

IN THE MATTER OF THE ARBITRATION ACT 1996

AND

IN THE MATTER OF THE CHILDREN ACT 1989

AND

IN THE MATTER OF AN ARBITRATION UNDER THE FAMILY LAW ARBITRATION  
CHILDREN SCHEME

AND

IN THE MATTER OF JEREMY WILSON (DOB 22 JANUARY 2012)

BETWEEN:

VERA BEECHAM

Applicant

-and-

GORDON WILSON

Respondent

**DETERMINATION**

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10 March 2022

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#### **Introduction**

1. The Applicant and the Respondent are the mother and father of Jeremy, who is 10 (DOB 22 January 2012).
2. The parties had a short relationship and separated when Jeremy was 3 years old, having never married. They have remained on amicable terms and have been able to agree the arrangements for Jeremy until recently, when they started to discuss the arrangements for his secondary education. Since then, the parties have been unable to find an mutually acceptable solution for their differing views on Jeremy's secondary education and his family name.

3. The parties agreed to refer the matter to arbitration under the Family Law Arbitration Children Scheme operated by the Institute of Family Law Arbitrators (IFLA). I have been sent a copy of Form ARB1CS signed by both parties on 2 and 4 February 2022 respectively. By entering into arbitration in this way, the parties have agreed to engage the Rules of the Children Scheme which therefore govern the arbitration.
4. In their ARB1CS, the parties expressed the wish to nominate me, Michael Lehmann MCI Arb, a member of IFLA's Children Panel, to be the arbitrator. IFLA duly offered me the appointment, and, by my letter of 10 February, I accepted it.
5. I was provided with brief details of the matter, and I have seen the witness statements of the Applicant and the Respondent and also heard oral evidence from them at a hearing convened at the premises of the Chartered Institute of Arbitrators in Bloomsbury Square, London on the 3 March 2022. I have seen a report from Ms Prudence Mayhew, an Independent Social Worker (ISW) engaged with the agreement of the parties, and Ms Mayhew also attended to give oral evidence.
6. The Applicant has been represented by Mr Isaac Bidson, Solicitor, of Newton LLP and by Miss Sandra Singer of Counsel. Ms Juliette Steer, Solicitor, of Patterson LLP represented the Respondent and Mr Philip Cox of Counsel appeared for the Respondent. I am grateful to the parties' various representatives for their assistance in this matter.

### Background

7. The Applicant was born 26 October 1982 and is now aged 39. She met the Respondent in August 2010 and they enjoyed a relationship of around three years before they separated in April 2014. The Respondent is 45 and was born on 12 July 1976. They are not married. Jeremy, who is the subject of this application, was born on 22 January 2012 and is now 10 years old. He was 2 years old at the time of separation.
8. The Applicant is not working and married Hugh Beecham in July 2016; they have a son Harold who is 3 and was born in September 2018.
9. The Respondent works as a marketing manager for a drinks company and works long hours, often overseas. He is not in a relationship at present.

10. Since their separation Jeremy has, in general terms, spent alternate weekends with the Respondent from Friday after school until Sunday afternoon. He also spends time with him if there is a home Chelsea football match, and share the longer school holidays equally, with the Respondent having the half terms with Jeremy.
11. In September 2023 Jeremy is due to start secondary school. It appears to have been the intention of the parties that he should attend St Thomas' Secondary School (St Thomas'); this is a faith-based school, and it is acknowledged by the parties that a religious upbringing is important to them both. More recently, the Applicant has changed her mind and now wishes Jeremy to attend Stauntons School for Boys (Stauntons). What seems to have prompted the change is a wish for Jeremy and his half-brother Harold to attend the same school; the Applicant and her husband have already enrolled Harold and he is due to start at Stauntons in the preparatory department in September 2023. The Applicants proposal for Jeremy to attend Stauntons is opposed by the Respondent.
12. At the same time, the Applicant wishes to change Jeremy's surname from that of the Respondent to her married name of Beecham. She is of the view that this will assist Jeremy in having a sense of 'belonging'; not only within the family context but also in relation to starting a new school. The Respondent is opposed to a change of surname.

### Common ground

13. I confirm that there are no safeguarding concerns on anyone's part (including mine) in relation to either party or the Applicant's husband.

### The Issue

14. There are two issues which I am asked to determine. I am asked to determine
- which school Jeremy should attend, and
  - which family name he should be known by.

