



IN THE SUPREME COURT OF THE FALKLAND ISLANDS

CASE NUMBER: MC/FAM/01/26

Dated this 30th day of July 2026

Before

HIS HONOUR JUDGE MALCOLM SIMMONS

BETWEEN:

A Applicant Father

and

B Respondent Mother

The Applicant was represented by Mr. Edward Bennett, instructed by the International Family Law Group, who appeared by video link;

The Respondent mother was represented by Ms. Mehvish Chaudhry, instructed by Waverley Law, Falkland Islands, who appeared by video link;

The applicant father was present by video link.

The respondent mother was present in the court room

Hearing dates: 22nd and 28th 2026

ANONYMISED APPROVED JUDGMENT

Introduction

1. This case concerns two children: **C** and **D**. Both children were born in the United Kingdom and both are under the age of 10 years. I am informed that both children have Falkland Islands Status.
2. The children are known to Social Services – both in the Falkland Islands and in the United Kingdom.
3. The father, is a British citizen. He does not have Falkland Islands Status.
4. The mother was born in the Falkland Islands. She has Falkland Island Status.
5. Since 2022 the mother had been working remotely from the United Kingdom for a Falkland Islands-based company. In mid-2025 she was offered a temporary full-time role in the Falkland Islands. The father agreed the children could travel with the mother to the Falkland Islands, returning in February 2026.
6. The children arrived in the Falkland Islands with the mother in October 2025. They currently reside with the mother in Stanley and attend school and ‘wrap-around’ care.
7. The mother says that in early December 2025, she was offered a permanent role in the Falkland Islands. The mother says the father initially agreed to the permanent move but that, having accepted the job offer in January 2026, the father changed his mind. The father says a permanent move was never discussed and that, in any event, he would not have agreed.

Procedural History

8. On 20th March 2026, the mother received a letter from the father’s solicitors in which they stated that if she did not confirm by 12 noon UK time on 23 March 2026 that arrangements were in place for the children to return to the United Kingdom, the father would issue proceedings in England seeking the children’s immediate return.
9. On 20th March 2026, the mother issued an application in the Falkland Islands Magistrate’s Court for a Residence Order. A Directions hearing in those proceedings was listed for 1 April 2026.

10. On 20th March 2026 the mother submitted to the Summary Court an application for an *ex parte* Specific Issues Order. That application was listed before a panel of Justices of the Peace and determined on 24th March 2026 and an order made that (1) The Children do reside with the Applicant Mother until the conclusion of the proceedings or until further order; (2) The Children do reside within the jurisdiction of the Falkland Islands until the conclusion of the proceedings or until further order and (3) Liberty to apply.
11. On 30th March 2026 the father commenced these proceedings seeking the summary return of the children to the United Kingdom. The father wishes this court to summarily order that the children be returned to the United Kingdom.
12. On 1st April 2026, the Supreme Court transferred the proceedings before the Magistrate's Court to the Supreme Court and listed a Directions Hearing in both sets of proceedings on 1 April 2026. The Court stayed the private law proceedings, pending determination of the application for the children's summary return to the United Kingdom or until further order of this Court. Further, the *ex parte* Specific Issues Order of the Falkland Islands Summary Court dated 24 March 2026 was set aside. At that time, an order was made that, until further order, no person may remove, seek to remove, or encourage others to remove or seek to remove, the children from the jurisdiction of the Falkland Islands. Directions were given.
13. On 18th May 2026 the directions made on 1st April 2026 were varied and this matter listed for a Pre-Trial Review hearing at 10am on 5th June 2026.
14. On 5th June 2026, further directions were given that included a provision the father be subject to alcohol and drug testing.

Statutory Framework

15. In terms of the applicability of the Convention on the Civil Aspects of International Child Abduction 1980 ("the Hague Convention"), the United Kingdom is a Hague Convention country and has extended the application of the Convention to the Falkland Islands by an Order in Council made on 19th December 1996 [The Child Abduction and Custody (Falkland Islands) Order 1996]. However, the Convention is not treated as applying between the courts of England & Wales and a UK Overseas Territory such as the Falkland Islands because the United Kingdom and the UK Overseas Territories are legally treated as a single state under the Convention, something described by Mostyn J as a "*colonial anachronism*" *VB v TR* [2020] EWHC 28.

16. For the purposes of the Convention, British Overseas Territories are treated as being part of the United Kingdom. Just as the Convention does not operate between, the United Kingdom, on the one hand, and Scotland on the other, so it does not operate between the United Kingdom, on the one hand, and a UK Overseas Territory on the other.
17. It is not suggested by either Mr. Bennett or Ms. Chaudhry that the Convention is applicable in this case. Instead, the applicant father invites the court to exercise its inherent jurisdiction and order the summary return of the children. An application for summary return might equally be made by way of a Specific Issues Order made pursuant to the Children Ordinance 2014.
18. As described by Cobb J (as he then was) in *J v J* [2021] EWHC 2412, the law is clear that an application to return a child to a non-Hague Convention country will be determined by an assessment of the child's best interests. Mr. Bennett and Ms. Chaudhry have helpfully referred me to the relevant principles to which reference is made in that judgment.
19. In *Re J (A Child)* [2005] UKHL 40, Baroness Hale distilled the key principles that apply to applications to this nature. In summary these are as follows:
 - a. "...any court which is determining any question with respect to the upbringing of a child has had a statutory duty to regard the welfare of the child as its paramount consideration."
 - b. "There is no warrant, either in statute or authority, for the principles of The Hague Convention to be extended to countries which are not parties to it."
 - c. "...in all non-Convention cases, the courts have consistently held that they must act in accordance with the welfare of the individual child. If they do decide to return the child, that is because it is in his best interests to do so, not because the welfare principle has been superseded by some other consideration."
 - d. "...the court does have power, in accordance with the welfare principle, to order the immediate return of a child to a foreign jurisdiction without conducting a full investigation of the merits."
 - e. "Summary return should not be the automatic reaction to any and every unauthorised taking or keeping a child from his home country. On the other hand, summary return may very well be in the best interests of the individual child." There is always a choice to be made.
 - f. The courts "...focus has to be on the individual child in the particular circumstances of the case."

- g. “The judge may find it convenient to start from the proposition that it is likely to be better for a child to return to his home country for any disputes about his future to be decided there. A case against his doing so has to be made. But the weight to be given to that proposition will vary enormously from case to case. What may be best for him in the long run may be different from what will be best for him in the short run. It should not be assumed, in this or any other case, that allowing a child to remain here while his future is decided here inevitably means that he will remain here for ever.”

