Children’s ‘wishes and feelings’ in relocation disputes

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This article presents the findings of a qualitative study of the views and experiences of 33 children from 20 families who were caught up in relocation disputes in Australia and followed for up to five years after the dispute ended. A small online survey of children who travel to see a parent provided another source of information; together, they provide a window on the worlds of children in these circumstances. The interviews and surveys both indicate a range of views about the move before it occurred. Some children were happy to move, some ambivalent, and others were opposed. Relationships with step-parents were a complicating factor. Some children reported poor – or at least distant – relationships with a parent’s new partner and this affected their view about the merits or otherwise of the relocation.

For those children who did move, there was sometimes a difference between their locational adjustment and their relational adjustment. Generally, they navigated the locational adjustment well. While some took longer to settle than others, all made new friends and adjusted well to new schools. However, some children, especially those of primary school age, missed their fathers a great deal. Children who travelled by plane reported little difficulty with this, but car and bus travel were generally not liked. The research shows the importance of a careful assessment of the importance to the child of the relationship with the non-resident parent. Furthermore, it should not be assumed that children’s interests are the same as either of the parents who are in dispute.

Introduction

The issue of relocation – when one parent wishes to take the children to live a long way from the other parent – is one of the most difficult issues in family law. Not uncommonly, both parents have very good reasons for their position. Almost invariably, it is the mother, as primary caregiver, who wants to relocate and the father who opposes the relocation. Reasons for wanting to move include getting away from the situation after an unhappy break-up, wanting family support, and moving to be with a new partner. The father opposing the move may have valid reasons for doing so – wanting to stay in close proximity to his children, yet unable to move because of the circumstances of his job or because his new partner has children who regularly see their father.

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1 For example, a study of all decided cases in the Family Court of Australia between 2002 and 2004 found that 88% of the cases involved mothers wanting to relocate. J Behrens, B Smyth and R Kaspiew, ‘Outcomes in relocation decisions: Some new data’ (2010) 24 Australian Journal of Family Law 97.

There is little consensus, internationally, on how courts should determine relocation disputes. The one widely held position is that the best interests of the child ought to be the paramount consideration, but different jurisdictions have, beneath that over-arching determinant, a range of considerations that give content to the idea of ‘best interests’, and direct the judge to structure his or her reasons by reference to a checklist of factors. In England and Wales, the first of those factors to consider is ‘the ascertainable wishes and feelings’ of the children concerned (considered in the light of their age and understanding).3

In these debates concerning adult rights to freedom of movement and the other parent’s right to family life, it can be difficult to maintain a focus on what is in the best interests of children. There is a growing body of social science research relevant to relocation issues,4 but the terrain is contested. Little research has been done on children’s perspectives on relocation disputes in the context of parental separation. These perspectives may be very different from their parents. For a mother wanting to move, the relocation may mean ‘going home’, or at least moving to a familiar place where she has support from members of her family of origin;5 for the child, it may mean leaving the only place that he or she has known. For the mother, the move may mean being close to parents; for the child, it may mean moving a considerable distance from their other parent. How much that matters to children is likely to depend on how close those relationships are. It cannot be assumed that children’s interests and perspectives are represented within the positions articulated in the litigation by either parent. Issues such as leaving friends, starting at a new school or coping with travel to see a non-resident parent are theirs to manage.

This article reports on interviews with 33 children from the world’s first prospective longitudinal study of the outcomes of relocation disputes, conducted in Australia, together with supplementary data from an online survey of children who travel to visit their non-resident parent. The research was conducted in parallel with a New Zealand team based at the University of Otago that conducted similar research in that country with both a retrospective and prospective research design, but within a shorter timeframe than the Australian study.6 Gollop and Taylor, from the New Zealand team, reported on the experiences of 44 children and young people (aged 7–18 years) who had been the subject of relocation disputes.7 Over 90 per cent had a parent who lived in a different town, city or country from themselves. Ten of 44 children, from seven families had a parent living overseas. Gollop and Taylor reported that the children were generally happy in their new location and adapted well to the transition of leaving friends and starting at a new school. Some reported advantages in the new location. They also found that there were children who found the travel burdensome, and who missed their non-resident parent a great deal.

3 Children Act 1989, s 1(3)(a).
The legal context in Australia

Before describing the detail of this study, it is first necessary to say something about the legal context. In Australia, the breadth of discretion in determining the best interests of the child is particularly wide. There is no presumption for or against relocation. Since 2006, the court has had to take into account two primary factors – the requirement to consider the benefit to the child of a meaningful relationship with both parents, and the need to protect children from harm. There are also a number of additional factors, including the views of the child. The Full Court of the Family Court, which exercises the appellate function, has provided general guidance on how to apply the legislation, as amended in 2006, to relocation cases in terms of the steps to follow in the process of deliberation. However, the court has consistently refrained from giving guidance that might be interpreted as favouring certain outcomes as being more likely to promote the best interests of the child.

Most relocation cases in Australia involve internal relocation, which is perhaps not surprising given the vast distances from one city to another and across the country. It is, nonetheless, very unusual to find courts preventing a move of less than about 1.5 hours travel time by car. An important consideration in all relocation cases is whether the father could move as well. While there is some emphasis within the legislation on the importance for the child of maintaining a meaningful relationship with both parents, and this factor may operate to mean that a relocation is contra-indicated, there is no doctrine to the effect that children’s best interests will be served by remaining in the same location as they happened to be when the parents’ relationship ended. It follows that if the father could reasonably move to the same location as the mother proposes, then there will be no diminution in the time that the children can spend with him.

Method

The longitudinal study involved 80 parents, who between them had 132 children. Thirty-nine mothers wanted to move with the children, and one non-resident mother opposed the father’s move. The 40 fathers all opposed the mother’s move. There were 10 former couples. In total, therefore, there were 70 different families involved in the study, with 116 children who were the subject of a relocation dispute. The remainder were half-siblings of a child who was the subject of a dispute.

