

RELOCATION, RELOCATION, RELOCATION...

LEGAL AND EVIDENTIAL REQUIREMENTS OF INTERNAL RELOCATION
WITHIN THE UK

RELOCATION WITHIN THE UK

- Legal restrictions
- Legal requirements
- Evidential issues
- What if they've already gone?

Legal Restrictions

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- ▶ International relocation outside UK:
 - ▶ *S.1 Child Abduction Act 1984 – no CAO in place*
 - ▶ *S.13(1) Children Act 1989 – CAO in place*

Legal Restrictions

- ▶ Internal relocation within UK:
 - ▶ *What legal restrictions are applicable...?*

▶ Does a parent require consent or a court order to relocate to Wales...?

▶ #68 - 14



► Scotland...?



▶ Northern Ireland...?



Legal Restrictions

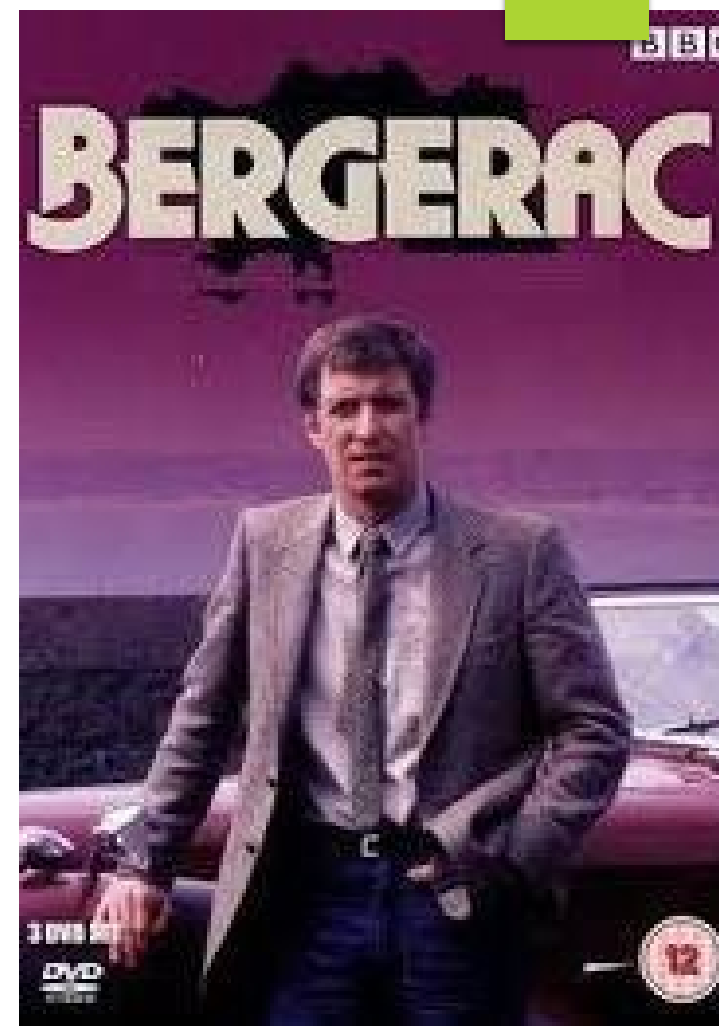
- ▶ Re C (Internal Relocation) [2015] EWCA Civ 1305; [2017] 1 FLR 103, Black LJ, at 19
- ▶ ‘... Where a child arrangements order is in force dealing with what would formerly have been called residence or contact, s.13 provides that no person may remove the child from the UK (other than for short periods) without either the written consent of every person who has parental responsibility or the leave of the court. There is no equivalent provision regulating moves within the UK; the freedom of a parent to move with the child will only be constrained if an order is made under s 8 of the Act, usually in these circumstances a prohibited steps order or a specific issue order...’ (*emphasis added*).

Legal Restriction

- ▶ It therefore seems clear that parents do not need each other's consent to relocate *within* the UK, nor do they require a court order and there is no obligation to apply under s.13(1)(b).

► Jersey...?

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4/23/2025

- ▶ The UK constitutes England, Scotland, Wales and Northern Ireland (not the Channel Islands or the Isle of Man)



▶ Although a parent does not need consent or a court order to relocate within the UK, they may still have to defeat the other parent's application for a Prohibited Steps Order, or the imposition of a condition to the child arrangements order under s.11 (7) CA 1989 [Re C (Internal Relocation) [2015] EWCA Civ 1305; [2017] 1 FLR 103 ; Re T (A Child) [2001] EWCA Civ 1067, at [7] & [10]].



Legal Requirements

Legal Requirements

▶ **Re C (Internal Relocation) [2017] 1 FLR 103, CA**

- ▶ Court of Appeal confirmed the proper approach to the whole issue of relocation

Re C (Internal Relocation)
[2017] 1 FLR 103, CA:

- ▶ No difference in basic approach between external relocation and internal relocation; decision in either type of case hinged ultimately on welfare of the child.
 - ▶ (Welfare Checklist applicable because SIO / PSO are s.8 orders)

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- ▶ Wishes, feelings and interests of the parents and the likely impact of the decision on each of them were of great importance, but in the context of evaluating and determining the welfare of the child.