20. At paragraphs 33 – 40 of the judgment in *Re J*, Baroness Hale went on to elucidate a number of factors relevant to any decision whether to order a summary return:

- a. “[What]...is the degree of connection of the child with each country. This is not to apply what has become the technical concept of habitual residence, but to ask in a common-sense way with which country the child has the closer connection. What is his 'home' country? Factors such as his nationality, where he has lived for most of his life, his first language, his race or ethnicity, his religion, his culture, and his education so far will all come into this.”
- b. “Another closely related factor will be the length of time he has spent in each country. Uprooting a child from one environment and bringing him to a completely unfamiliar one, especially if this has been done clandestinely, may well not be in his best interests. A child may be deeply unhappy about being recruited to one side in a parental battle. But if he is already familiar with this country, has been here for some time without objection, it may be less disruptive for him to remain a little while longer while his medium and longer time future is decided than it would be to return.
- c. "In a case where the choice lies between deciding the question here or deciding it in a foreign country, differences between the legal systems cannot be irrelevant. But their relevance will depend upon the facts of the individual case. If there is a genuine issue between the parents as to whether it is in the best interests of the child to live in this country or elsewhere, it must be relevant whether that issue is capable of being tried in the courts of the country to which he is to be returned"
- d. “The effect of the decision upon the child's primary carer must also be relevant, although again not decisive.”

21. In *Re NY (a child)* [2019] UKSC 49, [2019] 3 WLR 962, a case involving a child’s summary return, Lord Wilson said that a court should consider the following questions:

- a. Is the evidence sufficiently up to date and does it address issues of welfare?
- b. Are the court’s findings sufficient to make an order for summary return?

- c. In order to sufficiently identify what the child's welfare requires for the purposes of a summary order, an inquiry should be conducted into any or all of the aspects of welfare specified in section 1(3) of the 1989 Act and, how extensive that inquiry should be considered.
 - d. If allegations of domestic abuse are raised, does there need to be an enquiry into these allegations, if so how extensive should that enquiry be?
 - e. What are the details of the proposed arrangements for the return of the child?
 - f. Is oral evidence from the parties required and if so on what aspects of the case?
22. The welfare checklist in the Children Act 1989 is replicated in the Children Ordinance 2014.
23. In *Re A & B (Children) (Summary Return: Non-Convention State)* [2022] EWCA Civ 1664 the Court of Appeal endorsed the approach taken by Poole J at first instance, in a case about assessing future risk of harm in an application involving a non-Hague country. The context was whether it was necessary to conduct a fact-finding hearing into allegations of domestic abuse or not. In that case Moylan LJ stated the following:
- "81. I first deal with the submission that the judge's decision was flawed because, as part of his analysis, when considering "the risks to the children in the context of a return to E", he adopted the Re E approach to the assessment of those risks. In my view, the judge was entitled to use this approach. He was, as Peter Jackson LJ observed during the hearing, doing no more than evaluating the evidence to consider the maximum level of risk. He could have done this as part of his analysis without referring to Re E and no objection could have been taken."*
24. As noted by Mr. Bennett, the 'Re E' approach is taken from Paragraph 36 of the 1980 Hague Convention case of *Re E* [2011] UKSC 27. It involves the court making a reasonable assumption in relation to the maximum level of risk to the children arising out of any domestic abuse perpetrated by a left behind parent with the court, in particular, considering the risks to the children in the context of a return to the home state, with any undertakings or pledges offered by the left behind parent being formalised in the courts of the home state, and bearing in mind the enforceability of any undertakings there.

25. In *Re A and B*, Moylan LJ, stated:

"In summary, the court's decision is a welfare determination and must give paramount consideration to the welfare of each child as required by section 1(1) of the CA 1989. The court has to decide the extent to which it needs to investigate the facts of the case, including by holding a fact-finding hearing, in order properly to determine what order is in a child's best interests."

The court needs to consider all relevant factors, including PD 12J, when determining whether a summary determination is sufficient and what order to make."

26. I have applied this legal framework in reaching my decision.

The Evidence

27. It was agreed that the witness statements of the father and the mother would stand as their evidence-in-chief. There was no application to hear oral evidence of either parent, save on the issue of any prior discussions regarding the children remaining in the Falkland Islands longer-term. I heard evidence of Social Worker, Sally Barnes, who had prepared a very comprehensive Welfare Report for the Court.

28. I have considered and taken-into-account every piece of evidence that was put before the court even though I may not specifically refer to it herein.

Background

29. In the early 2000s, the mother left the Falkland Islands to attend college in the United Kingdom. Having completed college, she moved to Wiltshire where she worked and, together with a former partner, bought a house.

30. The mother returned to the Falkland Islands in 2011, with the declared intention of making it her home.

31. In 2014 the father travelled to the Falkland Islands to work. The mother and father met in 2014 and formed a relationship.

32. In 2014 the father was convicted of driving a motor vehicle having consumed a quantity of alcohol in excess of the prescribed limit. The lower specimen reading was 90.7 micrograms of alcohol in 100 millilitres of breath, the prescribed limit being 35 micrograms. In relation to that incident, the mother was convicted of permitting the father to drive her vehicle without insurance.

33. The father returned to the United Kingdom in 2015. The mother followed in later 2015. The mother says that she reluctantly agreed to return to the United Kingdom and that it was agreed with the father that this would be for a period of two years.

34. Initially they lived with the paternal grandparents in [the south of England] before buying a property. At that time, the father was working at a local boatyard. The mother worked for the local Council.
35. It is the mother's case that, throughout their relationship, the father has been financially, physically and emotionally abusive towards her. She describes a relationship characterised by controlling behaviour, with feelings of isolation. The father accuses the mother of aggression and violence.
36. The mother admitted that in 2015 she had thrown a purse, smashing a television and thrown the father's work laptop. The mother said these events had occurred during arguments with the father and were the product of her frustration with him. She had subsequently requested a GP referral for support to address "trigger points".
37. In 2016, the mother discovered that she was pregnant. She said *"I was shocked about the pregnancy. I had been planning to leave [the father] but when I found out I was pregnant I was determined to try and make the relationship work."*
38. In 2016, a Social care assessment was completed following a police referral. It is recorded that the mother – who was 4 months pregnant at the time – had contacted police to report having been physically assaulted by the father, to include being slapped around the head, hair pulled, punched, kicked (legs and head), and having been grabbed once by the throat. It is recorded that police did not take further action as both the mother and the father had described abuse towards each other during this argument. At that time, the mother and the father informed social workers that they had sought a private counsellor for relationship and anger management support. No further action was taken by social services.
39. Following the birth of C, the relationship became further strained. Mother and father were both working part time. The mother says that on her first day back at work she had received a telephone call from the father saying that he could not cope and that she should return home before he walked out. She said that she felt unable to continue working part-time and resigned.
40. In 2017, a Social Care referral was made by the police. It is recorded that the mother had telephoned police alleging the father had been drinking and that he would not leave the home. The mother alleged the father had fallen over the Moses basket in which C was sleeping. The mother reported the couple having separated but living under the same roof.
41. Social services records for 2016/17 assessed the mother being at medium risk of domestic abuse from the father.