The parents

The parents were recruited to the study by contacting family lawyers, including lawyers employed by Legal Aid, and asking them to send out information on the study to former clients who had sought advice regarding a relocation dispute in the previous 6 months. Parents who

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8 AMS v AIF (1999) 199 CLR 160.
9 Family Law Act 1975, s 60CC(2). Since amendments to the Act in 2011, courts have been instructed to give greater priority to the need to protect the child from harm (s 60CC(2A)).
10 Family Law Act 1975, s 60CC(3).
11 McCall & Clark (2009) 41 Fam LR 483.
13 U v U (2002) 211 CLR 238, Gaudron J (at 248) and Hayne J (at 285). Gleeson CJ (at 240) and McHugh J (at 249) agreed with Hayne J.
15 The researchers gained considerable cooperation from the family law profession around Australia. Cases in the cohort came from all over the country, but mainly from the more populous Eastern states (New South Wales, Queensland, Victoria and the Australian Capital Territory).
wished to participate contacted the researchers directly. The intention was to capture all cases
where a parent had sought legal advice concerning the dispute even if it was settled without
litigation. An equal number of interviewees were successful and unsuccessful, respectively, in
their court cases.16 The interviewees were from a variety of ethnic and cultural backgrounds,
but predominantly of European descent. There were two Aboriginal participants, both mothers.
Typically the first interview took place within a year of the resolution of the dispute. These
interviews17 occurred between mid-2006 and mid-2008, but most were completed by the end of
2007. The second interview was usually held between 18 months and two years after the first;
the third interview was typically held between 18 months and two years after the second. The
final interviews were completed between mid-2010 and early 2012.

Ten proposed moves were to other countries – England, the United States, New Zealand and
Israel. However, most of the proposed moves were internal to Australia. The majority
concerned inter-state moves with a mean distance of 1,646 km (SD = 1072.9) and median of
1275 km. Given the size of the country, and the distances even between the major East Coast
cities of Brisbane, Sydney and Melbourne, relocations could involve distances greater than
travel across Europe. The median intra-state move was 200 km, and averaged 347 km (SD =
351).

The children

In total, 33 children were interviewed at some stage in the project, from 20 families. In six
families, both of the parents and the children were interviewed. The six children of the two
Aboriginal mothers participated in the study. The children and young people were between 6
and 16 years old at the time of first interview. All but one of these children had been ten years
or younger at the time of separation, and half (16) had been under 5.

Relocations occurred in 15 of these 20 families. Two fathers of the children who were
interviewed moved as well, in order to be closer to their children, but neither was able to
relocate to the same location as the children. One mother left her child in the care of the father,
and returned a few years later to share the care of the child. A further two mothers had moved
back by the end of the study to be in reasonable proximity to the father, and in another family,
the children ‘voted with their feet’ to live with their father.

Nineteen children from nine families (12 boys and 7 girls) took part in the first interview. The
mean age of the children was 12.4 years (SD = 2.5); median 12.5 years; range 9 – 16 years. All
but four children took part in the second interview (eight boys and seven girls). In the third
interview, 14 more children were interviewed for the first time in the project. The reason that so
many children and young people were interviewed for the first time at the third interview stage
is that more children were then of an age where they were able and willing to participate and
their parents were happy for them to do so. Furthermore, with an interval of four to five years,
there was less concern about the need to shield children from discussion of family matters
where tensions had been high and emotions raw. Eleven children (six girls and five boys) from
six families participated in all three interviews.

16 For further analysis, see P Parkinson, J Cashmore and J Single, ‘The need for reality testing in relocation cases’ (2010) 44
Family Law Quarterly 1.
17 All interviews with the children were conducted by our research associate, Judi Single. She also conducted most of the
interviews with the parents.
Table 1: Interviews with children

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<th>Interview 1</th>
<th>Interview 2</th>
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<td>Original group</td>
<td>19 children</td>
<td>15 children</td>
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<td>(12 boys, 7 girls)</td>
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Interviews with children

Children were interviewed with their consent, and with the consent of one parent, in accordance with the ethics approval conditions from the University of Sydney. These conditions provided that the interview could occur with the consent of one parent as long as the other parent did not refuse consent after being given three weeks’ notice. These interviews took place on the same visit as the interview with the parent, but were conducted out of the hearing of the parent in most instances.

Children were asked about their views on the relocation, their relationships with each of their parents, and how well they were adjusting to the various changes in their lives. Their views about their relationships were explored in two ways: by asking how close they felt to their parents at various stages using a Likert rating scale (‘not close at all, a bit close, fairly close, or very close’) and through a simple family sculpture technique (similar to the Kvebaek) in which children were asked to say who they spent time with in both parents’ homes, and, by placing figures on a large sheet of paper representing their family members, to indicate how close they felt to each of these persons, relative to themselves.

Online survey study

A further sample of children and young people was sought to supplement the children in the interview sample, using an online survey on several Australian websites with national reach catering for children seeking legal and other advice.18 The survey was advertised with the heading, ‘Do you travel alone to visit Dad or Mum?’ and invited children and young people to complete the survey if they were travelling to see a non-resident parent. These respondents may or may not have been the subject of a relocation dispute. In some cases, it may have been the non-resident parent who moved away. While all the respondents lived some distance from the non-resident parent, they were not asked which parent had moved away from the other, or indeed whether both had moved. The purpose of this survey was to gain additional data concerning how children coped with travel between parents who live some distance apart.

There were 22 respondents to this survey who lived at least 30 minutes away by car from their non-resident parent and were under 20 years old. Most were girls (n = 18), as well as three boys, and one who did not identify his or her gender (or age).

Findings

How children felt about the move when it was proposed and how well they adjusted to it after some time were both affected by similar factors: how close they were to their father (the non-resident parent), their feelings about leaving and making new friends, and the presence of a liked or disliked step-parent.

18 This survey was online from December 2010 to October 2011.
Children’s views about wanting to move or not

Most of the children at first interview expressed a clear view about the relocation issue. Nine, including four in one family, were supportive of the mother’s choice to move, even if it meant loss of friends and the need to make a fresh start. For some, this represented a choice of an attachment to a person over attachment to a place, and if their mother wanted to move then they would adapt. For example, 16-year-old Michael was unhappy about the idea of moving over 2000 kms away with his mother because he did not want to change school. His mother gave him the option of living with his father, but this was a less palatable alternative for him than moving:

‘So did you feel like you were listened to because you didn’t want to come up here in the beginning?’
‘Yeah. Sort of but I still wanted to go because I didn’t want to be separated from mum.’

For others, the move represented a chance to move to a better or more interesting place. For example, 9-year-old Jacob said he wanted to move ‘somewhere’ because he wanted to ‘do something more exciting’ and ‘there might be something else that’s better out there’.

Four children expressed mixed feelings, not expressing a strong preference either way at the time of interview. However, two sisters had expressed clear views to the family report writer for the court’s assessment – that they did not want to move because they would miss their father. Another child, at the second interview some 18 months after the first, expressed regret at the move.

Six of the children were opposed to the move. For example, one 14-year-old, Alistair, said:

‘I thought there was, like, pros and cons to it, but I just preferred being down here at the time.’

