Black (as she then was) put it in ***K v K***:[9]

> "[141] … Everything that is considered by the court in reaching its determination is put into the balance with a view to measuring its impact on the child."

53. And, in my experience, it is the party and party's case that stays truer to that approach which are more likely to make progress with their tribunal.

The oral evidence of the lay clients

54. And mention of the parties themselves serves as a reminder, when considering what might sway one's court, of the importance of the oral evidence of the parties themselves.

55. And, at a time when, as I have suggested, the general mood has turned against relocation, the oral evidence of the would-be relocator is more important than ever.

56. Time was when it was principally an exercise in conveying the sense of devastation that would befall that parent in the event of refusal, but now it is, I suggest, much more than that. The would-be relocator needs to convince their tribunal that they can be trusted – trusted that they can deliver what the child needs in a different jurisdiction over which the English court will have no control, and in particular trusted that they will continue to promote the child's relationship with their left-behind parent and to facilitate the in person and virtual contact that will be critical to that relationship being maintained. Which is why dishonesty and lack of clarity on the part of the would-be relocator in the witness box can, in my experience, be really damaging.

[9] At [141].

57. But that should not be taken as meaning that the oral evidence of the parent opposing the relocation is not significant. On the contrary, it is striking how under the court's forensic spotlight the underlying truth of their opposition is often revealed – be it at one end of the spectrum an opposition rooted in nothing more than the desire to thwart the plans of the other parent, running through an opposition that is largely based on adult convenience, to at the other end of the spectrum an opposition that is self-evidently predicated on a clear, focused and reasoned view of what is best for the child.

Internal and external relocation compared

58. Turning finally to the third question I have been asked to answer in this lecture, namely whether a distinction is still being drawn between internal and external relocation.

59. And there, for me, the intriguing word is "still", because one can either answer that question as a matter of law or as a matter of practice and the word "still" would mean something different in each scenario.

60. Dealing with the question first as a matter of law, the answer is of course a resounding no.

61. In the late 2015 case of ***Re C (Internal Relocation)***[10] the Court of Appeal, having by this point sorted out external relocation, turned its attention to internal relocation and held unambiguously that the welfare principle in section 1 Children Act 1989 dictated the result in both internal and external relocation cases.

62. Thus, in the internal relocation case, as with its international equivalent, the application of that test involved a holistic balancing exercise undertaken with the assistance, by analogy, of the welfare checklist. The exercise was not a linear one and involved balancing all the relevant factors, which may vary hugely from case to case, weighing one against the other, with the objective of determining which of the available options best meets the requirement to afford paramount consideration to the welfare of the

[10] [2015] EWCA Civ 1305, [2017] 1 FLR 103.

child.

63. The pre-existing case authorities could not, the Court of Appeal held, be interpreted as imposing a supplementary requirement of exceptionality in internal relocation cases, albeit that that was precisely how they were being interpreted on the ground, with the expectation being that a primary carer who wanted to relocate with their child within the UK would not be prohibited from doing so save in exceptional circumstances.

64. But, seeing as I suspect that the question is perhaps directed more at current practice than applicable law, it is interesting to reflect now, six years on, on precisely what Lady Justice Black said in explaining that there was no supplementary requirement of exceptionality in the internal relocation case:

> "[53] Given the central thread of welfare that runs through all these authorities, and with the reasoning in *K v K* very much in mind, I would not interpret the cases as imposing a supplementary requirement of exceptionality in internal relocation cases. It is no doubt the case, as a matter of fact, that courts will be resistant to preventing a parent from exercising his or her choice as to where to live in the UK unless the child's welfare requires it, but that is not because of a rule that such a move can only be prevented in exceptional cases. It is because the welfare analysis leads to that conclusion. One can see from the authorities, and indeed from this case, that the courts are much pre-occupied in relocation cases, whether internal or external, with the practicalities of the child spending time with the other parent or, putting it another way, with seeing if there is a way in which the move can be made to work, thus looking after the interests not only of the child but also of both of his or her parents. Only where it cannot, and the child's welfare requires that the move is prevented, does that happen.
>
> [54] Once welfare has been identified as the governing principle in internal relocation cases, there is no reason to differentiate between those cases and external relocation cases. In my view, the approach set out in *K v K*, *Re F (Relocation)* [2012] and *Re F* [2015] should apply equally to internal relocation cases. Clearly, however, the outcome of that approach will depend entirely on the facts of the individual case. At one end of the spectrum, it is not to be expected, for instance, that the court will be likely to impose restrictions on a parent who wishes to move to the next village, or even the next town or some distance across the county, and a parent seeking such a restriction may well get short shrift. At the other end of the spectrum, cases in which a parent wishes to relocate across the world, for example returning to their original home and to their family in Australia or New Zealand, are some of the hardest cases which the courts have to try and require great sensitivity and the utmost care."

65. So, whilst Lady Justice Black was marrying up the applicable law as governing both kinds of relocation case, she was plainly expecting the results on the ground in internal

relocation cases to be much the same as they were before the Court of Appeal's decision in ***Re C***.

66. And, in my experience, that is not how it has panned out. True it is – and was always going to be – that it remains easier to succeed in an internal relocation case than in an external one. The stakes are not so high and the potential loss of relationship and time for the child and non-relocating parent is ordinarily less.

67. But, if my case-load is anything to go by, courts are far more ready than Lady Justice Black anticipated to prohibit a parent from moving "some distance across the county" and far less prepared than she thought to give the parent seeking such a restriction short shrift.

68. And that, I suspect, is because many internal relocation cases do involve arrangements that can properly be described as shared care arrangements, and, where those arrangements are working well, courts are slow to unpick or undermine them.

69. And accordingly what I am seeing in practice is a far greater readiness to put in issue the question of internal relocation where that relocation would involve a change of school in which the child is settled and flourishing and/or where it would entail a loss of midweek time for the non-relocating parent and/or a diminution in the amount of times that that parent can take their child to and collect their child from school.

70. And these are cases where the move may geographically be no more than a couple of hours and they are being contested in a way that would have been unthinkable at a time when Lord Justice Thorpe's hand was on the relocation tiller.

Conclusion

71. So there, you have it. That is my take on where we are in the field of internal and external relocation, on what counts and on what tends to sway the court.

72. It simply remains for me to thank the White Paper Conference for inviting me again

to be part of their magnificent programme.

73. Whilst I consider myself now a veteran of the White Paper Conference, with this now, I believe, my eighth participation in nine years, this year I thought that I would do something different, and that was actually answer the question that I was given, rather than invent and answer a question of my own

74. So I hope that has worked for all of you tuning in. If it has, then my name is Piers Pressdee. And, if it hasn't, it is Sir Geoffrey Cox. And, trust me, at the time that this is being recorded, that is a really topical joke.

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