42. The mother says that she had decided then that she would return to the Falkland Islands with **C** and that, although initially not wishing to accompany them, the father had changed his mind. The mother and father moved with **C** to the Falkland Islands in 2017.
43. Upon their return to the Falkland Islands, both mother and father found employment.
44. It was not long before the relationship again became strained.
45. It is recorded that in 2018, a Social care assessment was made following two police referrals in the space of eight days. It is recorded that both incidents included arguments between the couple following the father allegedly drinking at the local pub. It was recorded that on one occasion the mother had pushed and shoved the father and that on the second occasion, she had thrown a glass at him, causing a slightly swollen top lip. There were reports of ongoing arguments and the relationship breaking down. During social care involvement, the father and the mother claimed to have completed research on the impact of domestic abuse on children, and were signposted to complete a parenting course and for the mother to seek support from the Emotional Wellbeing team for anger management.
46. A police report in 2018 records the mother telling officers that her relationship with the father was “beyond saving”. The father stayed with a friend that night.
47. The father described another argument with the mother during which she had thrown a plate. While admitting that she had thrown the plate, the mother said that she had not intended to hit the father. The father said the laceration to his foot required 13 stitches and he was off work for two weeks.
48. In 2019, the family returned to the United Kingdom and rented a home in [in the south of England]. The mother continued working remotely. The mother found working at home with a toddler difficult and gave up work to focus on caring for **C**.
49. The relationship continued to be strained.
50. In 2020, the mother discovered that she was pregnant. The mother said that it was at about this time that she discovered the father was using cocaine as well as drinking.
51. When **D** was born, the family were living in AirBnB’s until they were able to move into the three-bedroom home that they had purchased.
52. In 2022 the mother began working remotely.

53. The father alleges that in 2022, during an argument with the mother, she had slammed a glass door with such force that the glass had shattered. The mother disputes the father's account. She said they had attended a friend's wedding following which they had gone to the paternal grandparent's home to collect the children. The mother said the father had argued with the paternal grandparents and that she had tried to persuade them to let the father stay with them that evening. However, they had refused. The mother says the children were asleep upstairs and the father, intoxicated at the time, was "ranting" about their relationship and threatening to kill her and himself. She admitted that she had closed the door hard but said she had not intended to cause damage.

54. The mother said that in 2024, the father had returned home intoxicated and aggressive. She said that she and the father had argued. The mother described **C** coming downstairs, picking up a bottle of gin and dropping the bottle, smashing it. The mother says the father's response was to call **C** a "cunt" and to follow them upstairs, calling them "narcissistic" and telling them they were not welcome at the paternal grandparent's home.

55. The mother put in evidence a video [Exhibit reference redacted] that depicts a part of that incident. In respect of this – and the other recordings upon which the mother relies – I have summarised the relevant parts:

Father: (to the mother) ***C** is not welcome* (at the paternal grandparent's home).

Mother: *"you called our [child] a 'c-u-n-t'.*

C: *"I don't like you saying that I'm a cunt".*

Father: (to **C**) *"you are".*

Mother: *"you cannot call **C** a cunt"*

Father: (to **C**) *"you are".*

Father: (to **C**) *"grab yourself by the balls mate...you are turning into your mum: aggressive, manipulative, narcissistic behaviour...you two are suited to each other...me and **D** are sound...**D** aint going to turn into you two..."*

C: (crying)

Father: *"dropping bottles of fucking gin on the floor...start acting your fucking age...you are both as bad as each other and suited to each other"*

56. An enduring theme in this case is the very real perception that the father treats **C** quite differently to **D**, often referring to **C** in a negative way as being like their mother.
57. It is recorded that in 2024, Social Services received a referral from **C**'s school following a disclosure from **C** about the mother and father arguing. The school had recorded that between a four-month period **C** had become upset about the parents arguing. This culminated when, **C** disclosed verbal abuse from her father, including him calling them a 'cunt' when they dropped a bottle of gin after entering the room during an argument between the parents. **C** had reported feeling confused, sad and angry. **C** reported the father coming and going from the home, being verbally abusive and 'clapping' at them. Social care assessment completed but no further action at the time as the father had moved out of the property which was felt to reduce risks to the children.
58. Following this incident in 2024, the father had moved out of the house. It was the father's perception that he had since 'repaired' his relationship with **C** and that they were "*stronger*".
59. Mother and father married later in 2024, separating a month later.
60. The mother said that in April 2025 she had booked a family holiday overseas. She invited the father to accompany her and the children. It was understood that he would book a separate room. However, upon their arrival it transpired the father had not booked a separate room and that he intended staying in the room the mother had booked for herself.
61. The mother said that during the holiday the father became drunk and that he had been verbally abusive towards her and **C** in the presence of **D**, telling the children the mother had been "*done for assault*" and that he "*felt sorry*" for **C** because they "*took after*" the mother. The mother said he called **C** a "*fucking prick*" and that **D** was "*the only fucking normal human being in this room...*"
62. The mother put in evidence several video recordings made by **C** that were a part of the same event [Exhibit reference redacted]. The father is observed to point his mobile phone at **C**, mimicking them recording him. He then pushes the mother several times as he attempts to approach **C**.
- Father: "*is **C** recording for [their] mum like the rat that [they are]?*"
63. A further video shows the continuation of the argument. The father is observed to push the mother. **C** is still in the room.

Father: (to C) *“your mum got done for assault”*

Father: (to C) *“Your mum got done for assault but you will too”*

Father: (to C) *“[...]father got done...in prison for assaulting a woman...”*

C: (to father) *“Get away...fucking idiot, get away”*

64. In that video the father repeatedly refers to the mother having been arrested and detained for fifteen hours.

Father: (to C) *“the only reason she didn’t get arrested was because I didn’t fucking press charges”*

65. The father also refers to historic behaviours of other family members.

66. The mother recorded a further argument between herself and the father at their home in England [exhibit references redacted]:

Father: (calls the mother) *“you’re a cunt”*

...

Father: (to mother) *“you’re an idiot”*

...

Mother: *“you cannot be like that in front of your kids”*

...

Father: *“I don’t give a flying fuck about the kids...”*

...

Mother: (to the father) *“I don’t really give a shit about you. I’ve had no feelings for you for months...”*

In response to that comment, the video depicts the father sitting forward in his chair.

Mother: (to father) *“are you going to throw something at me?”*

...

Father: (to mother) *“possibly think about...(inaudible)”*

...

Father: (to mother) *“cunt”*

...

Father: (to mother) *“I’m going to kill you in a minute, seriously”.*

...

Mother: (to father) *“If you do anything I’m ringing the police”*

...

Father: (to mother) "*Call the police*"

...

Father (to mother) "*I will chop your head off and put it on a fucking stake*"

...

Father: "*I might kill myself*".

...

Mother: (to father) "*No one is forcing us to be together.*"

...

Father: (to mother) "*leave then*"

...