Differences between siblings about the relocation issue were not at all unusual. Indeed, there were different views among four of seven groups of siblings. Lachlan, age 9, had been very opposed to his mother’s move because it involved leaving his friends and sports team. He was not reconciled to the move at the first interview some nine months after it occurred. In contrast, his older brother, 13-year-old Wayne, could see both advantages and disadvantages. Looking back after the move, he indicated that, on the one hand, he had wanted to move because the high school in the new location was ‘better’. On the other hand, he was missing his ‘old’ friends.

Melinda, age 10, was in a week-about equal time arrangement. Interviewed before any decision had been made about the relocation, she said she did not want to go but had experienced some difficulty in making that clear to her mother:

‘How do you feel about [the proposed move]?
‘Not so great.’
‘You don’t want to go?’
‘No.’
‘You want to stay here? So you want to stay here and keep everything as it is. Is that right?’
‘Yeah.’
‘Has mum asked you about how you feel about moving?’
‘Yeah.’
‘And what have you told her?’
‘Yeah and then she asked me again and I said “no” and then asked me again and I said “yes”, and then again and I said “no”.’

Melinda felt very close to both parents, was happy in an equal time arrangement and was stressed about being caught up in the conflict between her parents. Her 8-year-old sister, Zoe, had a different view. She found it hard to go ‘backwards and forwards’ between her parents and wanted to live most of the time with her mother. She wanted to move:

‘I really want to go to . . . because I can see my aunties and uncles. And also you can just go to the beaches on cold days.’

The move did not take place. At the second interview, when Zoe was 10, she was more equivocal:

‘So I’d be happy if I moved. Like mum said, “How about we just move and you can see dad every – through school holidays and weekends and that”, but I didn’t really like it, but I’ll be happy if dad moved down there.’

‘So you’d like to move to . . . but you’d like everyone else to move as well. Is that right?’

‘Yeah, but I also want to stay at my school.’

**Relationship with the other (non-resident) parent**

An important factor in children’s views about the relocation issue was how close they were to their father. Catherine (12) and Susan (nearly 10) moved with their mother several hours’ drive away from their former family home. This meant that they were able to see their father only during school holiday periods and for occasional weekends. Prior to the relocation, they had had time with their father every other weekend and for one day during the school week. The children were emotionally much closer to their mother and supported her desire to move, even though it meant a change of school and loss of friends, which they both found difficult. Susan expressed mixed feelings when she learned that the judge would allow the move:

‘I was happy because we were moving and that mum would get something, but I was sad because I was moving away from my friends.’

Neither expressed great closeness to their father. After the move, Catherine said she missed her father and wanted to see him more, but this was qualified by saying that she sometimes found things uncomfortable with him. Susan was more forthright:

‘I used to think he was a complete blockhead, now I think he’s a partly complete blockhead.’

Over the ensuing five years, the girls continued to experience episodic difficulties in their relationship with their father.

Belinda, age 13, and her younger brother Jacob, age 9, were both interviewed first at a stage when their mother was waiting on the decision whether she would be allowed to relocate about 3.5 hours’ drive away. Belinda expressed considerable hostility to her father and said she did not want him in her life at all. By the second interview, she was no longer seeing him. Jacob described himself as fairly close to his father but did not see any need to spend face-to-face time with him, as his father had wanted. Jacob’s responses, in particular, appeared to indicate that he was heavily influenced by his mother’s desire to move. By the second interview, Jacob had moved with his mother, and was enjoying his visits to his father.

For Simon, age 11, the decision about moving appeared straightforward. Contact arrangements between Simon and his father had broken down, and having opposed the mother’s move to another city when Simon was two, his father had acquiesced in the move. Simon indicated he
was very close to his mother and when asked how close he was to his father, in the family sculpture task, he threw the figure representing him across the room.

Belinda, Jacob and Simon were children born as a consequence of non-marital cohabiting relationships which broke down when they were very young.

In contrast, other children said they were very close to their non-resident parent. Tim was 9 at the first interview. His parents had separated when he was 11 months old. His father, who was unable to work, had been the primary caregiver at that stage and maintained a high level of involvement with Tim after the separation. Years later, and after his mother had re-partnered, Tim expressed his unhappiness about the situation.

‘Now, if I asked you if you were happy about the way that things have worked out, what would you say?’

‘I’d probably say that it hasn’t worked out a lot, and it’s probably worked out the baddest it could ever work out.’

‘And what if you could have it the “goodest” that it could work out, what would that be?’

‘Probably my mum and dad wouldn’t be split.’

He was living with his mother, who had been allowed to relocate to a place about three hours’ drive from his father. While the foundation for his difficulties was regret that his parents had separated at all, this loss was exacerbated by the move away. Tim wanted to spend more time with his father and volunteered that two weeks with each parent would be the best option; however, he could not do that because of school. For that reason, among others, he was unhappy with his mother’s move. By the third interview, at age 12, his mother had moved back to be about an hour’s travel from his father. He still wanted to see a lot more of his father, preferably by means of an equal time arrangement.

**Relationships with step-parents**

Another important factor in whether or not these children were in favour of moving was their relationship with their parent’s new partner. Even if the relationship with the father was important to the children, the presence of a disliked new partner or the child’s feeling of being displaced by that relationship were reasons why children did not want to stay in close proximity to their father. Elise, throughout the interviews, expressed dislike of the woman who became her stepmother. She described attending the wedding as ‘weird’. In the final interview, age 14, she commented:

‘If I asked what you could change about going to dad’s, what would you say?’

‘Him not having, like, someone, like, a wife pretty much because he always is with her and is worried about how she is and doesn’t really pay attention to us.’

Similarly, negativity towards their mother’s new partner was a reason why children wanted a different parenting arrangement which involved spending more time with their father.

Figure 1 illustrates the more distant relationship that some children had with a step-parent. When asked to indicate how close she felt to the members of her family she lived with in both her mother’s and father’s households, Marta, aged 12 at the second interview, and 7 when she and her siblings moved with her mother, placed the figures in these configurations, explaining her choices. She made it clear that she felt closer to her mother and her new partner than to her father and his new partner. On the third interview, her father was placed further away from her and her stepmother was moved off the sheet to indicate further distancing in that relationship. Figure 1 is a photographic replication of how Marta positioned them all at interview 2, four years after the relocation.
Friends

A recurring theme in the interviews with these children was the importance of their friendships. This was a factor in making it difficult for them to move, and conversely, if they did move, establishing new friendships was important in helping them to feel settled in the new location. Children of all ages expressed similar views. For example, Belinda, age 13, was very supportive of her mother’s desire to move, but glad that they had not done so at the time of the first interview:

‘The good thing about not moving is I didn’t have to leave all my friends.’

‘You want to move?’

‘Yeah. A lot. But I don’t want to leave my friends here. I just got to pack them up in a suitcase.’

