



**In The Supreme Court of Bermuda**  
**CIVIL JURISDICTION**  
**2021: No. 361**

**BETWEEN:**

**MOTHER**

**Applicant**

**and**

**FATHER**

**Respondent**

**RULING**

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**Before:** **Hon. Alexandra Wheatley, Acting Justice**

**Appearances:** **Marc Daniels of Marc Geoffrey Ltd, for the Respondent**  
**Alma Dismont of MDM Limited, for the Applicant**  
**Nichole Saunders, Court Appointed Social Worker**  
**Lashonna Smith, Litigation Guardian**

**Dates of Hearing:** **25 and 26 February 2025**

**Date Draft Circulated:** **6 March 2025**

**Date of Ruling:** **7 March 2025**

*Application for Shared Care and Control by the Father; Interim Access; The Minors Act 1950;*  
*Welfare of Child Paramount Consideration; UK Statutory Welfare Checklist*

## **RULING** of Hon. Alexandra Wheatley, Acting Justice

### **INTRODUCTION**

1. This case surrounds the access and care and control of a three-year-old child (hereinafter referred to as **A**). The parents have been before the courts almost since A was born in May 2021. The parents have joint custody of A. In December 2021 the Court granted the Mother care and control of A whilst the Father was granted interim supervised access each Friday from 4:30 PM until 7:30 PM. The Father's supervised access was to be supervised by the paternal grandparents and was restricted to occurring at their home.
2. The parents regrettably had a very contentious and tumultuous relationship between 2021 and 2024. During this period this matter was before the Court in relation to alleged domestic violence which led to a fact-finding hearing being conducted. Thereafter, the mother sought leave to appeal the fact-finding decision made by the Court on 21 March 2023. For unknown reasons the leave to appeal application was not listed by the judge who had conduct of the hearing and was therefore listed before me on 30 July 2024. Sensibly, counsel for the parents agreed for the appeal to be withdrawn on the basis that the issues/allegations of domestic violence would not be put to the Court unless they were considered *de novo*.
3. Not having conduct in this case from the outset and having only become familiar with the case through the reading of affidavits and professional reports, I had anticipated the hearing of this issue to be considerably acrimonious and extremely emotionally taxing on the parents. However, the parents who appeared before me both demonstrated a level of maturity and growth which has eliminated any doubt that each of them genuinely has the child's best interests at the forefront of their minds. These parents must be acknowledged and commended for being able to move forward in such an open and reflective manner.
4. The application before the Court now is the Father's application for increased access to include overnight access. Ultimately, it is the Father's position that the parties should each have care of A for an equal period of time, i.e. joint care and control. The Father's application dated 18 October 2022 (**the Father's Application**) in relation to A is, *inter alia*, seeking the following relief:
  - (i) The parties have shared care and control of A.
  - (ii) In the event the Mother is off island and unable at any time to care for A, that the Father be given first opportunity to care for A during these periods. Any assistance the Father provides in the circumstances shall not result in any reduction of his usual and scheduled care with A.

- (iii) The confirmation of the parties' joint custody of A to ensure that any decisions regarding religion, medical care and education are made jointly by the parties.
  - (iv) The requirement for supervised access fall away as well as the restriction for access occurring at the paternal grandparents' home be no longer be required.
  - (v) The Father's care of A be incrementally increased to two times per week with alternating overnight, weekend access which would eventually transition to a week on/week off schedule where both parties have equal care of A.
  - (vi) That provision be made for access/care for the child for public holidays and special occasions.
5. In addition to the above, at the hearing Mr Daniels for the Father confirmed that provision is also being sought for the Father to be able to travel with A unrestricted between two and four weeks per calendar year.
6. The Father filed two affidavits in relation to this application which were sworn on 13 October 2022 (**Father's First Affidavit**) and on - 31 October 2024 (**Father's Second Affidavit**). The Mother relies on her affidavit sworn on 20 January 2025 (**Mother's Affidavit**). Both parties gave *viva voce* evidence and were cross-examined. Counsel for both parties also cross-examined both the Litigation Guardian, Lashonna Smith, (**LG**) and the Court Appointed Social Worker, Sijan Caisey, (**CASW**).