Father (to mother) "*I will retain the house and the other two houses and you fuck off*".

67. The parents again 'separated' in 2025.

68. The father referred to a further incident in 2025 when he said the mother became angry after he had used £5,000 in a joint account to repay a loan on a car purchased in the mother's name. He said the mother had driven to his place of work where she had confronted him, demanding that he return the money. He said that it was during this argument that the mother had thrown hot coffee at him. The mother was arrested but he declined to press charges.

69. Referring to that incident, the mother says that she had been working part time and that she was under financial strain. She said she had asked the father for financial support for the children, in particular clubs and football. She had also asked for support paying the Council Tax. She said that on the day in question she was completing **D's** school application when she noticed the joint bank account was empty. She said she had tried calling the father but that he had not answered. She said she was panicking and drove to the father's office. She said that when she had asked him about the money he had 'smirked' and told her 'the money had gone and to get over it.' She said he had told her she was a bad mother and that with her as a role model, **C** stood no chance. She said the father was standing by the door and that he would not let her leave. The mother admitted that she had thrown coffee over him.

70. In 2025, the father was assessed as being at high risk of domestic abuse from the mother.

71. In mid-2025, the mother was given the opportunity to provide cover in the Falkland Islands. The father agreed to the children travelling to the Falkland Islands. The mother said it was understood the role would be for three months but that it could be extended.

72. It was agreed with the father that she would accept this role and travel to the Falkland Islands with the children.
73. On 13th September 2025 the father gave the mother his written consent to her taking the children to the Falkland Islands from October 2025 to February 2026.
74. At that time, both children were attending School in [the south of England]. It was agreed with the school that the children could return in February 2026.
75. In October 2025, the mother travelled to the Falkland Islands with the children.
76. The father said that when the children left home, they took with them very few belongings, leaving many of their favourite toys behind. He said the mother had purchased a new sofa only 3-4 months before their departure.
77. The father travelled to the Falkland Islands in December 2025 and spent Christmas with the family.
78. The mother says that she and the father discussed a permanent move to the Falkland Islands, with the intention of the father finding work. It was her evidence the father agreed to a permanent move. That is disputed by the father. The mother said that, following those conversations, in January 2026 she accepted the full-time position in the Falkland Islands.
79. The mother said that she and the father agreed that the children would return to the UK in April to settle their property and finances and that the children would finish their school terms in the UK before returning to the Falkland Islands in August, ready for the start of the new school year. The father disputes there was any such agreement.
80. The mother says the fathers attitude changed when he discovered that she had formed a new relationship and referred to a WhatsApp message from the father on 10th March 2026 in which he requests a flight date, adding “*say goodbye to your boyfriend because the kids are coming home.*”

Drug and Alcohol Testing of the father

81. The mother has made a number of allegations about the father’s use of drugs and alcohol. Referring to their wedding in 2024, she says the father spent much of the day with his best man in their hotel room using cocaine.

82. In their report dated 15th July 2026, Lextox reported that the father had tested positive for cocaine and two cocaine metabolites, benzoylecgonine and cocaethylene.
83. The value of cocaine detected at 2.6 ng/mg is reported to be 'Medium' use.
84. The father declared last using cocaine in June 2026. It is reported that the father had also declared last using cannabis in June 2026. That is denied by the father. He says that he had declared having 'spent time around people who were smoking cannabis'.
85. In terms of alcohol markers, the EtPa result is above the cut off value that suggests chronic excessive alcohol consumption, whereas the EtG result is below the cut off level that suggests chronic excessive alcohol consumption. However, because of grooming products declared by the father, it was not possible to determine if the positive EtPa result was due to chronic excessive alcohol consumption.

Social Services Report

86. The Court received a Welfare Report of Social Services dated 28th May 2026 made pursuant to an order of this court in the exercise of its inherent jurisdiction. That report was authored by Social Worker, Sally Barnes. She gave evidence before this court on 22nd July 2026.
87. Ms. Barnes accepted that she has no experience in abduction or relocation cases. However, experience in such cases is not a prerequisite in cases such as this. Ms. Barnes has significant social work experience, having worked in social welfare for 19 years. On my assessment, she is eminently qualified in matters relating to child welfare.
88. Hers is a very detailed report that is based upon available records of the relevant agencies in both the Falkland Islands and the United Kingdom. Ms. Barnes also had access to the evidence that was put before this court.
89. I have very carefully considered her report in my assessment of all of the evidence.

Father's case

90. The father seeks the summary return of the children.
91. The father says the children were born in England and have spent the majority of their lives in England. The vast majority of their family, on both sides, lives in England. The entirety of their schooling save for the last academic year has been spent in England. The vast majority

of their belongings remain at the former matrimonial home in England. Both children, **D** in particular, have positive memories of England. They have a link to the Falkland Islands through the mother and her family, but their time in Falklands has always been temporary.

92. The father now accepts that his relationship with the mother was tumultuous and toxic, with elements of situational violence, to which the children were exposed. The father does not accept all of the mother's allegations.
93. The father asserts that whatever failings he and the mother may have, each has parental responsibility, each loves their children, and the children are entitled to have key decisions about their future, taken by their parents together.
94. The father asserts that there has been limited social services and police involvement with the family and that any involvement has resulted in no further action being taken.
95. The father accepts that he gave written permission for the mother to travel to the Falkland Islands in October 2025 on the understanding that the children would return in February 2026.
96. The father asserts that he has never given his consent for the children to remain permanently in the Falkland Islands. He denies having had any conversation with the mother regarding her remaining in the Falkland Islands with the children.
97. The father spent the Christmas period 2025 at the mother's property in the Falklands, using the entirety of his holiday allowance to do so.
98. The father says the mother has significantly undermined his relationship with the children and that contact with the children has been irregular and largely controlled by the mother. This is denied by the mother.
99. The father has proposed protective measures and soft-landing provisions that include the following:
 - a. He will pay for the children's air fare back to the UK;
 - b. He will not attend the airport upon their arrival unless agreed by the mother in advance in writing;
 - c. He will not seek to remove the children from the mother's care save for as agreed or ordered;
 - d. He will move out of the former matrimonial home and give the mother exclusive use of that property pending the outcome of financial remedy proceedings or final

agreement as to finances. The father will, pending further formal agreement or order as to finances, continue to pay the mortgage;

- e. He will not seek to criminally or civilly prosecute the mother for child abduction in England;
- f. He will agree to mutual non-molestation type undertakings, to be given on a no admission and no findings basis;
- g. He will agree to attend mediation upon the children's return;
- h. He will not consume drugs or alcohol at any point whilst the children are in his care.

100. In addition, the father says that he will immediately issue English private law proceedings and seek an urgent first hearing, on the children's return. He will also consider constructively any additional measures that either Ms. Barnes or the court consider appropriate.

101. The father would agree to the proposed protective measures being put in place in advance of any return, or as a condition of any return.