Her brother Jacob, age 9, expressed similar sentiments:

‘I’ve got all my good friends here, and I don’t want to leave them. I just wish that they would come with me, but they already have their parents.’

A number of children said that while they missed their old friends, they had made new ones in the place to which they had moved, whom they would miss if they were to move. They mused about the possibilities of achieving the best of both worlds:

‘I’d get all of my friends from this school and all my friends from the other school and put them in the same school!’ (Catherine, age 12)

Children who moved

For the children who moved, there was necessarily a process of adaptation to their new environment, involving a change of school, the need to form new friendships, and coping with travel, as well as reduced time with their other parent.

Leaving home and place

For some, leaving meant saying goodbye to the only family home they had known, and that was very difficult for some children. Susan, who was 9 when she moved, looked back two years later at what was ‘hard’ about moving, and that included attachment to ‘place’: 
'I had to leave the place that I’d pretty much lived my entire life. I had to leave all of my childhood friends and the place, the house I’d lived in for almost my entire life. And pretty much leave my entire past... yeah, that was pretty hard.'

Elise, who was interviewed first at the age of 11, was reluctant to express any view for or against the move. Asked whether she was happy that she moved, she replied:

‘Not really... I’m not happy, but I’m not sad.’ Interviewed about 18 months later, she expressed a strong preference for returning to her ‘old’ town. She liked it there, and all her extended family were close by.

**New friends and schools**

For the most part, the children who moved adjusted reasonably well to the new location, even if they were opposed to the move. For example, Ian (14 at first interview) said:

‘Even though I didn’t want to move, I now think that I was better off. I like my school a lot better.’

Having to leave friends was difficult for most children, but they all said they had made good friends in their new location. So while they experienced a sense of loss of old friends, there was a gain from the new ones. Susan, 13 at the third interview, reflected on her experience of adjusting to a new location four years’ earlier:

‘It always feels really, really difficult at the start because you’re worried you’re going to not enjoy it and you’re going to have to start a new school and you’re going to like completely explode because you’re not going to see anyone anymore, and it does feel awful for a while... but it does actually really feel good after a while and the longer you stay there and the harder you try to, to you know, really blend in and merge with the people, you really manage to find a new home, I suppose. That’s what I’ve done, so I’m a successful child.’

Nicola, age 12, was asked what advice she would give friends about moving, having also done so four years earlier:

‘If you had a friend whose mum wanted to move a long way away, is there any advice you’d have for the friend?’

‘Probably that it’s bad at the time, you think the world is going to end, everything is going to go bad and you’re not going to make any friends, you’re going to be a loner, but no. Even at high school now, if you moved high schools, there would almost 100% be someone that relates to you in that kind of way, so no stress.’

However, not all adapted so quickly. Lachlan, who was 9 at the time of the move, said it took him a long time to adjust. Reflecting on this at age 13, he gave the following answers:

‘How long do you think it took you to call this home?’

‘Ah, probably only about a year ago.’

‘It was quite a while then for you to settle in?’

‘I was always settled in, but not completely, it was gradual, it took a while.’

‘And was there anything that made it easier or helped you to adjust?’

‘Friends and things like that.’

Others adapted well because the new location had advantages for them or they had actively disliked their previous location. David, who was 13 at the second interview, explained:
‘I like it much better . . . because we live near the water and I like fishing, yeah, and I like swimming, yeah, and it’s just good.’

Sam, at 16, looking back on the move, thought it had been much better for him:

‘I think this has been a pretty good move. My old mates who I would have been hanging out with had I not moved here, I still like them and everything but they all do drugs, they drink a lot and all that type of stuff. Moving here, the new people I’m with, some of them still do that occasionally but they’re not as heavy into it as my mates there. In that, it’s probably been pretty lucky for me, because I would have been swept up in that pretty easily.’

Timing of the move

In the final interview, the children and young people were asked if there was a better or worse age at which to move if they were going to do so. The most common ‘best time’ to move was between primary and secondary school, or in pre-school or early primary years, when friendships were not so well established as in the later primary and secondary school periods. For example:

‘Probably when they’re young, because like once they get into high school you’ve got to, like, you’ve got to get used to everything and it’s probably going to be, like, really hard to move high schools for someone, whereas when you’re little you don’t really notice. You can just go and make friends with new people’ (Cara, 15)

‘[It worked out well] especially because I transitioned from when I was just entering high school and lots of stuff changes then anyway’ (Sam, 16)

‘It’d probably be better to go in between high school and primary school . . . Or probably in primary school you’d probably cope with it even’ (Ian, 17)

‘Once you get to high school . . . your friends start meaning more and like you’re more attached to them and also education-wise your subjects become more important and you have to be, that’s the time when you are focusing on career and you don’t really want to be uprooted in the middle of that. When you’re at primary school, it is hard but it probably would be easier’ (Catherine, 16)

Children’s adjustment to the move

How well children adjusted to the move was similarly affected by the quality of their relationships with their father, as well as how comfortable they were with the travel and how disruptive the arrangements were.

Children’s relationship with their father

Whether the children adjusted to the move in a relational sense depended a great deal on how close they felt to their father, and whether they could maintain that closeness with less contact as they got older. This was more difficult in some circumstances than others. While Ian was happier in his new school after he relocated with his mother, he missed his father and wanted to see him more often. Not long after he moved, his father had moved to another location with a new job in order to be as close as he could manage to them; however, it was still about two hours away. His two younger sisters also said she would like to see their father more. Elise, age 11, when asked what she wanted to change, said that she would like her parents not to fight and that ‘dad lived down the road so we could go and see him any day’. All three children said that their closeness to their father had diminished as a consequence of the move, and this view was maintained in the final interviews.
Helena had moved to New Zealand with her mother when she was nearly 5. She travelled in holidays to see her father in Australia. When interviewed at age 8, she described missing her father:

‘Would you rather see him a bit more than you do?’

‘Way more. It’d be good if he just lived next door and then I could just go over to his house instead.’

She wanted to be emotionally closer to her father as well:

‘Do you feel close to dad or not so close to dad?’

‘I feel not that close but I want to be nice and close.’

‘So you’d like to be closer than you are?’

‘Yeah.’

‘Okay. And how close do you feel to mum?’

‘I feel nice and close because she’s in the house. Well, I do feel close to... I still feel nice and close to my dad, but it’s like I do feel close but I don’t... Like I, yeah, ‘cause I feel close and I still miss him when I’m with him, ‘cause I know that I’m not going to see him for a long time.’

She said she missed Dad ‘thousands time more than the universe’.

