



Escape to the country: the pandemic and relocation

28 June 2021

As the uncertainty surrounding the ongoing global public health crisis continues, many will find that the one certainty is the fundamental change to working practices. For some, working from home before March 2020 might have been a distant pipe dream, an unlikely possibility, or simply not considered. Now, however, after nearly 15 months of working from home the employment landscape might have shifted significantly. With this comes a re-assessment of those factors previously considered important (e.g. proximity to the office, good public transport networks etc) and individuals may find themselves questioning what is best (or better) for their lives and their families. For many this will mean a move from a city to the countryside. There has been a well reported boom in the country property market, something I have seen directly with clients but also personally, amongst friends. Brexit started the process of people looking to leave London (and the big cities), but increasingly people are looking for a more flexible approach to working in the office as well. Parents often seek more space, a better work life balance, but may also wish to avoid the stress of London's highly pressurised and competitive public day school system which is notoriously oversubscribed. This of course applies as much to working parents who remain married, as to those who have separated.

Parties may have successfully navigated their way through the initial breakdown in their relationship and have been successfully co-parenting for some time when the opportunity to work permanently (or flexibly) from home going forward presents an opportunity to relocate to another part of the UK, or even internationally. What to do then when one party decides that they yearn for greener pastures and the call to leave the big smoke becomes too great? Much depends on the quality and quantity of contact to that point and the legal arrangements (orders) already in place. PHB regularly advises clients who wish to relocate to another country, but also those who wish to make a move within the UK – and those who wish to oppose such applications.

The case law surrounding relocation cases makes clear that the welfare of the child is the court's paramount consideration. Where there is a child arrangements order in place a child cannot be removed from the UK without the court's permission or the consent of those who have parental responsibility. If consent is not forthcoming and one parent wants to move within the UK, they must apply under Section 8 of the Children Act 1989 for a specific issue order. If a parent wishes to apply to move outside of the UK, they must apply under Section 13 of the Children Act 1989. If the other parent wants to prevent such a move (and no application has been made) then they must apply under section 8 for a prohibited steps order. The court will undertake a global holistic welfare evaluation to determine where the child's best interests lie and whether they should grant leave to remove the child from the jurisdiction, or permit the internal relocation. The court is clear that there is no reason to distinguish between internal and external relocation cases and the role of the court is the same (*Re C (Internal Relocation)* [2015] EWCA Civ 1305).

For any parent consider relocating it is important to have a clear, well thought through and well researched strategy about all aspects of any proposed move. This is not only limited to key considerations such as education and housing, but also logistics in relation to contact – e.g. are weekend engineering works on a train line to the proposed village/town/city likely to effect the journey times and quality of contact for the child with the other parent? The more thought and preparation that a parent puts into their relocation proposals the better their prospects of securing a move. Ill-thought out plans are not likely to receive the court's favour. A well considered plan will include proposals for not only housing and contact but will also consider where the children will go to school, the timing of the proposed move according to the child's stage in their school year, whether there are friends or relatives in the new location, employment prospects for the moving parent, and, if it is age appropriate, consideration of the child's own views on the proposed move. The parent proposing to move must also be able to demonstrate that they have considered the economics of the proposed move.

If the child is of sufficient age and understanding then the court is likely to want to have the child's views on the proposed move. This may involve the child(ren) meeting with a court appointed CAFCASS office who will speak directly to the child to gauge their feelings and wishes about what is proposed for them.

Conversely, the parent opposing the move will also need to present their position to the court. The focus of their case will be on the adverse impact on the child of the proposed move. Usually this will be focused upon the decrease in quantity of contact and the impact that this is likely to have on the parent-child relationship. However, there are wider considerations. Where a child is well established in a school and has a network of friends that may be a matter for the court to consider as well as the loss of their extra-curricular activities and membership of clubs and teams. The proximity of extended family may also be a consideration.

Relocation proceedings are by their nature binary in outcome – the effect of an unsuccessful application can be devastating for the applicant parent and this will be a relevant consideration for the court. Mostyn J said in *NJ v OV* [2014] EWHC 4130 “*outside the sphere of State intervention for the purposes of child protection, the hardest decision that a judge ever has to make in the field of family law or, for that matter in any field, is the relocation decision.*” If an applicant is successful in their proposed relocation the impact on the left behind parent also cannot be understated. They face a reduction in the quantity of their contact with their child and potentially expensive and time consuming travel arrangements when they are able to see them. The tension between the right of the parent with care of the child(ren) to choose where they want to live balanced against the desire of the left behind parent to have a meaningful relationship with the child and frequent contact cannot be underestimated. These decisions are incredibly finely balanced. For this reason, it is more important than ever that the potential applicant explores all options available and engages in non-court resolution where possible (such as mediation or arbitration.)

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