### Applicant's case

15. The Applicant's case is strongly influenced by her belief that Jeremy is not being sufficiently challenged at school and she feels that this will be a continuing theme were he to attend St Thomas'. She points to a more structured educational style at Stauntons, smaller class sizes with a greater extra curricular offering. Parallel to that, is the fact that Jeremy's younger half sibling, Harold, will be starting at

Stauntons at the same time, and therefore the children will enjoy time together at school, and she accepts that with the added benefit of sharing travel time and cost to and from school, and the sharing of uniform in due course, there is an element of convenience for her. She expands this by expressing a wish for the children to have similar opportunities.

16. It is accepted by the Applicant that Stauntons is less focussed on a religious education, and that Jeremy is not used to a single sex environment. She also accepts that both schools offer very good facilities and has similar high results. The Applicant feels confident that, together with the Respondent, she will be able to meet and encourage Jeremy's religious needs outside of school and that he will be challenged more in his academic life.
17. The Applicant puts forward well considered views and it is clear that she respects and encourages Jeremy's relationship with his father. I am confident that her plan for Jeremy's education is not driven by any desire to undermine that. She is confident that Jeremy will make friends and evidences this by pointing to his current wide circle of friends at school, church, football, cubs, swimming and karate.
18. In relation to the issue of Jeremy's surname, the Applicant accepts that she registered him with the Respondent's surname by agreement, but suggests that this was an error on her part and that Jeremy would now feel more comfortable sharing her married surname. She asserts that she would have preferred to have registered him in her maiden name. She asserts that Jeremy appears to be uncomfortable in having a different surname to Harold, his mother and step-father. This may well be coloured by her own experience of the whole family not sharing a surname, with the addition of a third surname since 2016. The Applicant accepts that Jeremy has not told her whether he does or does not wish for such a change in name.
19. Although over the course of this application the Applicant has accepted that if Jeremy were to attend St Thomas' the change of name may not be so necessary, she also asserts the converse; that it may be more important for him in order to maintain a close bond with Harold if they are to attend separate schools.

#### Respondent's case

20. The Respondent's case is strongly founded on his belief that it is in Jeremy's best interest to attend St Thomas'. He believes that faith, and it is accepted that this is important to both parents, is an integral part of Jeremy's life and one that would be actively promoted there. He points to the previous agreement of the parties to send Jeremy to St Thomas', and notes that Jeremy may struggle to adapt to a

new and more formal, all boys school system. He asserts that none of Jeremy's current friends will attend Stauntons.

21. The Respondent points to the unique relationship that he has enjoyed with the Applicant and her husband, and explained that prior to their marriage in 2016 all three parties met to discuss any concerns they may have had in relation to the way in which Jeremy was to be brought up over two homes. He argues that the Applicant and Hugh assured him that Jeremy would continue to be raised as previously planned. The Respondent explained that the choice of St Anne's County Primary School (St Anne's) was made specifically as it was a feeder school to St Thomas'.
22. The Respondent asserts that St Thomas' has a similarly excellent results record, and although he accepts that the extra-curricular activities at Stauntons are good, they would not cater for Jeremy's love of football. He says that Jeremy, rather than under achieving, has a healthy balance of academic and non-academic interests which he is keen to promote. Additionally, far from spending time with Harold, he says that the 7 year age gap means that they will be in separate parts of school and will only share travel to and from school.
23. In relation to the change of name, the Respondent strongly believes that a change in Jeremy's surname will adversely affect his sense of self, and the relationship between father and son. He points to the implication that Hugh Beecham's surname is more important than that of Jeremy's father and questions the Applicant's motivation which he feels is driven by embarrassment.
24. The Respondent asserts that Jeremy is confident in who he is and to support that he says that Jeremy has told him he does not wish it to be changed. The Respondent says that in the future he may also have a partner in which case retaining the family name may become more important to Jeremy
25. Although opposed to the application, the Respondent confirms that he will support the outcome whichever way it falls and will continue to support Jeremy.

#### Independent Social Worker's recommendation

26. Ms Mayhew, the Independent Social Worker (ISW), met with the parents, Hugh Beecham and Jeremy. She has visited the two family homes. She makes a point of commending the parents for the way in which they have organised the arrangements for Jeremy thus far, and the way in which they behave in front of him. Despite their best efforts however, it is clear that Jeremy is aware of the conflict surrounding the issues before me, and he has been reluctant to say what he might wish to happen.

27. She indicated in her report that she felt the issues were finely balanced and made it clear that Jeremy needs a decision to be made soon, so that he can prepare for secondary school.
28. Her recommendation is that either Jeremy attends Stauntons and changes his surname, or that neither take place but she does not endorse one over the other.