One 17-year-old, responding online, reported not seeing her father much any more as he had moved across the country. She missed him a lot, and reported being fairly close to him, but the distance had created its own difficulties in the relationship. Responding to a question about what was the worst aspect of travelling, she answered: ‘Trying to figure out how I should react when I see Dad next’. Tim, who was 9 at the time of first interview, wanted much more time with his father. At the second interview, two years later, he described, through the family sculpture, a relationship with his father so close that they were almost inseparable. His Likert ratings of closeness were consistent with this display (see Figure 2 below).

Tim wanted to move back to the city where his father lived. His only ambivalence about this was that he had so many friends in the town to which mother had moved and if he left ‘then I wouldn’t be really happy’.

Children who were not so close to their father adjusted more easily to the move, and were content with the amount of time they had with him. Sam, 16, looked back on his relationship with his father over the four years since the move, and felt that he had grown a little closer to his Dad over that period. He saw his Dad every five weeks and in the holidays, and explained:

‘I probably feel more close to him really. Because before, it was more often and so it wasn’t as special, but now we have stuff to talk about, catch up on the past five weeks.’

Children who had a strained relationship with their father or who did not feel close to him, were much more positive about the move. The children in this study had experienced a range of different family circumstances. Angela’s mother was allowed to take her, when she was five years old, to the other side of the country from where the father lived. There had been a history of domestic violence, including reports to the police and one incident where the father had attempted to strangle the mother. There were also concerns that Angela was being sexually abused as a very young child by her father and his stepfather. Angela, who was nearly 11 at the time of her interview, had no relationship with her father. She recollected how it was when she did stay with him:
‘I hated having to go and see my dad because he was just always mean to me and never was nice. He would yell at me, he would sleep in bed with other people and other ladies and I would feel creeped out and that because he, like, always would drink late into the night and would have people over every night and that, and he’d have all parties and he was smoking and everything and that really hurt. Like, it harmed me because I had trouble breathing.’

It is not surprising that the move had no downside for Angela:

‘I feel really good about my life at the moment, and I love living where I am and I love just having me and my mum. And yeah, it’s nice.’

Other children had troubled relationships with their fathers although there was no history of violence or abuse. Susan, who was nearly 12 at the time of the second interview, explained the difficulties she felt about her relationship with her father in terms of her views about how committed he was to her:

‘Most of the time he acts like he really wants us to come back, that he loves us so much but other times he just acts like he couldn’t give a damn about us, that he really doesn’t care.’

Michael, age 16, and David, age 12, moved about 2,000 kms from their father. Asked to indicate how close they were to their father, both nominated ‘a bit close’. They said they were very close to their mother. They said they had adjusted to a new school, made new friends and liked the advantages of the lifestyle in their new location. In the first interview they indicated that they saw their father in the holidays and while that was good, they did not express any need for more time with him. At the second interview, about two years later, they had not seen their father for nearly a year and had limited phone contact. Both of them thought it would be good to see their father more often, but his work commitments got in the way of them being able to see him much when they visited. By the time of the third interview, their mother had moved back to the area from which they had moved, but contact between the boys and their father was only sporadic.
For Wayne and his brother Lachlan, the difficulties of moving away from their father, to whom they were close, were largely resolved because he gave up his job where they had been living previously and took a lower paid position in order to live much closer to them. While Wayne was happy that his father was closer than before, in the first interview, he remained unhappy with not being able to spend as much time with him as he would have liked, because he was still nearly an hour’s drive away. Lachlan, age 9 at the first interview, still regretted the move even though he had managed to make new friends.

‘Because [at our old home] we got to do more things with dad because he got paid more. So obviously we could do more things and we could also, like I could see all my friends and all that. But moving here wasn’t all that good.’

At the second interview, about 20 months later, Wayne, by this time nearly 15, expressed the desire to spend equal time with both parents:

‘I think it would be better if I saw dad and mum at the same time. Like, the same amounts of time. But it’s not going to happen unless dad gets a house closer to where mum is, and mum’s not going to move.’

His younger brother, age 11, expressed the same view:

‘I’d prefer if dad was a bit closer . . . And maybe if he was a bit closer we could see him a bit more. Half and half kind of a thing.’

By the time of the third interview nearly two years later, their father had moved to within a kilometre of the mother’s house. Both boys maintained their preference for an equal time arrangement and expected that to happen in the near future.

A preference for an equal time arrangement was a recurring theme in the interviews of children who had good relationships with both parents. For example:

‘I’d like to have one week with mum and one week with dad’ (Aleisha, age 8)

Ten-year-old Zoe explained why her equal time arrangement was fair:

‘Well, the only reason that it’s fair on us is because we’re starting to get used to it and also we think it’s fair because they don’t just say, “I get her for two weeks and you get her for one, then I get her for three weeks and you just get her for two”, so that’s what I find not fair.’

One or two other children in shared time arrangements who did not get on well with their father wanted to stop spending so much time with him.

Travel

The children who moved had varying reactions to the travel. Some liked it, including five of the 16 online respondents who answered that question. For example, a 10-year-old girl in the online survey explained the best and worst aspects of travelling with her brother to see her father. This involved a four-hour bus journey which she said she enjoyed. The best parts were ‘learning to be responsible [sic] and look after each other, buying our own things, getting to see dad’. The worst parts were ‘sitting on a bus with strangers, scary people and travelling in the dark’. One 14-year-old girl in the online survey wrote that a ‘good’ aspect of her 3–4 hour journey was having time alone to ‘chill out’:

‘Being alone for a few hours I can sometimes sort my thoughts out.’

A 15-year-old girl wrote of her 7 hour journey to see her father:

‘The best part about travelling is getting away from my parents and being able to do things independently.’
Others did not mind the travel one way or the other. This was the answer given by six out of 16 of the online survey respondents who answered the question. Five respondents hated it or did not like it.

Children’s reactions to the travel were not easy to separate from the purpose of the travel. If they were close to their other parent, then the travel was worth it. The response of an 18-year-old girl in the online survey who travelled for about six hours by train and bus to see her father typifies this response. She recognised that it was better for her to travel to see him because they had a place to stay with him there, and because of the difficulties for him travelling to see her after a ‘long day of hard work’. She wrote:

‘It is only fair that we make trips over to his place regardless of the time and comfort factor.’

She complained that trains could be uncomfortable to sleep on for an extended period, but noted that part of the journey was quite scenic. Nonetheless, the best part of the journey was ‘actually getting there’. She reported being very close to her father but only ‘a bit close’ to her mother, with whom she lived most of the time. Likewise, a seven-year-old girl who travelled 3 hours by train and car to see her father, reported that the best part of travelling was that ‘I get to see my daddy’ and the worst part was ‘missing my mum and my little brother and going in the car and the train’. She missed her father ‘a lot’.