102. The father would not object to Ms. Barnes making any appropriate safeguarding referral to the appropriate local authority in England.

103. The father asserts the advantages of his proposals are:

- a. The spotlight of the English court will be on the family from the moment the children return. This, in and of itself, is a protective factor for the children;
- b. The mother and the children will have somewhere to live on a return for some considerable time. They will have security of accommodation and the children will be returning to somewhere familiar;
- c. The children will be returning to a school they are familiar with, and have friends;
- d. The children will have the benefit of both the maternal and paternal families in England;
- e. The mother can continue to work remotely, as she has historically done, from the UK. The mother would also have support of her family when they are in the UK.
- f. The mother does not realistically assert that she could not support herself and the children financially, as that is precisely what she did do following the parties' final separation. She has, further, access to the courts for matrimonial relief, or the CMS in respect of child maintenance. She is also likely to be eligible for UK state benefits;
- g. The risks of the parents causing harm to the children through exposing them to their conflict is mitigated through the spotlight of the court, the totality of measures the father offers, any safeguarding referral Ms. Barnes or the court considers appropriate,

and the mother's own ability to access professional support in the UK. Further, the court could impose limits on the parties seeing or having any contact with each other. At one extreme the court could provide for no contact between the father, mother and the children until a first hearing in English private law proceedings;

104. The father asserts there is no question that the children have a relationship with him, that it should be promoted and that it would be easier to do that in England, which doesn't involve the time, distance and costs of the Falkland Islands, costs which it appears that neither parent can realistically afford.

105. The father further asserts that the mothers unilateral plan to stay in the Falkland Islands has not only ridden roughshod over the father's parental responsibility, but it ties in with what the father asserts is the mother's restriction of contact with the children.

106. The father says the issues between the parents can easily be dealt with in the English family court, the jurisdiction which equally is preferable for any matrimonial proceedings given where the parties' assets are.

107. The father says the impact on the mother of a return will be minimal. She has the means to earn in England, and the safeguards the father offers will mitigate against any risk of situational conflict escalating to the children's detriment. To the extent the mother seeks to run the argument that she would be a risk factor to the children as she could not be relied upon to protect them from the father or the situational conflict, this would be mitigated through Ms. Barnes making a referral to UK social services.

108. Further, the father asserts the impact on the children of a return would be minimal, on account of the protective measures the father offers. Further, there would be benefits given the prospect of a greater relationship with him. This is so irrespective of any protective measures relating to any drugs or alcohol usage that might be put in place.

109. The father says the views of the children should only be given limited weight. **D** has positive memories of both England and the Falkland Islands, and misses the father. **C** still wishes to have a relationship with the father – their comments about England and school life must be tempered by the father's evidence which paints a more positive picture but, in any event, they are likely to be under the mother's influence and in what is termed 'the bubble of respite'.

110. The father says Ms. Barnes' report is flawed in a number of key respects including:

- a. it doesn't factor in the impact on the children of a significantly reduced relationship with the father;
- b. it doesn't factor in the risk of the mother impeding the father's relationship with the children, both in terms of contact but also in terms of riding roughshod over the father's parental responsibility;
- c. it doesn't critically analyse the mother's proposals for the children remaining in the Falkland Islands, in particular the seeming unaffordability and impracticality of them, and what that might mean for the father's relationship with the children;
- d. it doesn't critically analyse Father's full panoply of protective measures, and why they would not mitigate the risks to the children;
- e. it doesn't pay sufficient attention to the shear distance involved between the UK and the Falkland Islands;
- f. it references the older child's use of adult language but doesn't engage with where it derived, or whether there has been any parental influence;
- g. it speculates that what might drive the Father's application is his anger over Mother's new relationship, but this doesn't appear justified by the evidence.

Mother's case

111. The mother's position is that the court must have regard to the best interests of the children and that any decision that the court makes at the conclusion of this hearing must be rooted in a best interest's assessment of their welfare.
112. The mother says the court has the clear recommendation of the social worker who has reported in these proceedings whose recommendation is that the children should remain living in the Falkland Islands *with a clear contact plan to promote their relationship with the father*.
113. The mother submits that the welfare balance is firmly in favour of the children continuing to live in the Falklands Islands, in the care of their mother, and continuing at their current school and nursery.
114. The mother has referred the court to a matrix of factors that she invites the court to consider that include the family's links with the Falkland Islands, a history of domestic abuse, the father's drug and alcohol use, the father's alleged lack of insight, promoting the father's relationship with the children, the wishes and feelings of the children, school and the children's settled status, risks of disrupting the status quo, parental intentions and agreement, housing and financial needs and the mother's position.

Findings

115. I am grateful to Mr. Bennett and Ms. Chaudhry for their extremely helpful submissions and for the care that they have taken in advancing their respective clients case.
116. Cases such as this are always highly fact-specific. I have carefully considered all of the evidence that was placed before the court and the legal framework to which I have been referred. I have come to the very clear conclusion that it is in the best interests of the children that the father's application for their summary return to England & Wales is dismissed.
117. The children have lived for most of their lives in the United Kingdom. They were at school in England. Members of the maternal and paternal family reside in England. There are many things that connect them to the United Kingdom. The determination of 'habitual residence' necessarily involves a consideration of contextual factors and the place where the child is integrated within a social and familial environment. It is not simply an exercise of counting the number of days where the child has lived.
118. The Falkland Islands and the United Kingdom share a common cultural heritage. The school system and curricula are the same. The mother is a Falkland Islander. I am told the children have Falkland Islands Status. The maternal grandfather is a Falkland Islander. The maternal grandfather lives in Stanley. Stanley has a close-knit community in which the mother has a support network. The children have lived on the Falkland Islands since October 2025. **C** previously lived on the Falkland Islands for a period of approximately 18 months. Both children attend school in the Falkland Islands. They have joined clubs and participate in the many and varied activities available. They have integrated well and, according to Ms. Barnes are very well settled. They have both made friends. **C** feels they have more friends on the Falkland Islands than in England and has made very clear their wish to remain on the Falkland Islands. **D** is still very young but clearly wishes to remain with **C** and mother. Importantly, both children are happy in the Falkland Islands. It is my finding that both children are habitually resident in the Falkland Islands.
119. Mr. Bennett has very helpfully referred me to the case of *Re O* [2025] *EWCA Civ* 660. For the reasons to which I shall refer, my decision to dismiss the father's application is based on a clear finding that it is in the best interests of the children that they remain in the Falkland Islands with the mother.