## **INDEPENDENT EVIDENCE**

### **Litigation Guardian Report**

7. The LG prepared a report for the Father's Application on 9 November 2023 (**the LG Report**). The recommendations of the LG Report, inter alia, are that the Father have increased, unrestricted, unsupervised access with A and that the parties should have equal and/or meaningful care of A. It was also recommended that the parties participate in co-parenting classes and that A complete a Child Development Assessment at the Child Development Programme.
8. The reasons that the LG presented for her recommendations can be summarized as follows (as set out in the report as well as in her *viva voce* evidence):
- (i) The current arrangement of 2 ½ hours of supervised access per week is not sufficient to assist A to have a strong bond with the Father. There is no scope for the Father

to “*parent*” in such a restricted amount of time.

- (ii) It is “*beneficial, critical and vital*” that A have as much time as possible with both parents, especially now that A is approaching the age of 4 years old.
- (iii) There were no concerns with either parent's home environment. Neither of the parents’ home presents a risk of harm for A.
- (iv) And both parents have the capacity to parent A and meet A’s needs.
- (v) The Father should have equal and/or meaningful access and that at this stage there is no reason why this should be inhibited.
- (vi) Unless there are good reasons, there should be equal access/care.
- (vii) A must have overnight access with the Father. If not, this could create a potential risk factor, or harm, to A, as A would be unable to develop a strong and meaningful attachment with the Father.
- (viii) The present dynamic is restrictive. A may start to feel resentment towards the Mother and/or abandonment by the Father if access do not progress towards equal time between the parents. This would have a negative impact on A’s emotional development.
- (ix) Overnight access should commence and there is no reason why a full transition to equal care should not be in place by April/May 2025.

### **Social Inquiry Report**

9. The CASW prepared a social inquiry report dated 3 May 2024 (**SIR**). The CASW also recommended that unsupervised and unrestricted access should commence as soon as possible. Like the LG, the CASW endorsed the position that there should be a shared care arrangement between the parents on the basis that it would be in A’s best interest; however, the CASW favoured that there be a transitional period for overnight access leading up to a shared care arrangement and suggested that this transitional period would ideal be over a six month period, but emphasized that it should not be as long as one year.
10. It was emphasized by the CASW in his *viva voce* evidence that there are resources that can be utilized by the parties to move forward in a healthy and amicable manner. As such, it is recommended that the parties attend Co-Parenting classes (either individually or in a group

setting) along with engaging in individual therapy (between 8 and 10 sessions) with the goal on completion for the parties to participate in mediation to resolve any issues surrounding A.

## **THE PARTIES' EVIDENCE AND POSITIONS**

11. During the hearing, the parties' respective positions in relation to their proposed access schedules morphed into what are now very similar proposals with both parties having had the benefit of hearing their differing perspectives during the hearing. The respective proposals can be found at **Appendix A**.

### **Father (Appendix A - see page 16)**

12. The Father seeks increased access to his daughter, A, and proposes a transition to a 50/50 shared care arrangement through a gradual increase in access. He believes that without such an arrangement, the Mother may limit his role in A's life, preventing him from maintaining a meaningful relationship with her. Additionally, he seeks a court order allowing him to take A on family trips abroad.
13. While the Father initially sought an immediate shared care arrangement, during the course of the hearing Mr Daniels confirmed that the Father now acknowledges the need for an incremental transition. He recognizes that an abrupt shift could be overwhelming for A and is willing to work toward an arrangement that prioritizes her well-being. Although the parents had conflicts in the past, they have since moved forward and no longer harbor significant hostility toward each other. Both parents acknowledge that A benefits from having a strong relationship with both of them. The Mother, who is now married, does not seek to replace the Father's role, and the Father, in turn, respects her new family dynamic, including her husband's support of A.
14. Mr Daniels says that the Father has demonstrated patience and a deep commitment to his daughter's well-being. He understands the importance of emotional support and wants the opportunity to prove his dedication. While he previously declined an offer for increased access in October 2024 due to a misunderstanding of its terms, Mr Daniels said this should not be used as a reason to prevent the progression toward shared care.
15. The close proximity of A's maternal grandmother to the Father's residence, Mr Daniels highlighted, can provide an additional layer of support that could help ease the transition for A. Mr Daniels submitted that the Father, having grown up without a father figure himself, understands the emotional toll of an absent parent and is determined to be present in A's life in every way—emotionally, financially, and mentally. Mr Daniels reiterated that there is no substantial evidence suggesting that A would struggle with transitioning to

a shared care arrangement, as children naturally adapt to new environments, such as preschool and extracurricular activities.