Conversely, a difficult relationship with the non-resident parent might make travel difficult also. One ten-year-old boy travelled regularly by car about half an hour across the city to stay with his father. He didn’t like the travelling and said the ‘worst part’ was ‘knowing where I am going’. He did not want to have to see his father and did not feel close to him. The journey was also particularly difficult for children travelling by car with a parent with whom the relationship was strained. For example, a 13-year-old girl said that the worst part of travelling was ‘having to sit next to Dad in the car’. She did not miss her father and only felt a ‘bit close’ to him. She would have preferred not to see him at all.

The response to the travel depended to some extent on the mode of travel. Children typically either liked plane trips or did not mind them, although one online respondent complained that ‘planes are bumpy’. Other modes of travel were a different matter. The five respondents to the online survey who reported that they hated or did not like the travel at all went by bus, train or car. A 13-year-old girl, who travelled by bus, train and car for 2.5–3 hours to see her father, said she didn’t mind the travel but ‘I don’t like the traffic and having to be sitting down’.

The picture was similar for children in the interview study. There was no complaint about travel by plane but car or bus journeys were more problematic. One 17-year-old commented that the travel was all right ‘as long as I’m flying, I hate the buses. I’m not into 14 hour trips’. Long journeys by road were characterised as ‘boring’ or wearisome. Two girls used to have a lengthy car trip to see their father, but did not like it, so their father agreed for them to travel by plane. That made a big difference. As 11-year-old Susan said: ‘I hated the car travelling and I really liked the plane travelling’.

Aleisha’s mother left her daughter in the primary care of her father and moved to a city about 3.5 hours’ drive from there. A few years later, she returned. Aleisha, who was 8 at the time of interview, said the 3.5 hour car journey to see her mother was hard. Asked what the ‘hardest part’ was, she replied:

‘I think the wait to go to the toilet, because there was hardly any spots to go.’

‘Was there anything good about the travelling? Did you have fun in the car?’

‘No.’
For nine-year-old Tim, travelling was ‘a hell-hole’. He would regularly get car-sick. By the second interview, about 18 months later, things had improved somewhat and he was able to travel by train, but he still did not like it.

**The losses of parental separation**

The comments of these children need to be set within the context that many younger children in particular would have preferred that their parents never separated and so no parenting arrangement was without losses. Gina, age 6, lived primarily with her mother, who had made a unilateral decision to move about 2.5 hours’ drive away, but had returned a few years later to live less than an hour’s drive from the father. Speaking of how it worked out for her, Gina said in the interview:

‘Okay. Do you miss dad when you’re not seeing him, when you’re not with him?’

‘Yeah, I miss him. And I miss mum when I’m down here.’

‘A lot or a little bit?’

‘I miss him a lot.’

Ten year old Zoe, who was in an equal time arrangement, said:

‘I want to live with both. I just wish they’d join up together.’

Tim, who was 12 at the final interview, was asked what advice he would give to parents. He responded: ‘Don’t split up in the first place’.

 Older children tended to be more accepting of the fact that the parents had been unable to get on and had gone their separate ways.

**Changes in residence arrangements**

In the overall study, of the 80 parents in 70 families, eight fathers followed the mother to her new location or within reasonable proximity of that location to be closer to their children, and eight mothers returned to their original location or within reasonable proximity of it. In five families, the children changed to live with the other parent, or the siblings were split between their parents.

The fact that children continued to miss their other parent led to some of these changes. For example, Matthew’s mother was allowed by the judge to move with the children over 300 kms away from their father because her new partner lived on a property there. After about two years, she decided to move back to the city where the father lived because things were not working out well financially in the country and because Matthew was missing his father. She reported that Matthew had become resentful of living so far away from his father, and she had observed negative behavioural changes. She indicated that he was ‘ecstatic’ about moving back with his father. This was difficult for Matthew’s younger sister, who enjoyed living in the country. Eventually, Matthew lived primarily with the father which was working well for him, while his younger sister stayed primarily with the mother. Matthew, by this time 11 years old, talked about the difficulties of travel, and also missing his father, when they lived a long way away:

‘How was it seeing Dad? Was that difficult for you?’

‘Yeah, ‘cause we had to drive four hours or mum and dad had to drive four hours to see us. I had to drive four because we’d meet halfway, in between, so yeah, it took a long time.’

‘And how did you find that travelling? Was that alright?’

‘I don’t like driving long distance so I didn’t like it.’
‘Okay. And did you miss Dad when you weren’t with him?’
‘Yeah, sometimes.’
‘You didn’t see him all that much?’
‘Like once every two weeks.’
‘Okay. Are you happier here?’
‘Yeah.’
Matthew reported being ‘very close’ to his father and ‘a bit close’ to his mother.

In the case of Jessica and her brother, their closeness to their father led them eventually to ‘vote with their feet’. They refused to return to their mother and her new partner after visiting their father for the holidays. At 13, Jessica described how they both felt:

‘I remember quite a few times when we were going to come back down here like holidays for me and my brother, [mother] would go and tell us to go to sleep. And then I think it was like 10pm I would go into [my brother’s] room and stay there all night waiting for the flight. We had to get up at 6am but we’d stay up all night because we were so excited to come back down here. And we got down here and I just got sick of going back and forth and I didn’t want to live up there so I was kind of like “I’m going to stand my ground and not going to go back”.’

The police came to the school to take them back to their mother pursuant to a court order, but they decided not to enforce it given the children’s strenuous objections to returning. Jessica had always been close to her father – closer than to her mother – but for some time had been confused by her mother’s consistent denigration of him:

‘Did you miss him a lot when you were up there?’
‘Yeah. And phone calls were awkward. Dad would always try to make them funny but I always found them awkward because it was like I was getting told stuff about him and I wouldn’t know whether it was true or not. She’d always say he doesn’t care about you and doesn’t want to see you and stuff like that. But when he came up for holidays it was always really fun and cool.’

She also had difficulties with her stepfather. By the time of the third interview, she no longer wanted to have a relationship with her mother.