120. It has not been suggested by either party that I do not have all relevant information before me to allow me to make an appropriate order. Although having made sufficient court time available, it was not suggested that I hear oral evidence of either parent. The court would not benefit from hearing further oral evidence.
121. In a Hague Convention case the starting point is usually the summary return of the child. There is no dispute that, in determining an application to return a child in a non-Hague Convention case, of paramount importance is the welfare of the child.
122. This case comprises a complex matrix of considerations. Any decision that this Court makes regarding the children is likely to negatively impact one parent. I have carefully considered the Article 8 ECHR rights of those affected by my decision, while recognising that the child's rights will usually take priority over those of a parent.
123. In this case I have been guided by the 'welfare checklist'.
124. In terms of their age, sex or background, the children are of mixed heritage. Their mother is a Falkland Islander. The father is British.
125. Having regard to their respective ages, maturity and levels of understanding, I have considered the wishes and feelings of both children.
126. Ms. Barnes reports that **C** was aware that a decision would be made as to whether they remain in the Falkland Islands or return to England, and was, I am told, keen to provide their views. Although having been in the Falkland Islands for a relatively short time, **C** said they had more friends on the Falkland Islands than they had in England, describing children on the Falkland Islands being less judgemental and more "accepting". **C** said they felt they had only one "real friend" in England. While enjoying clubs in England, **C** preferred the outdoors lifestyle in the Falkland Islands.
127. Ms. Barnes said in her report **C** found it hard to talk about going back to live in the UK, being "adamant" that that is not what they want. When trying to talk about returning to rugby, school, previous friends or living closer to extended family, **C's** response was always more emotional, stating "*but I don't want to go back.*". This was something that Ms. Barnes again emphasised when she gave evidence before this Court. She said that when speaking with **C** about a possible return to England "*[C] was always emotional in [their] response – [they do] not want to go back.*" Ms. Barnes said that **C** has said the same thing to school staff.
128. Mr. Bennett invited the court to give limited weight to the expressed wishes of **C**, particularly having regard to the possibility of influence from the mother.

129. When giving evidence about what **C** had said about a possible return to England, Ms. Barnes said that **C** responded in a mature way and that they were keen to express their views and to be heard. Ms. Barnes said that children who have experienced emotional trauma are often ‘hypervigilant’ and that this can be reflected in the language they use. While accepting that **C** may have known the mother’s wishes, Ms. Barnes was clear that the views they had expressed were likely to be linked to their own experiences and emotions. Ms Barnes said **C** spoke like a child who had been through some scary, negative experiences.
130. Ms. Barnes referred to the importance of appropriate consideration being given to the wishes of **C** and that failing to do so may leave **C** feeling ‘unheard’ and unable to trust adults.
131. **D** is younger. **D** spoke about their schools in the Falkland Islands and England. **D** said they preferred their English school because they did phonics less frequently, telling Ms. Barnes they did not like phonics. **D** has friends in the Falkland Islands and in England. **D** enjoys swimming and football, opportunities for which exist in either location.
132. During **D**’s conversations with Ms. Barnes, **D** gave differing accounts on where they preferred to live, saying “*I want to live in England as they have arcades there, I like arcades.*” **D** said that they would visit arcades with the father and that they would “playfight”, which they enjoyed. **D** said they liked to “*hide from daddy and then he will tickle me.*” When directly asked, **D** said that they do miss the father, referring to the father visiting at Christmas and buying them a themed birthday cake. However, when talking about their love of motorbikes and wanting one, **D** said “*I want to live here – there is a shop with a motorbike in it and it is my favourite*”.
133. In their conversations with Ms. Barnes, **D** remained adamant that they wished to continue living with the mother and **C**. The children clearly have a close relationship.
134. In terms of their physical, emotional, and educational needs, these could be adequately met in either the Falkland Islands or in the United Kingdom. Neither child has any diagnosed health or educational need that could not be met in the Falkland Islands.
135. The Falkland Islands is not a random or entirely new location for the family. The mother grew up here. It was where she and the father met. The mother has a support network here. The mother has full time employment in Stanley, opportunities for promotion and financial security. **C** has previously lived on the Falkland Islands.
136. In considering the likely effect of any change in the child’s circumstances, I recognise that the children have already experienced significant change. In 2018, both parents agreed

to relocate to the Falkland Islands with C. Both parents agreed to the children travelling to the Falkland Islands in October 2025. Of course, I accept that, on both parent's evidence, it was initially intended that the move in 2025 would be of short duration. Nevertheless, the decision to move the children to the Falkland Islands in October 2025 represented a significant change in circumstances for the children. They have moved from their former home, school, friendship groups in the United Kingdom to the other side of the world.

137. The children have lived in the Falkland Islands for a period of 10 months. They have adapted well to their new school; they have made new friends and they are embracing life in the Falkland Islands, taking part in the many and varied activities that are on offer. Both children have integrated well into the community, providing them with a sense of safety and belonging. Ms. Barnes described them being "very well settled". Importantly, they are thriving and happy.

138. Were this court to make an order for the children's summary return to England, there is the very real possibility the mother would seek an order in England that the children be permitted to return to the Falkland Islands. Inevitably, that would create further uncertainty and instability in the lives of these children.

139. Of course, I recognise that the children are still of an age where, were they to return to the United Kingdom, they would re-adapt. Indeed, they would be returning to an environment in which they have lived for most of their lives, potentially returning to a school they have previously attended and likely resuming old friendships.

140. Returning to the United Kingdom would allow the children to have a more meaningful relationship with the father. Were they to remain in the Falkland Islands, the impact on their relationship with the father would be significant. He would be restricted in terms of his daily involvement in the children's lives, including attending school events, sports, celebrations and other activities. Travelling to and from the Falkland Islands is expensive. The father's annual leave entitlement would restrict his physical contact and require very careful management. I have taken all of this into account. However, while the impact on the father is an important consideration, it is not my primary focus. The welfare of the children is paramount.

141. A significant factor identified by Ms. Barnes is that the mother has not achieved financial independence from the father. Were the children's summary return ordered, the mother would return to the environment that, she says, previously manifested feelings of isolation and poor mental health. In turn that may impact the children and expose them to

risk. I should add that I have not seen any medical evidence regarding the mother's mental health.

142. The mother accuses the father of coercive and controlling behaviour. Describing his alleged financial control, she refers to the event in April 2025 when she discovered the father had emptied the joint account. She says that when she confronted him, his response was to "smirk" and to say "the money has gone, get over it". A school report at the time, dated 29th April 2025, records "*We received a [police report] that said there had been an incident between Mum and Dad where the police were involved...[C] said "daddy doesn't live with us anymore. Daddy only left mummy £7 in the joint bank account."*

143. In the Falkland Islands the mother has achieved a degree of financial independence. She currently has a full-time job, a home and a car. The father has made no provision for child maintenance.

144. However, financial concerns remain, particularly around the properties in the United Kingdom.

145. The father has proposed a variety of protective measures. One such proposal is that, pending the final determination of their financial affairs, he move out of the family home and that he reside with the paternal grandparents. The father currently pays the mortgage on the former matrimonial property. There is a second property owned by the mother and father on which there is also a mortgage. I am told that property is in arrears on the mortgage. The father says that he is also "paying for" the mother's car.