16. Mr Daniels emphasized that both parents are now open to resolving any challenges that may arise and are willing to communicate to ensure A's best interests remain the priority. The Court can implement supportive measures, such as play therapy, to assist with the transition. The Father acknowledges the Mother's role as a good parent and hopes she will recognize his dedication to A. Given both parents' willingness to cooperate, the Court should facilitate a path toward a 50/50 shared care arrangement that best serves A's long-term well-being. Mr Daniels also highlighted that this position is recommended by both the CASW and the LG.

**Mother (Appendix A - see page 17)**

17. It is not disputed that the Mother has been the child's primary caregiver since birth, providing a stable, nurturing, and consistent home environment. As detailed in her affidavit, A has thrived under her care, exhibiting positive development across all domains. The Father accepts that Mother is a good mother, which is notably, also echoed by the paternal grandmother. The CASW also confirmed a strong bond between mother and A as did the LG.
18. The Mother has consistently facilitated access with the Father, despite communication difficulties, and is now willing to agree to increased, unsupervised and unrestricted access. However, concerns remain regarding the Father's limited time with A since December 2021, past behaviour, including allegations of verbal abuse and the parents' strained co-parenting relationship. The Mother does not agree to a week-on, week-off arrangement or a 2-2-3 alternating week arrangement, believing it would be contrary to A's best interest.
19. Furthermore, the Mother confirmed to the Court that she has a very secure and strong bond with A and that A is very bonded to the Mother. A is a loving, happy and emotional child. She thrives on a set routine where she knows what to expect, such as what time she has lunch, when she will go out, what time she will go to bed and the like. She has also noted that A relies heavily on mum for comfort during her night routine such as holding hands, patting back before she can sleep through the night in her own bed. Often, she will come to her mum's bed for cuddles in the morning. This is important as to go from limited access to immediate overnight for multiple days as proposed by the Father is not in A's best interest.
20. Mrs Dismont highlighted that the Mother has concerns that given the Father's limited access and what appears to be a heavy reliance on his mother (the paternal grandmother), will he be able to meet A's needs on a one-on-one basis. This stems from the Mother's

historical observations of A's limited response as it relates to the Father compared to "Nana" and those of the Court Social Worker.

21. As it relates to the SIR, Mrs Dismont submitted that the Court should not follow the CASW's recommendation for shared care due to several concerns which were raised in cross-examination. Firstly, the recommendation lacks sufficient justification given the history of mistrust and conflict between the parents. The CASW proposes a gradual increase in the Father's access despite acknowledging co-parenting difficulties. Additionally, the assessment of the Father's capacity is superficial, relying on the paternal grandmother's involvement without fully evaluating his ability to meet A's needs independently. The CASW based his conclusion primarily on the absence of reported physical harm rather than a comprehensive assessment of the A's best interests.
22. The evaluation of the parents' living conditions was limited to basic needs such as electricity, running water, and food, failing to consider emotional stability and developmental factors. The CASW admitted that parenting skills, experience, and co-parenting challenges were not assessed unless they posed a direct risk of harm. Concerns regarding the father's historical drug use were not independently investigated, and allegations of domestic violence and emotional abuse were inadequately addressed.
23. Given these deficiencies, the CASW's recommendation lacks evidential support. A more cautious, gradual approach, including therapeutic services and monitoring of the child's adjustment, should precede any move toward shared care. Thus, the Court should not rely on the CASW's recommendation.
24. In addition, Mrs Dismont argued that the Court should not follow the recommendations of the LG Report for shared care due to several key flaws in the report. She submitted that report lacks a thorough analysis of relevant factors, including the history of conflict and domestic violence allegations. It was also submitted that the LG's Report does not fully consider A's strong attachment to the Mother, who has been the primary caregiver since birth. Notably, Mrs Dismont highlighted that the LG failed to observe interactions between A, her mother (who is the primary carer), and the maternal grandmother, who plays a daily caregiving role. Without such observations, Mrs Dismont argued that the LG is not adequately equipped to assess the impact of a drastic change in care. Instead, she relied on her twenty years of experience without addressing A's specific needs.
25. While the LG noted A's potential feelings of abandonment by the Father due to limited access, she failed to consider the emotional impact of suddenly increasing his access and reducing time with the primary caregiver. Additionally, the report is over a year old, making it outdated and irrelevant to current circumstances. The LG's approach was generic, placing responsibility on the parents to work out details, rather than considering