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- ▶ Wishes, feelings and interests of the parents and the likely impact of the decision on each of them were of great importance, but in the context of evaluating and determining the welfare of the child.
- ▶ In either type of relocation case, external or internal, judge likely to find helpful some or all of considerations referred to in Payne, but not as a prescriptive blueprint, rather and merely as a checklist of the sort of factors that would or might need to be weighed in the balance when determining which decision would better serve the welfare of the child.

Payne v Payne [2001] 1 FLR
1052
Dame Butler-Sloss P, at 85:

- ▶ The welfare of the child is always paramount.
- ▶ There is no presumption created by s 13(1)(b) in favour of the applicant parent.
- ▶ The reasonable proposals of the parent with a residence order wishing to live abroad carry great weight.
- ▶ Consequently the proposals have to be scrutinised with care and the court needs to be satisfied that there is a genuine motivation for the move and not the intention to bring contact between the child and the other parent to an end.
- ▶ The effect upon the applicant parent and the new family of the child of a refusal of leave is very important.
- ▶ The effect upon the child of the denial of contact with the other parent and in some cases his family is very important.
- ▶ The opportunity for continuing contact between the child and the parent left behind may be very significant.

Wishes and feelings:

- ▶ Even with older children, wishes and feelings are only ever one of the factors to be considered in arriving at what is in their best interests
 - ▶ see Re N-A (Children) [2017] EWCA Civ 230.

New family?

▶ **Re B (Removal from Jurisdiction); Re S (Removal from Jurisdiction)**
[2003] 2 FLR 1043, CA:

- ▶ Court of Appeal emphasised that where a mother cared for the children within a new family:
 - ▶ the impact of refusal to relocate on the new family and the stepfather must also be carefully evaluated [11]
 - ▶ the welfare of the children cannot be achieved unless the new family has the ordinary opportunity to pursue its goals and to make its choices without unreasonable restriction [8]

Shared Care Order?

▶ **Re L (Shared Residence Order) [2009] 1 FLR 1157, CA**

- ▶ It is wrong in principle to apply different criteria if an order for shared living arrangements is in place as opposed to an order for sole care;
- ▶ Correct approach is to examine the underlying facts and decide in all of the circumstances whether it is in the child's interests to relocate with the parent who wishes to move

Evidential Issues

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23/04/2025

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Informing the other parent

- ▶ No provision regulating moves within the UK; the freedom of a parent to move with the child will only be constrained if an order is made under s 8 of the Act
 - ▶ Re C (Internal Relocation) (above)

Informing the other parent

- ▶ But...
- ▶ It is an integral aspect of parental responsibility that parents should work to put aside differences and ensure that their children have relationships with both parents
 - ▶ (Re W (Direct Contact) [2013] 1 FLR 494, CA; Re W (Contact: Permission to Appeal) [2013] 1 FLR 609, CA; Re J and K (Children: Private Law) [2015] 1 FLR 86, FD); Re H-B (Contact) [2015] EWCA Civ 389

Informing the other parent

- ▶ Applications:

- ▶ Staying parent – application for Prohibited Steps Order (and Child Arrangements Order)
- ▶ Moving parent – under no obligation to make any application but consider application for Specific Issue Order permitting move (and Child Arrangements Order)

Actual
evidence...



Actual evidence...

- ▶ The implementation of ChA 1989, s 1(2A) makes clear the heightened scrutiny required of proposals which interfere with the relationship between child and parent
 - ▶ (Re F (A Child) (International Relocation Cases) [2017] 1 FLR 979, CA)

Actual evidence...

- ▶ Location Accommodation
- ▶ Children's potential schools/nurseries
- ▶ Local amenities
- ▶ Local extra curricular activities/clubs etc
- ▶ Parent's employment
- ▶ Support network in the area/childcare
- ▶ Proposals for the children to maintain contact with the father
- ▶ Full explanation of the rationale/motivation behind her decision to relocate.
- ▶ What parent will do if app refused – move/stay?

What if they've
already gone...?



What if they've already gone?

▶ **Re R (Internal Relocation: Appeal) [2017] 2 FLR 921, CA:**

- ▶ Court of Appeal considered proper approach to applications for the return of children who had unilaterally been removed from their home by one parent and taken to another place in England and Wales
- ▶ Confirmed there is no general principle in favour of summary return to the place where the child was formerly resident. Such proceedings are normally brought under ChA 1989 and must be decided by applying the welfare principle and the welfare checklist.

What if they've already gone?

- ▶ Application for Specific Issue Order (and Child Arrangements Order)
- ▶ Make application on urgent basis
- ▶ Include actual evidence – witness statement

Questions?