### The Applicable Law

29. Under the Rules of the Children Scheme I must apply the law of England and Wales. The welfare of the child must be my paramount consideration and in considering the welfare of the child, I am to have regard in particular to the welfare checklist set out in s.1(3) of the Children Act 1989.

### Reasoning / Analysis

30. I begin by commending both parents on the way in which they have coparented Jeremy since separation. Jeremy is a happy and thoughtful boy, due in no small part to the way in which these parents have worked together to achieve an amicable working relationship, and it is clear how much they both love Jeremy and respect each other as parents.
31. Despite that, the parents have hit a stumbling block and this arbitration is an important step in resetting that relationship, and providing a framework for the future.
32. I found the evidence of Ms Mayhew to be careful and well reasoned. She has met with Jeremy and she commented upon his close relationship with his parent and with Harold, and more specifically she noted how uncomfortable he was when asked about the issue of secondary school and his surname. He was unable to confirm his preference for his school or his surname. It is clear that he has become aware of the conflict between his parents. She concludes that Jeremy is capable of making it work regardless of the decisions made, and that it is having a decision made soon that is most important.
33. It is difficult for me to give weight to the assertion that Jeremy does not wish to change his surname; he did not express a wish either way to Ms Mayhew. Of more importance to me is her assertion that there is little doubt he is aware of the conflict between his parents, and wishes to minimise it. I bear in mind that Jeremy appears to have expressed a view to the Respondent, but this has not been corroborated.

34. I do not endorse the ISW's view that a change of surname to Beecham may secure Jeremy's sense of place and connection. I have particular regard to the fact that the Applicant registered Jeremy with his father's surname. Prior to her marriage, Jeremy had a different surname to the Applicant, and she does not appear to have had any concern about that. I accept that Jeremy has a good sense of who he is and where he comes from, as well as the distinction between his two homes.
35. I am also mindful of the disruption that may be caused by changing Jeremy's surname now, a year ahead of his attendance at secondary school.
36. A further consideration that guides me is the discussion that the parties had prior to the Applicant's marriage in 2016 when they set out their shared vision for Jeremy's upbringing. It was, at that stage, common ground that Jeremy would attend a faith based school, and they placed him in St Anne's knowing it to be a feeder school for St Thomas'.
37. I am persuaded by the argument raised by the Respondent in that Jeremy may struggle with a more formal and unfamiliar school style, and I am guided by his contribution to Jeremy's overall education by providing him with activities beyond the scope of his current school. There is no reason why the Respondent should not be able to support and encourage Jeremy in his academic pursuits as well as extra-curricular activities, however, were Jeremy to attend Stauntons, he may not be able to engage with his love of football that is available to him at St Thomas'.
38. The recommendation of the ISW is that I link the change of name to the issue of which school, and that both remain as they are or, conversely, both should change. I accept that recommendation as eminently sensible.
39. I am mindful that as a consequence of refusing permission for Jeremy to attend St Thomas', the Applicant may have the inconvenience of children in different schools. I bear in mind that Jeremy has a loving relationship with his younger sibling, but that the age gap means that, in reality, they will spend little time together in school. Harold's own educational needs have little weight in my decision; I must do what is in the best interests of Jeremy. I bear in mind that the age gap between them means that it is likely that the two boys would have attended at separate primary and secondary schools in any event. I am confident that the Applicant will be able to manage this and that she will continue to work with the Respondent in supporting Jeremy.
40. I note that the Applicant accepted that a change of name would be less necessary if Jeremy is to attend St Thomas'.



### Conclusion

41. My conclusion - and therefore my determination in this matter - is that it is in the best interests of Jeremy and his welfare to attend St Thomas' Secondary School and for him to retain his existing family name rather than adopt the Applicant's married name. I therefore refuse her application.

### Costs / Fees

42. The parties have agreed that costs are to be dealt with on the usual basis under Art 14.4 of the Scheme Rules, namely that there will be no order as to costs between the parties and that they will be responsible for my fees and expenses in equal shares.

### Seat

43. The seat of this arbitration is London, England.

### Determination

I hereby **DETERMINE** as follows:

1. The Applicant's application to change Jeremy's (age 10 and born on 22 January 2012) surname from Wilson to Beecham is refused;
2. Jeremy shall attend St Thomas' Secondary School and the Applicant's application for Jeremy to attend Stauntons School for Boys is refused;
3. There is no order as to costs as between the parties;
4. The parties will bear responsibility for my fees and expenses in the total sum of £k in equal shares. If and insofar as either party has paid more than an equal share they will be reimbursed the amount paid in excess of an equal share by the other party forthwith.

Dated                    *12 March 2022*

Signed

Michael Lehmann