A's individual needs. Given these flaws—including limited analysis, outdated information, and a lack of focus on A's well-being—the Court should place little weight on the LG's recommendations.

26. Ultimately, Mrs Dismont argued that absent an independent report from LG and CASW addressing A's specific needs and a proposed access increase in line with those needs, the best evidence the Court has is the Mother's evidence on A's specific needs and her proposed care arrangement in line with those needs.
27. It is the Mother's position that there should be a review after the overnight access is implemented in or about 21 April 2025 to see how A is adjusting and if there are any concerns before progressing to greater access schedule as proposed from July by the Mother. She confirmed agreement that A should immediately start play therapy (as did the Father during the hearing) and it is proposed that the play therapist provide a report in June before the implementation of the July increase in access, opining on how A is adjusting to overnight access. If there are any concerns raised by the play therapist or the Mother, the parties are to in the first instance attend mediation to see if they can resolve the issues and progress to increased July access failing which the matter to be brought back before the Court.

## **THE LAW**

28. Pursuant to section 12 of the Minors Act 1950 (**the Act**) the Court has the power to make such orders as it may think fit in relation to the custody of the minor and the right of access thereto having regard to the welfare of the minor and to the conduct and to the wishes or representations of either parent having the actual charge of the minor.
29. Furthermore, section 6 of the Act stipulates that the welfare of the minor is the first and paramount consideration for the Court. Specifically, it states (amongst other things) that in any proceedings before any court the custody or upbringing of a minor is in question, the court, in deciding that question, shall regard the welfare of the minor as the first and paramount consideration. This places a clear and unequivocal duty on the Court to prioritize the child's welfare above all other considerations, including the desires of either parent.
30. Whilst Bermuda does not have a statutory welfare checklist as does the UK, in my Ruling of *Father v Mother (Interim Access)* [2024] SC (Bda) 41 civ. (10 September 2024) I confirmed that it has been confirmed in Bermuda cases that the UK Welfare Checklist is used as a guide<sup>1</sup>.

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<sup>1</sup> *Father v Mother (Interim Access)* [2024] SC (Bda) 41 civ. (10 September 2024); see paragraphs 19, 20 and 24.

Therefore, when considering what is in the best interests of the child, the following welfare factors should be taken into consideration:

- (a) the ascertainable wishes and feelings of the child concerned (considered in the light of his age and understanding);
- (b) his physical, emotional and educational needs;
- (c) the likely effect on him of any change in his circumstances;
- (d) his age, sex, background and any characteristics of his which the court considers relevant;
- (e) any harm which he has suffered or is at risk of suffering;
- (f) how capable each of his parents, and any other person in relation to whom the court considers the question to be relevant, is of meeting his needs; [Emphasis added]

31. Mr Daniels submitted that the legal principle to be applied when considering care and control is that the starting point between parents is that of joint care and control (as expressed by the CASW) where the parties have equal access. Mr Daniels averred that this principle is derived from the Children Act 1998 in accordance with section 36C which states as follows:

*“(1) Except as otherwise ordered by a court, the father and the mother of a child have parental responsibility for the child, are joint guardians of the child and are equally entitled to custody of the child.*

*(2) A person entitled to custody of a child has the rights and responsibilities of a parent in respect of the person of the child, including*

- (a) the right to care and control of the child;*
- (b) the right to direct the education and moral and religious training of the child.”*

32. He argues that this statutory starting point can obviously be eroded on clear, corroborated evidence, that a parent, or guardian poses a risk of harm to a child. Given that there is no such evidence exists in this case, Mr Daniels submitted that care and control must be equal.
33. In response, Mrs Dismont drew the Court’s attention to the Dictionary of Private Children Law, 2024 Edition at page 28 wherein it is confirmed that *“there is no principle that the starting point for the court is equality of time between parents – each case must turn on its own facts”*. The case cited to support this position is the UK case of *The Father v The Mother* [2023] EWHC 1454 (Fam) which was determined by Justice Lieven. This is the correct legal position.