146. A move back to England would inevitably result in the mother having to give up her current full-time role and salary. She would be responsible for the day-to-day care of two young children. She would likely revert to part-time work and would, almost inevitably, be financially dependent on the father. Were the mother able to secure full-time employment in the United Kingdom, this would inevitably impact child care arrangements, possibly with an additional cost.

147. Any financial settlement would likely involve the parents selling the family home. If the second property is in arrears on the mortgage, that will affect their credit scores and their ability to secure suitable alternative accommodation. If the family were to move home, that might mean the children having to move school.

148. If an amicable settlement cannot be achieved, financial resolution through the courts in England is likely to be unattainable in the short to medium term. Legal Aid may not be available to the mother.
149. In my view the parent's financial circumstances are so precarious that returning to England would introduce uncertainty and further instability in the lives of these settled children.
150. While financial independence would reduce that risk, it is not the only consideration.
151. It is to any harm that the child has suffered or is at risk of suffering that I now turn. The risk of harm applies equally whether the abusive behaviour is directed against the child or against a parent.
152. Both parents make allegations against the other. Those allegations are documented in police and social services records to which I refer herein. I have also watched videos recorded by the mother and C. They are deeply disturbing.
153. The parent's relationship is the paradigm of toxicity. There are complexities on both sides of the relationship.
154. I remain concerned that, despite the protective measures proposed by the father, there is an expectation on his part of a return to the status quo ante. In his statement in April 2026, he said that upon the children's summary return to England "*the status quo from October 2025 will continue immediately, and life will revert to what it was before the trip to the Falklands.*"
155. Over a 10-year period these parents have separated and reconciled. Each time the parents separate the professionals have dis-engaged, leaving the children exposed to an ongoing pattern of toxic behaviour. Separation alone has not fostered change. A more defined ending is required.
156. Ms. Barnes has referred to the high risk of harm to which the children have been exposed. It is well-recognised that abuse within a domestic context places a child at risk of harm, even when the abuse is not directed at them.
157. C is at an age where they now understand the nature of their parent's volatile relationship, on occasion, feeling compelled to record their arguments. Not only have they been exposed to that conflict, they have been directly drawn into arguments and subjected to what Ms. Barnes characterised as serious domestic abuse.

158. Ms. Barnes says the father demonstrates little insight into the experiences of his children by wanting life to resume as it was, even suggesting *‘The children have had nothing but a safe, loving, and secure life in the UK which is, without doubt, their home.’* The father’s comment that “he is not aggressive in any way” demonstrates a truly remarkable lack of insight. He appears to have little understanding of the very harmful impact his behaviour has had on the children.
159. It appears the father does now accept the toxic and tumultuous nature of his relationship with the mother and the violence to which the children have been exposed.
160. Although providing only a snapshot, the recordings that were put in evidence give a very clear insight into the nature of the parent’s relationship and the risks of serious harm to which **C**, in particular, and **D** are exposed.
161. The father is depicted in a video calling **C** a “cunt” and persisting, despite their obvious distress. Having moved out of the house following that incident, the father said he felt his relationship with **C** was “stronger”. Nevertheless, during the subsequent holiday, he referred to **C** as a “rat”, describing them in a negative way as *‘being like [their] mother’* and stating *“Your mum got done for assault but you will too”*, the father’s complex relationship with the mother being projected onto **C**.
162. **C** told Ms. Barnes that when the father visited them in the Falkland Islands at Christmas time 2025, he had again told them in a negative way that they were like *“like [their] mum”*.
163. The mother says the father treats the children differently. In one video the father professes a “sound” relationship with **D** while comparing **C** with the mother. The father disputes that he treats the children differently and professes to love both equally.
164. Ms. Barnes has referred to **C**’s experiences of direct emotional abuse from the father that she says will have impacted their relationship with the father and their feelings of safety. The unpredictability of their relationship with the father will also have a negative longer-term impact on **C** and is likely to impact their emotional wellbeing, self-esteem, their understanding of a healthy relationship and their ability to make “good choices”.
165. Describing the father, **D** told Ms. Barnes *“daddy can be grumpy with mummy – I hear them fight on the phone – I see it sometimes too.”* When exploring this and asking **D** how this makes them feel, they chose the word *“shocked.”* **D** told Ms. Barnes that, while the parents had argued since they had been on the Falkland Islands, more recently it feels *“calmer and a*

bit better.” Without it being linked to a direct question, **D** had stated “*I kind of like daddy.... daddy can give me a worried feeling*”. However, in their conversation with Ms. Barnes they were unable to elaborate on this further.

166. When talking about the mother, **D** told Ms. Barnes “*mummy can be a bit grumpy when I am silly.... like when I am playfighting....I like playfighting....mummy can be more scary than daddy when grumpy* (in relation to telling them off/discipline).” **D** went on to describe “*mummy drags [C] to [their] room when [they are] naughty....([they] then paused for a while)...it makes me sad as I like [C].*” When asked about this, specifically about how the mother ‘dragged’ **C**, **D** demonstrated this by pulling on the back of their jumper. **D** told Ms. Barnes this does not happen all the time.

167. When asked by Ms. Barnes how the mother makes them feel when they are at home, giving examples of different feeling words, **D** stated “*mummy makes me feel worried.*”

168. Given their young age, **D** has a different experience to that of **C**. **D** attributes “worried” feelings to both the mother and the father, without really being able to explain or understand why. **D** too has been exposed to parental conflict. This is likely to be emotionally harmful.

169. The ongoing hostility between the parents that is the product of their toxic relationship is likely to have a significant impact on the safety and welfare of the children. Ms. Barnes said that continued exposure to emotional abuse could have a long-lasting impact on the children, to include their sense of identity, self-worth, safety, understanding of safe and healthy relationships and that, ultimately, this cannot be in their best interests.

170. Mediation is unlikely to be fruitful in providing any meaningful and sustainable respite in the parent’s hostility. If the children’s summary return to the United Kingdom were ordered, the mother’s resentment is unlikely to be conducive to meaningful dialogue.

171. Neither of the children raised any other concerns about physical chastisement from either parent.

172. I have considered each of the proposed protective measures. I have considered whether other protective measures might be put in place were the children to return to the United Kingdom in order to obviate or ameliorate the risk of harm to which the children could be exposed. While this court cannot impose such measures, I have considered whether, were an order to return be made, it might be delayed pending the courts in England putting in

place appropriate protective measures, to include resolution of the parent's financial circumstances and financial support for the children.

173. Parental separation combined with protective measures would not provide a solution. Many of the incidents of violence and aggression occurred while the parents were separated. Ms. Barnes report contains details of a clear pattern of behaviour of the father turning-up at the mother's home intoxicated.

174. The father says he drinks socially but not to excess. When the father was asked by Ms. Barnes about drug abuse, he was evasive, refusing to answer, stating he did not feel it was relevant and referring to weekly drug tests at work.