**Discussion**

While the data cannot be taken to be representative, given the relatively small number of child respondents, it provides a window on the worlds of children who are caught up in relocation disputes, or who were travelling some distance to visit a non-resident parent. Children’s perspectives and experiences suggest a number of factors the courts need to take into account in making relocation decisions. The first consideration is the need to differentiate between children’s interests and parents’ interests, at least to some extent. Secondly, careful attention needs to be paid to the closeness (or otherwise) of children’s relationships with non-resident parents, particularly in the case of primary school age children and younger. Relationships with step-parents also need to be explored. It should, of course, not be assumed that a child has a close relationship with the non-resident parent; but where that relationship is a close one, the question of whether and how that relationship can be sustained looms large. Thirdly, consideration needs to be given to the plans for travel and the mode of travel if the relocation occurs.
The importance of children’s perspectives

Children’s views add an important perspective to those of the parents who were interviewed for this study. We have reported elsewhere on the reasons given by the parent who wanted to relocate, almost all of whom were mothers.19 By far the most significant factors driving the relocation decision were relational – going ‘home’ to the place in which they grew up or had previously spent a significant period of time, seeking support from parents or siblings, or moving to be with a new partner. These were the dominant ‘pull factors’ in the relocation decision. There were also ‘push’ factors – reasons for wanting to get away – which included a desire for a fresh start, the need to create some distance between themselves and their ex-partner when the relationship was highly conflicted, and in a small number of cases, escaping domestic violence.20

While what was best for the children was no doubt considered carefully by their mothers, children’s interests and needs were not necessarily central to their motives for wanting to move. In two cases (both involving moves from rural to urban areas), the children’s education was given as the primary reason for the proposed relocation. For the most part, however, the reasons concerned adult needs and interests, which would indirectly be seen as benefiting the children. Fathers who opposed the move would also no doubt have focused both on the children’s needs to be in reasonable proximity to them, and their own need to be in reasonable proximity to the children they love.

The interviews with children offer different perspectives to the adults. What for a parent might involve the return to the familiar and comfortable might, for the child, involve moving to the unfamiliar or unknown.

The importance of children’s relationships

Children generally indicated that they had navigated the transitions well. While some took longer to settle than others, and some had more difficulty than others, by the third interview the move was something in the quite distant past – not forgotten by any means, but no longer of much significance to the child. Certainly there were losses for them. Almost all children regretted moving away from friends; but there were gains for them also in terms of new friendships and good experiences in their new location.

However, in terms of children’s ability to cope with moving a long way from their father, the picture was much more mixed. There was considerable diversity in terms of children’s views and experiences. There was a small number of children who reported little or no relationship with their fathers before the move. Others had a somewhat attenuated or distant relationship. That may have been the result of difficulties in the father–child relationship, or alignment with negative attitudes towards him expressed by their mother, or by some combination of these factors. Others were close to their father before the move and found it difficult to be such a long distance from him. This was in particular associated with age. Most of the primary school age children who moved with their mothers were missing their fathers very much indeed. In certain cases this led the mother to move back, or for there to be a significant change in the care arrangements. It was by no means always the case that children reported feeling closer to their mothers than their fathers, even when the mother had been the primary caregiver since birth.

Relationships with step-parents were a complicating factor. Some children reported poor – or at least distant – relationships with either the mother’s new partner or the father’s; several who

20 Ibid.
had a very poor relationship with their father reported a good relationship with their new step-parent. Where there was a difficult relationship with a step-parent, this materially affected their perspectives on how comfortable they felt in each household, and how they felt about a relocation.

**Children’s experience of travel**

There were also issues about the burden of travel, and this was so not only for the children and young people who were interviewed, but also those who responded to the online survey. It is, of course, not inevitable that the children should do the travelling. The non-resident parent could travel to see the children, and some did. However, there were practical reasons why the children did the travelling. It allowed the father to care for the children in his home, which involved no more cost than that of the journey. If he travelled to visit them, then there might be the additional costs of hotel accommodation and perhaps car hire, and the added expense of providing meals away from home. Non-resident fathers indicated that cumulatively, these expenses were considerable.21

Children who travelled by plane reported no difficulty in so doing – indeed some said they enjoyed it. It should be noted, however, that none of the children and young people in either the interview cohort or the online survey had particularly long plane journeys. All their travel was within Australia, apart from one child who flew from New Zealand to the East Coast of Australia, about a three-hour flight. Most plane journeys were less than three hours. Many children complained about journeys by road. Younger children reported car sickness. Others found the sheer length of the journey difficult. While there were children who said they did not mind the car journey, none reported enjoying it. Two adolescents in the online survey reported positive aspects of their bus journeys, such as learning to be responsible or having time to ‘chill out’, but these were collateral benefits to the travel, not pleasurable aspects of the journey itself.

**Comparisons with the Otago study**

There are many parallels between the findings of this study and that of the University of Otago team with whom we collaborated in the research design.

The children in our Australian study were more mixed in their attitude to the move than the New Zealand children, but this may reflect the timing of the interviews. In our first interviews, which occurred before a move, or relatively soon afterwards, we found most children expressed concerns about it or had quite mixed feelings, with the real difference between them being that some aligned clearly with their mother’s choice (and had difficulties in their relationship with their father) while others saw mainly the negatives of moving away from a known environment, friends and their non-resident parent. Only in one family could it be said that the children’s views about moving were unequivocally positive, and almost all the children and young people expressed regret about leaving friends behind. While Gollop and Taylor also observed that some children had mixed feelings about moving, the prospect of moving was generally regarded positively, with children saying that when they heard that the move would be occurring, they were often excited and happy.22 The children in the New Zealand study, however, were reporting retrospectively about the move some time after it had occurred or had been proposed, so like the Australian children, seem to have adjusted quite well to the move.

The limitations of research on children’s views

One of the difficulties with any study of the views of children and young people is to determine the extent to which the results may be influenced by selection effects or other limitations on the research.

Three effects are of particular relevance. First, researchers are typically reliant upon the consent of at least one parent (and this is almost always the primary caregiver). It is possible that parents who consider their children are doing well will be more likely to give consent than those for whom this is not the case. The Otago team identified this as a limitation in relation to their study. They observed that the parents of children who had had a particularly difficult or traumatic experience tended not to give consent for their children’s participation in the study, and so the children they spoke with may have been a better adjusted group.23 This may also have been the case with our own study, although such selection bias is likely to have been mitigated by the fact that the 19 children who participated from the beginning were taking part in a prospective study, with any move either having not yet occurred or being very recent.

Secondly, because children are typically interviewed either at the home of the primary caregiver, or at a location to which the primary caregiver has brought them, it is possible that children might be constrained about saying things that the primary caregiver would think of saying, especially if that parent is in earshot or is also being interviewed by the researcher (despite assurances of confidentiality). It was not possible in every interview to talk to children privately, out of earshot of their parent, so these interviews were not entirely confidential; these were the exception, however. All but one of the children were interviewed at the home of their primary caregiver or a parent who was sharing care. This may have presented a limitation on how open some of the children were in areas where their views differed from that parent, especially for the 19 children interviewed at the same time as the first parental interview when the conflict was recent, and emotions were still raw.