## FINDINGS AND ANALYSIS

34. I unquestionably accept that it is in A's best interests to have significantly more access with the Father. This simply cannot be disputed. I am also of the view that both parties have a real and genuine desire to do what is in A's best interest.
35. As it relates to the recommendations of the CASW, I will say that it appears to be a trend of the Court appointed social workers recommending joint care and control wherein both parents have equal care of the child. Whilst I accept that this may be in the best interests of some children, I have a growing concern that this is a blanket position the social workers are taking no matter what the circumstances are of the case. It would perhaps be helpful if the social workers would be able to cite some research and/or professional papers which support the notion that whatever the case may be access should always be equal between the parents. I would think that one would be hard pressed to produce that supporting evidence as each child case that comes before these courts must consider the individual needs, characteristics, emotional wellbeing, etc of that individual child. What also would have been helpful for the court social worker to produce is professional evidence of what would be considered appropriate periods of time for a child in a specific age range to be separated from either parent. Mr Caisey's evidence was that how the parents schedule access is a matter for them. To be clear, I am in no way criticising Mr Caisey, I am simply highlighting the difficulties with the Court being able to determine which proposed schedule would be best for this three-year-old child recognising that up until this point the Father has had very minimal access with A since birth.
36. I echo the concerns of the Mother regarding a possible disruption to stability and routine. In my experience, there is a real risk that a move to joint care and control would disrupt A's established routine and primary attachment to the Mother, potentially causing A emotional distress and anxiety. Having said this, A's routine will have to be adjusted to accommodate access with the Father and will naturally morph as A becomes older. This is where communication between the parties is key in order to ensure that best efforts are made to minimize any disruptions to A during a transitional period of increased access.
37. I do not believe the suggestion that the Father is overly reliant on his mother's assistance to care for A is warranted at this time. The Father has simply not had an opportunity to demonstrate his ability to care for A given his historical restricted access. In any event, I am not convinced that this would be a consideration to prevent increased access to occur.
38. The conclusion of the CASW and the LG that the Father has capacity to care for A should be slow to be criticized. Mrs Dismont submitted that the Father's capacity should not be limited to the basic requirements of him providing a household with electricity, clean running water, a place to sleep and ample food. I do not agree. I understand from the Mother's perspective that she would wish for the Father to react a certain way if, for example, A misbehaved. The reality

is that parenting styles will differ and the Father’s style will evolve considerably when he spends more meaningful time with A. From the CASW and the LG’s perspective, I accept that parenting styles will not form a part of their respective assessments unless harm to A is demonstrated. The parties will have to do their best to start communicating with each other as well as ensure they show mutual respect for each other as A’s parent.

39. Whilst the Mother raised concerns regarding the Father’s historical drug use, I accept the view of the CASW and the LG that this is not deemed to be a current risk. What also diminished this concern for me was the Father’s confirmation at the hearing that he would voluntarily submit to drug testing to eliminate this concern.
40. For the avoidance of doubt, as the parties have agreed to not rely on the previous ruling surrounding domestic abuse, there is no need for me to make any findings in this regard.

**CONCLUSION**

41. As Wall J has said in the case of *Re O (Contact: Withdrawal of Application)* [2004] 1 FLR 1258 at paragraph 6:

*“Disputes between separated parents over contact to their children are amongst the most difficult and sensitive cases which judges and magistrates have to hear. Nobody should pretend they are easy, or that there is any one-size-fits-all solution.”*

42. This case is no exception, however, the transformation of the parties since the commencement of these proceedings has been inspirational and has greatly assisted me in my determination of the Father’s Application. I have little doubt that as long as both parents continue to have an open mindset and make a real effort to co-parent, A will get to experience both of the parents being at his or her very best.
43. Taking into consideration the findings set out above, the Father shall have increased access with A in accordance with the following schedules:

(A) Commencing 5 March 2025 until 20 April 2025:

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Mother	Mother	<u>Father</u> 3:00 p.m. to 7:00 p.m.	Mother	<u>Father</u> 10:00 a.m. to 5:00 p.m.	<u>Father</u> 9.00 a.m. to 1:00 p.m.	Mother

44. During this period, the parties attend Co-Parenting classes (either individually or in a group setting) along with engaging in individual therapy (between 8 and 10 sessions) with the goal on completion for the parties to participate in mediation to resolve any issues surrounding A.