175. An order having been made that the father be subjected to drug and alcohol testing, he informed Lextox that he had last used cocaine in June 2026. That he had consumed cocaine was confirmed by the test results. It is concerning that the father had used a Class A drug – despite the concerns that have been raised regarding his drug use and despite the scrutiny to which he would be subject that is the inevitable consequence of proceedings such as these. It is indicative of his failure to prioritise the welfare of his children. It also suggests that ongoing court proceedings and judicial scrutiny are not a protective factor.

176. Given the aforesaid, the father's proposal that, upon the children's return, he immediately issue private law proceedings and seek an urgent first hearing would not allay those concerns.

177. Until this point, the involvement of social services has been largely ineffective. Neither parent has been the subject of a court order.

178. Nevertheless, the involvement of professionals has not reduced the risk of harm. In one video the father even goads the mother to call police. While non-molestation orders might objectively reduce the risk of harm, when intoxicated the father's behaviour is likely to become unpredictable. On my assessment, protective measures are unlikely to obviate the risk of serious harm to the children.

179. While alcohol testing was inconclusive, the father has a longstanding association with alcohol. He was convicted of drink driving in 2014. On that occasion he drove a vehicle when almost three times above the prescribed drink-drive limit. Alcohol is a common thread running through much of the evidence in this case.

180. The court was referred to WhatsApp messages between C and the mother in December 2025 when the father was in the Falkland Islands to spend time with the children

at Christmas. In a message to the mother at 0946 on Christmas Eve, **C** referred to the father being in bed and that he had pushed them off the bed when they had asked about breakfast. At 1122 he was still in bed and **C** got “crackers” for themselves and **D** for breakfast. **C** spoke of not being able to trust the father and sometimes feeling scared. **C** told Ms. Barnes that they had locked themselves in the bathroom because they felt unsafe when they were alone with the father, who was drinking. **C** described him as “*an alcoholic who goes to work*”.

181. While now agreeing to be subject to drug testing around contact, the father’s suggestion to Ms. Barnes that any drug taking was irrelevant, particularly in the context of contact with and care for the children, suggests a fundamental misunderstanding of the harmful effect of substance abuse. As stated in her report, alcohol abuse or drug use can expose children to confusing, inconsistent or scary parental responses and potentially dangerous environments.
182. The mother has been the children’s primary carer to date. There is no suggestion of either parent wishing this to change.
183. **C** said that when living in the UK, they had enjoyed days out with **D** and the father. **C** reported seeing the father sometimes on a Saturday or Sunday, but that it was the mother who would take them to school and care for them during the week.
184. **C** could only recall staying overnight with their father for four nights while the mother was away for work. **C** said that, at other times, they and **D** would stay overnight with either the maternal or paternal grandparents.
185. The children have been observed to share a close sibling relationship. Ms. Barnes opines that it is in their best interests that they remain living together.
186. Going forwards, it is important that the children have a meaningful relationship with the father. In terms of contact, I have also had regard to the child’s right under Article 9 of the UN Convention on the Rights of the Child to maintain personal relations and direct contact with their parents on a regular basis, unless that is no longer considered to be in the child’s best interests.
187. **C** has made it very clear that it is their wish to remain in the Falkland Islands. **C** does not associate living in the United Kingdom, or the father, as making them feel safe.
188. **C** told Ms. Barnes that they would be happy seeing the father when they return to the UK or when he comes to the Falkland Islands, rather than more frequent physical contact.

189. Ms. Barnes said that if **C** were forced to return to England against their very clearly stated wishes, it might further damage their relationship with the father. At present, **C** is willing to engage with him remotely and this should be encouraged.
190. **D** is still very young and may have escaped the potentially enduring harm to which **C** has been exposed. Ms. Barnes opines that “**D** *would likely be happy anywhere in the world living with [their] mother and [C] and maintaining a relationship with [the] father that allows for a predictable plan of direct contact.*”
191. In her evidence Ms. Barnes repeatedly stressed the importance of the quality of contact over its frequency.
192. Given the nature of the parent’s relationship, the very obvious animus that endures between them and the direct impact this has had – and continues to have – on the children, particularly **C**, having regard to the matters to which I have referred herein, protective and ‘soft landing’ measures proposed by the father would be unlikely protect the children from the risk of harm.
193. In her report Ms. Barnes described the decision whether it is in the best interests of the children to remain in the Falkland Islands or to return to the United Kingdom being “finely balanced.” However, she was very clear that this is a “high risk” case and that returning the children to the United Kingdom would expose them to the risk of harm and a return to the cycle of harmful parental conflict and abuse.
194. I have very carefully considered the welfare checklist. I have balanced the risks to which a return to the United Kingdom might expose the children and the protective measures that might be put in place to obviate or reduce those risks. The welfare of the child has been my primary focus. Taking-into-account the matrix of considerations, I agree with Ms. Barnes that the children remaining living in the Falkland Islands with their mother, with a clear contact plan to promote their relationship with the father, by direct and indirect contact, is in the best interests of the children.
195. I recognise the importance of both children having positive, safe contact with the father. Contact must be practical and predictable.
196. The father is concerned about the quality of his contact with the children. He cites examples of occasions when he feels the mother has obstructed communication or where she has been present during conversations. Regardless, it appears the father enjoys regular, positive contact with **C**. Indeed, in his third statement he says “**C** *seems very happy and is usually*

the one to call me. [C] does so of [their] own volition... We are having some really lovely calls." Given **D's** age, they may require some encouragement and support in online communication.

197. Ms. Barnes expressed concern that the father should not be under the influence of alcohol or substances when caring for the children. While drug and alcohol testing is a useful tool, safe contact cannot be achieved by testing alone. Arrangements for contact will need to be carefully managed in order to mitigate these risks.
198. In terms of repairing his relationship with **C**, Ms. Barnes opined that, until the father recognises the very damaging effect that his behaviour has had on the family, and on **C** in particular, reconciliation and constructive rebuilding cannot begin. The father's acceptance in his third statement regarding the toxic nature of his relationship with the mother may suggest the first green shoots of accountability.
199. In her evidence, Ms. Barnes opined that while therapeutic work would be required, it should only be contemplated at the conclusion of these proceedings when a settled plan is in place. She disagreed with the proposition that such work would be more likely to succeed if **C** were in England. In her view its success would very much depend on the quality of contact and the type of work undertaken. In her professional opinion, it would be possible to undertake this work effectively online. Further, she said this type of therapy usually involves direct work with the child.
200. Going forwards, the courts of the Falkland Islands should remain seized of all matters involving the welfare of these children.
201. Finally, there is no automatic statutory recognition of orders between the Falkland Islands as a UK Overseas Territory and the United Kingdom. Nor does the mutual recognition of orders regime under the Hague Convention apply to orders made in UK Overseas Territories. Orders of this Court should be registered in the Courts of England & Wales pursuant to common law.