

Before starting, my thanks go to Lord Justice Thorpe for providing me with the opportunity of addressing you this morning. Also, I would like to record the great debt that we owe to the fantastic parent participants in this research who offer their help, often at times of great personal stress, and provide such a valuable service to us, with so little to gain personally themselves.

In this jurisdiction, we are seeing increasing numbers of relocation cases. I am Head of the reunite Research Unit and our interest in this subject has been stimulated by the increase in the number of cases, and associated problems, which are being reported to the advice line run by reunite – a startling increase in the period January – December 2008 of 74% from the previous year. We are not alone in our concern and, this morning, have heard from 4 eminent speakers about the relocation experiences of their individual jurisdictions.

The reunite Relocation Research was a one-year project, funded by the Ministry of Justice. The research report was published last month and is available on the reunite website, www.reunite.org. Ours was a small study, involving 34 cases comprising 27 international outgoing cases, 4 international incoming cases, and 3 domestic (internal) cases. Of the 27 international outgoing cases, relocation was allowed in approximately 60% of the cases. All 3 domestic relocations were allowed. The domestic cases are very interesting as there has been a development in practice in this area which is something which we may wish to discuss further today.

What did we find?

Unquestionably, relocation decisions affect parents very significantly:

Mothers are traditionally the primary carers for their children. This means that, following relationship or marriage breakdowns, mothers are usually the applicants for relocation decisions, and in our sample this was no different, in 94.11% the applicant for relocation was the mother. Although there are many reasons for mothers wishing to relocate, the overwhelming majority of those in our sample were “going home”. For mothers who are in countries which are not their homes, where they live because of the relationship with the father of their child which has now broken down, where they do not have family around them, cannot work, cannot access state support, a relocation decision which means that they have to remain in that jurisdiction can feel like the cruellest punishment being imposed on both them and their children.

Fathers, usually the left-behind parents in relocation cases, suffer severe consequences when their children relocate. They often feel that their identities have been lost – one father expressed it as: “one minute you are a father, then you are nothing in your child’s life”. Fathers say that they are made to feel like expendable, unnecessary accessories in their children’s lives by the relocation decisions that are made in their cases.

However, it is the children who are the subject of relocation decisions with whom our greatest concern must lie. It is our view that relocation cases are analogous to public law care proceedings or

adoption proceedings in that a child is largely being removed from his or her family, albeit from one side of that family, and the reality is that meaningful relationships with that side of the family are unlikely to be maintained. There are, of course, exceptions – but that is what they are. Contact problems continue in many cases following an international relocation and, in spite of the various legislative measures designed to assist in their enforcement, there is no guarantee that contact which has been ordered as part of a relocation will actually take place. This is what Patrick Parkinson and Judy Cashmore call the “reality testing” that is required when they say: “If court orders permitting relocation are being made on the assumption that the contact which is deemed to be in the best interests of the child will in fact take place, then that assumption ought to be seriously questioned” (The Need for Reality Testing in Relocation Disputes: Empirical Evidence from Australia, Paper for Cumberland Lodge, August 2009, p.15). The costs and difficulties of maintaining international contact are, as we found, simply prohibitive for most parents and there is a failure to recognise this in many of the current decisions which are being made in these cases. Relocation cases are, at times, being treated as cases about contact. They are not cases about contact. They are cases about relocation and the effect and impact of relocation on the child concerned. It is this which must be grasped so that the best interests of the child in these circumstances may be considered and addressed.

Although we did not interview the children in our project, and this was not because of lack of support for this undertaking, parents told us of the extreme burdens on the children of maintaining international travel and it is easy to imagine how children feel about frequent, long-distance travel in the face of burgeoning social lives and commitments in their own environments. One mother described how her child never had a normal weekend because he was always travelling somewhere to see one or other of his parents. And this is one of the main points about relocation – the lack of normality so that spare time cannot be used in the normal way that other children do, relationships cannot be carried on in the normal way that other children have.

The indirect contact which is often put in place as part of a relocation order does not, in most cases, appear to work well. It is not unusual that restrictions are placed in the way of their operation by the residential parent, e.g. the camera is never set up on the computer through which visual contact was due to take place, the mobile phone which was pre-set to include all the contact telephone numbers of the non-residential parent and family is removed from the child because the residential parent says that the child should not be using a mobile phone because of safety issues, the timings of the non-residential parent’s telephone calls are inconvenient to the new routine of the child. It is not surprising that the child very often chooses not to engage in these indirect means of communication which cause so much tension in their families.

Even when there is no interference by the residential parent, indirect contact is no substitute for the meaningful, on-going relationship which a child has with his or her parent which allows for development of a relationship through the minutiae of life, without the obligation of having to treat each meeting as a holiday excursion, or an important event; having the time to argue and differ with the opportunity of reconciling differences within a normal relationship and without fear that the distance and time lapse between visits will prevent the healing that occurs naturally in on-going caring relationships; allowing the child to learn from the parent through regular observation in

everyday circumstances which builds understanding and familiarity with the issues that need to be faced in everyday life.

The child's relationship with the wider family of the left-behind parent is also severely affected. These relationships are often the bedrock of a child's security, and provide important reference points in a child's developing personality. They provide illustrations of caring, responsible family life, together with a wealth of experience on which the child can draw, and a source of love and emotion which is irreplaceable. These relationships are not disposable and their loss should not be routinely suffered by children where this can be avoided.

We need to know more about how children fare following a relocation. The reunite Research Unit has looked at the effect of abduction on children and we found that the effects are serious and apparently long-lasting (International Child Abduction – The Effects, www.reunite.org). There are many similarities between the situation which faces an abducted child and the one which faces a relocated child – the removal from what is familiar and certain, the loss of important relationships, the need to adapt to new circumstances in a different country with only one parent, often after a period of high tension in family life. It would not be surprising if relocated children also suffer serious effects. This is a very important issue and one which needs specific investigation. Some work is being done on this by both the Australian and the New Zealand research teams as part of their respective current projects, and we look forward to the publication of that data in due course. We very much want to consider the UK perspective in order that relocation policy may be informed by scientific research which will reveal whether children are, indeed, suffering serious effects or whether the experience is, generally, a more positive one for them. If the former, we will need to re-consider the way in which relocation issues are approached in order to provide a proper child-centric approach to a matter which has such significant consequences for the children concerned. Some of our thoughts on the possible ways in which this may be achieved are in the paper provided in advance of today's meeting and in the research report from which they have been drawn, so I will not rehearse them here again and, in any event, they form part of a wider debate to which we are all party, as demonstrated by our presence here today. It is said that too much emphasis has been placed on the wishes of the primary carer parent in order that the mother's well-being can, in turn, positively affect the child – it is often expressed as: “the happy mother will make a happy child”. As one relocated mother explained to us, her own experience of relocation had taught her that the emphasis should be changed and the sentiment re-phrased as: “a happy child makes a happy mother”. In most circumstances, parents want their children to be happy, healthy and to thrive. This may not be possible to achieve if the child is removed from those who care for and who can nourish their growth into adulthood. A great sacrifice may be required as, in many cases, parents would much prefer their lives to be following a different course. But that may come at a cost to the child which, as yet, has not been calculated and which may have affected that parent's decision-making, had the facts been known at the time.

So, our research concludes that we need to know more about the effects of relocation on children in order that we may work towards the truly child-centric approach which is required in this extremely challenging area of family law.