(B) Commencing 21 April 2025 until 29 June 2025

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
<u>Father</u> 3:00 p.m.to 7:00 p.m.	Mother	<u>Father</u> 3:00 p.m.to 7:00 p.m.	Mother	<u>Father</u> 10:00 <b>overnight</b>	<u>Father</u> 1:00 p.m.	Mother

45. In the event the Mother is off island or at any other time not able to care for A, the Father shall have the first opportunity to care for A during these periods. Any assistance the Father provides in the circumstances shall not result in any reduction of his usual and scheduled care with the child. The same shall apply in reverse.
46. Prior to the commencement of the next stage of increased access (see (C) below), that this matter be reviewed by the Court to ensure that A is adjusting well and there are no concerns which have arisen and remain unresolved. During the hearing, I had suggested that the parties consider enrolling A in play therapy immediately with the view of providing extra support throughout the transition period. This would also allow the professional to have baseline information from the child and will be able to ascertain any behavioural changes and allow them to be quickly addressed with the parents rather than waiting to see if the child demonstrates any negative changes and only address it then. Notably, both parents agreed that play therapy should commence immediately.
47. In my experience, the psychologist/therapist/counsellor who is providing the services to the child will not be able to both provide those services as well as provide a report to the Court. What I envisage is that a session be held with the parents, jointly, and the service provider to discuss how access is progressing at the end of June 2025. If the parties are unable to resolve any respective issues which they may raise at this time, the parties should utilize a mediator to assist in resolution.
48. Ultimately, if there is still no resolution through mediation, I direct that both the Court Appointed Social Worker as well as the Litigation Guardian produce reports utilizing information provided by the professional service provider (both parties shall in this regard, give written consent to the professional service provider to communicate with the CASW and the LG) as well as through interviews with each of the parents. In these circumstances, expedited reports should be submitted by both to the Court at which time this matter will be listed for a case management hearing so that directions can be given for the filing of affidavit evidence,

etc. Whilst these issues remain unresolved between the parents, the access shall continue as above (as noted to commence on 21 April 2025).

(C) Commencing 30 June 2025 and ongoing (unless concerns raised as set out in paragraphs 47 and 48 above).

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
<b>Week 1</b>	Father <sup>2</sup>	Mother	Father <sup>3</sup>	Mother	Mother	Mother	Mother
<b>Week2</b>	Father <sup>4</sup>	Mother	Father <sup>5</sup>	Mother	Father <sup>6</sup>	Father	Father

There shall be flexibility of both Schedule B and Schedule C over summer period with times for collection during week to be discussed and agreed between the parties.

49. As it relates to overseas travel with the child, I accept that it is in the child’s best interest to be able to travel with both parents. I also accept that overseas travel should not be considered with the Father until such time as the schedule advances to Schedule C. Once this occurs and Schedule C has been implemented for a minimum of six weeks, the Father shall be at liberty to travel with the child for two to four weeks per calendar year and each period of travel should not be longer than fourteen consecutive days unless otherwise agreed, in writing, with the Mother. The same shall be applicable to the Mother. The travelling parent shall give a minimum of two-months’ notice of any intended travel as well as provide the staying parent will a full travel itinerary along with contact details for the period of travel.
50. Given the parties respective positions which have greatly advanced the Father’s Application, I am mindful of the burden and potential conflict that could arise if I were to make a costs order in favour of one of the parties. In any event, the starting point for costs in child matters is that there should be no order as to costs unless there are exceptional circumstances which should be taken into account such as, litigation conduct. There are no exceptional circumstance in this case which convince me that I should stray from making no order as to costs, and I therefore order as such.