Thirdly, studies of the views and perspectives of children and young people very often have an age bias – that is, parents are more likely to give consent for older children to participate. This was certainly the case in interview 1, as the mean age was 12.4 years with a range from 9–16 years. The mean age of the children at interview in the Gollop and Taylor study was 12.1 years. However, we were able to speak with some younger children at parental interview 3, including one 6-year-old.

Implications for policy and practice

What insights does this study offer for decision-making in cases involving a proposed relocation by a parent who is exercising primary or shared care? The limited sample size and the difficulties in conducting research of this kind on children’s views means that it is important to be cautious in interpreting and applying the findings.24 However, the similarities with the findings of the New Zealand research give us added confidence that in the Antipodes at least, these are replicable findings.

23 Ibid, at p 228.
Children as independent actors

One of the key insights this research may offer is on the importance of not assuming that children’s interests are the same as either of the parents who are in dispute. As Wallerstein and Tanke observe:

‘At a threshold level, there is no way to consider the best interests of the child without a consideration of the child’s feelings. The heart and mind of the child ought to be central to the issue of relocation, as well as other issues of family law. In our experience, the courts and the legal profession in America have been overly committed to an implicit perspective of children as passive vessels of parental attitudes and interests. To the contrary, children bring their own responses and their own feelings, perceptions, and conclusions to the crises within their families.’

The arguments about relocation policy in the academic and professional literature have tended to be very adult-centric, with arguments focusing on such issues as freedom of movement, father’s rights as non-resident parents, gendered impacts and issues about whether proposed moves are ‘in good faith’. Thorpe LJ’s guidance in *Payne v Payne,* which for a long time was treated as establishing a priori assumptions that determined the outcome of many relocation cases in the absence of evidence to the contrary, perhaps reflected this adult-centric approach.

The guidance required the trial judge first to ask questions about the proposals in terms of the primary caregiver’s motivation for moving, then to examine the basis for the non-resident parent’s objections to the proposed move, and finally to ask about the impact upon the mother of refusing leave to relocate. In a recent judgment, Ryder LJ expressed criticism of that guidance, observing that it is ‘redolent with gender-based assumptions as to the role and relationships of parents with a child’ and placed no emphasis on the child’s wishes and feelings.

Similar criticisms were made by English practitioners and judges in Rob George’s study of relocation in England and New Zealand.

The new emphasis in the English jurisprudence on a holistic assessment of the best interests of the child without adopting a priori assumptions, and on considering the wishes and feelings of children about the proposed move, is consistent with the direction of the jurisprudence in other English-speaking countries.

The interviews with children in this research indicate a range of views held by the children. In many cases, their perception of their interests aligned with the mother’s proposals to move. This was especially the case if they had a distant or troubled relationship with their father. However, other children, especially those of primary school age, missed their fathers very much, and this did not diminish over time unless their father was able to move closer to them, or their mother decided to return.

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The broader research picture

The findings reported here are consistent with a large body of research on children’s views about parenting arrangements generally, which has found that substantial numbers of children and young people would like to see their other parent more than they do. This is evident from numerous studies in Britain31 and North America.32 It has been a consistent finding of research in Australia and New Zealand.33 Similar findings have been made in interviews with adults reflecting back on their childhoods.34 Fortin, Hunt and Scanlan, in a retrospective study of the views of adults on their experiences of contact as children, reported similar findings. Those most satisfied with the contact arrangements were those who had experienced continuity of contact. They observed that:35

‘Respondents whose contact had not been continuous were most likely to say they would have liked more contact, ranging from 39% where contact had ceased to 67% where it had been sporadic. In comparison, only 27% of those whose contact had been continuous said this.’

Among respondents with continuous contact over their childhoods, 56% of those who had contact less than once a month wanted more contact with the non-resident parent, while this was the case for only 14% of those who typically saw their non-resident parent on more than six days per month. There was a statistically significant association between the desire for more contact and the level of contact.36

Cumulatively, this research provides a large body of evidence that children who have formed a close relationship with both parents prior to separation, and who continue to have a good relationship with the non-resident parent in the aftermath of separation, are likely to experience a significant sense of loss if they do not have regular contact with him.

Research about the wishes and feelings of children generally can be a useful way of hearing the voices of children, given the pitfalls in asking children for their views when their parents are in litigation over their future.37

Conclusion

The Norgrove Committee emphasised the importance of listening to children in its review of the family justice system in England and Wales,38 and the Government reiterated this in its

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32 In North America see, for example, R Neugebauer, ‘Divorce, custody and visitation: The child’s point of view’ (1989) 12 Journal of Divorce 153; J Wallerstein and J Kelly, Surviving the Breakup (Basic Books, 1980).
36 Ibid.
response to the recommendations of that review.\(^3\) Work continues in England and Wales on how judges might better hear the voices of children either through meeting with them or through children giving evidence.\(^4\) Elsewhere, we have written about the issues involved in listening to children and both the payoffs and pitfalls of so doing.\(^5\)

In relocation cases, the ‘wishes’ or views of the child on the issue of moving may be hard to evaluate. Ex hypothesi, given that the question is whether the parent will be able to take the children with her or him to live in a new location, the children are likely to have had very little experience of life in that place other than perhaps holiday visits. The child may have a rosy view of the prospects for a better life there, influenced by the parent who wants to relocate, or a fearful view if the child finds change difficult. In either situation, the child’s views on the benefits or otherwise of the move are unlikely to be grounded in experience.

Children are nonetheless experts on their own feelings, and even very young children may be able to give to an experienced evaluator a sense of how close they feel to the non-resident parent through the way that they interact with that parent, and through drawings or other such indicia.\(^6\) Assessment of the relationship with step-parents or other new partners is also important. Evaluators may also be able to assess the capacity of the non-resident parent to offer a meaningful relationship with the child and the likelihood that even a toddler, like Helena at the time of the relocation to New Zealand, will find the distance from a caring father difficult to cope with as he or she grows older. The cost and burden of travel needs to be taken into account in assessing the potential impact of relocation on that relationship.

In making decisions about relocation, careful assessment of the quality of the relationship between the non-resident parent and the child, and the capacity of that parent to offer consistent and positive involvement with the upbringing of the child, is critical. This makes it very important, in deciding a relocation case, to have evidence from a qualified reporter about these issues and to assess how important that relationship is developmentally to the child.\(^7\) So too is an assessment of whether the non-resident parent could move as well in those cases where the motivation for the resident parent’s move is not simply to get away from the other parent. From the child’s point of view, it is the relationship which is important, not the location.

In assessing the risks involved in a relocation where the non-resident parent may not be able to move as well, it is the feelings of the child that may be much more important than their wishes on the subject of their geographic location. These feelings stood the test of time over the 4–5 years of this study.