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<sup>2</sup> From school or grandmother overnight and drop off next day

<sup>3</sup> From school or grandmother overnight and drop off next day

<sup>4</sup> From school or grandmother overnight and drop off next day

<sup>5</sup> From school or grandmother overnight and drop off next day

<sup>6</sup> Collect from school, access for weekend with drop off on Sunday at 5:00 p.m.

**POST SCRIPT:**

The timeframe which it took for this matter to be determined is very concerning. Cases where a child is the subject matter of the action and where a critical component of his or her life is such as custody, care and control and access is to be determined, the period of time between the filing of the application and the hearing of the application, in my view, should certainly be no more than six months. In this case, the Father's Application was filed in October 2022 and not heard until February 2025. The entire landscape of A's developmental needs during this period fundamentally shifted given that she was 1 year and 5 months old in October 2022 and at the date of the hearing A was 3 years and 9 months old. I will not digress into the reasons for this occurring but will say that the Courts must do better for the children and families of Bermuda.

Dated this 7<sup>th</sup> day of **March 2025**



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**ALEXANDRA WHEATLEY**  
**ACTING PUISNE JUDGE OF THE SUPREME COURT**

**APPENDIX A**  
**SCHEDULE 1**  
**Mother's proposed care arrangement**

Commencing 5 March 2025:

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Mother	Mother	<u>Father</u> 4:30 to 7:00 p.m.	Mother	<u>Father</u> 10:00 a.m. to 5:00 p.m.	<u>Father</u> 9:00 a.m. to 1:00 p.m.	Mother

- The parties shall attend mediation to assist them with co-parenting and communication for a period of no less than 8 weeks. As well as each party to attend co-parenting classes.

Commencing 21 April 2025

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Mother	Mother	<u>Father</u> 4:30 to 7:00 p.m.	Mother	<u>Father</u> 10:00 <b>overnight</b>	<u>Father</u> 1:00 p.m.	Mother

Commencing July 2025 and ongoing

- Flexibility over summer with times for collection during weekday to be discussed by the parties.

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
<b>Week 1</b>	<u>Father</u> <sup>1</sup>	Mother	<u>Father</u> <sup>2</sup>	Mother	Mother	Mother	Mother
<b>Week 2</b>	<u>Father</u> <sup>3</sup>	Mother	<u>Father</u> <sup>4</sup>	Mother	<u>Father</u> <sup>5</sup>	<u>Father</u>	<u>Father</u>

<sup>1</sup> From school or grandmother overnight and drop off next day

<sup>2</sup> From school or grandmother overnight and drop off next day

<sup>3</sup> From school or grandmother overnight and drop off next day

<sup>4</sup> From school or grandmother overnight and drop off next day

<sup>5</sup> Collect from school, access for weekend with drop off on Sunday at 5:00 p.m.

**SCHEDULE 2**  
**Father's proposed care arrangement**

Commencing 27 February 2025 until 1 May 2025

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
<b>Week 1</b>	Mother	<u>Father</u> 4:30 to 8:00 p.m.	Mother	<u>Father</u> 4:30 to 8:00 p.m.	Mother	Mother	Mother
<b>Week 2</b>	Mother	<u>Father</u> 4:30 to 8:00 p.m.	Mother	<u>Father</u> 4:30 to 8:00 p.m.	<u>Father</u> 4:30 <b>overnight</b>	<u>Father</u> <b>overnight</b>	<u>Father</u> Until 3:00 p.m.

Commencing 1 May until 1 August 2025

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
<b>Week 1</b>	Mother	<u>Father</u> 4:30 to <b>overnight</b>	Mother	<u>Father</u> 4:30 to <b>overnight</b>	Mother	Mother	Mother
<b>Week 2</b>	Mother	<u>Father</u> 4:30 to <b>overnight</b>	Mother	<u>Father</u> 4:30 to 8:00 p.m.	<u>Father</u> 4:30 <b>overnight</b>	<u>Father</u> <b>overnight</b>	<u>Father</u> Until 3:00 p.m.

Commencing 1 August 2025 and to progress to week on/week off

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
<b>Week 1</b>	Mother	Mother	<u>Father</u>	<u>Father</u>	Mother	Mother	Mother
<b>Week 2</b>	<u>Father</u>	<u>Father</u>	Mother	Mother	<u>Father</u>	<u>Father</u>	<u>Father</u>