IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2026] SGFC 40

FC/OAG 161/2025

Between

YAO

… *Applicant*

And

YAP

… *Respondent*

FC/OAG 181/2025

Between

YAP

… *Applicant*

And

YAO

… *Respondent*

JUDGMENT

[Family law] — [Guardianship] – [Care and control] – [Whether interim order for care and control required when parties intend to divorce in the future]

[Family law] — [Guardianship] – [Access] – [Order for access pending future divorce proceedings]

YAO
v
YAP and or matter

[2026] SGFC 40

Family Court — Originating Application (Guardianship) 161 of 2025;
Originating Application (Guardianship) 181 of 2025
District Judge Kevin Ho
11 February 2026; 6 March 2026; 20 March 2026

23 March 2026

District Judge Kevin Ho

Introduction

1 The present cross-applications for guardianship orders were filed by Applicant-Father ("Father") and the Respondent-Mother ("Mother") seeking custody and care orders in relation to their daughter, [L].

2 By way of background, the parties married on 31 December 2023 after a period of being in a romantic relationship. [L] was born about 3 years *prior* to the parties' marriage (*ie*, on 10 September 2020).[1] She will be 6 years old this year (in 2026) and is slated to start her primary school education in 2027. [L] is

[1] Father's Affidavit for OAG 181 dd 12.01.26 ("A3") at [3].

currently staying with the Mother, with the Father having regular access. The parties' marriage broke down sometime in the middle of 2024 and the Father had moved out of where the family was staying previously.[2] The parties were not yet able to file any divorce proceedings given that their marriage was only in subsistence for less than 3 years.

3 According to the Father, FC/OAG 161/2025 ("OAG 161") was filed by him to formalise the agreed access arrangements and for orders relating to overseas travel with [L]. The Father's counsel, Ms Josephine Chong ("Ms Chong"), in the course of the hearing on 11 February 2026, intimated to the high likelihood that the parties are headed for an eventual divorce in the coming year or two, and it was in that context that part of the Father's case included an argument that some of the more contentious issues (such as the appropriate care and control order for [L]) ought to be deferred to when the divorce proceedings have been filed, and the issue of [L]'s care comes within the scope of the ancillary reliefs to be sought therein.[3]

4 The Mother's counsel, Ms Hoon Shu Mei ("Ms Hoon"), on the other hand, submitted that it was not in [L]'s best interests to defer the proper determination of her care and access arrangements, especially given that [L] will be entering primary school next year.[4] FC/OAG 181/2025 ("OAG 181") was therefore filed to make clear what the interim care and access orders for [L] ought to be given the challenges in co-parenting faced by the parties, and the uncertainty arising from when and how the eventual divorce proceedings (if at all) would pan out.[5]

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[2] Mother's Affidavit for OAG 161 dd 28.11.25 ("R1") at [9] – [10]; A3 at [4].
[3] Father's Written Submissions dd 04.02.26 ("AS") at [16] and [18].
[4] Mother's Written Submissions dd 04.02.26 ("RS") at [21].
[5] Mother's Affidavit for OAG 181 dd 26.01.26 ("R3") at [6].

5 I note, at the outset, that both parties (and their counsel) had reached a broad agreement on the question of [L]'s custody, and various aspects of the appropriate access orders to be made for [L], including minor issues such as the Father's weekly access (before the start of formal primary schooling), school holiday access, and certain aspects of overseas travel. These areas of agreement were set out in a table within the Mother's written submissions.[6]

6 I thus took these areas of broad agreement into account and made the relevant orders (subject to certain adjustments arising from what both parties' counsel had submitted during oral submissions), including an order for joint custody. These orders were set out in my written brief reasons which I had sent to the parties via Registrar's Notice in early March 2026.

7 In the rest of these Grounds of Decisions, I briefly summarise my views and findings in respect of the remaining contested issues.

The Appropriate Care and Control Order for [L]

8 The starting point of any discussion on the applicable legal principles relevant to the present application would be the Guardianship of Infants Act 1934 (2020 Rev Ed) ("GIA"). Section 5 of the GIA allows the Court to make orders relating to the custody and care of infants, and s 3 of the GIA directs that the Court consider the child's welfare as its first and paramount consideration.

9 These are trite principles which both the parties (and their counsel) do not disagree with.[7] My focus, and the orders I made, were thus centred on what I found to be in [L]'s welfare. The concept of the "welfare" must, of course, be

[6] RS at pp. 3 – 11, Part III, setting out a table of the parties' positions ("Table").
[7] AS at [24]; RS at [5] – [6].

understood in the widest sense with regard being given to factors such as the need for stability and the continuity of living arrangements.[8] It also takes into account [L]'s developmental needs and her relationship with both parents.

10 On the issue of [L]'s care and control, I did not agree with the Father that this was a matter which should be deferred to future custody (or divorce) proceedings. In my view, given the fact that: (i) the parents were living apart; (ii) there was already a pre-existing arrangement for the Father's access to [L]; and (iii) that there remained some uncertainty as to when and how any future divorce proceedings may be commenced and/or for how long that might take, it was in [L]'s welfare and best interests that an *interim* care and control order be made to formalise and – more importantly – make clear the appropriate care arrangement for her, during this transitory period.

11 In particular, I found it important for there to be certainty in these arrangements as [L] will embark on formal schooling next year. There will be many day-to-day decisions which have to be made for her, and any ambiguity as who was the care and control parent was not ideal when decisions need to be made. To avoid doubt, I accepted the Mother's submissions that the parties' co-parenting experience currently was not as ideal as that suggested by the Father (or his counsel), and it would best serve [L]'s interests if there was clarity on the matter.

12 It followed from the above that the question before the Court was *what* care order should be made. The Father submitted that if this Court was minded to make a care order, that it should be an order for ***shared*** care and control.[9] Ms Chong referred to various caselaw precedents including the High Court (Family

[8] See *ABW v ABV* [2014] 2 SLR 769 (at [20] – [23]).
[9] AS at [16] and [23].

Division)'s decision in *TAU v TAT* [2018] 5 SLR 1089 and this Court's decision in *WEM v WEN* [2024] SLR(FC) 247 ("*WEM*").

13 Given the fact-sensitive nature of the custody and guardianship disagreements, reference to precedents is generally of limited relevance save in the clearest of cases. Precedents are, of course, important in identifying the broad legal principles applicable and/or the factors relevant to a dispute. But the *application* of these legal principles would invariably depend on the precise factual matrix of each case.

14 In the present case, I was not persuaded that an order for *shared* care and control was appropriate at the current juncture. The parties, in my view, were not in a state where they can effectively cooperate with each other to carry out a shared care arrangement. More importantly, such an arrangement will likely engender *more* conflicts (not less) when [L] enters primary school next year.[10] For completeness, I also did not find it necessary for a "step-up" or incremental form of shared care and control similar to that made in *WEM*, a point raised by Ms Chong (on the Father's behalf).

15 The family situation and the parties' characteristics in *WEM* were different from the current case, and what may be appropriate there would not automatically be applicable here. What is also important to note is that the Court was making *final* ancillary matters order in *WEM* whereas I am concerned with only *interim* orders in the present case, pending future divorce proceedings between the parties. The issue of whether there could be an incremental approach towards a shared care and control order is certainly a matter which

[10] See the list of factors set out in *XLS v XLT* [2025] SGFC 49 at [9].

could be revisited by the parties in future divorce proceedings, and where the appropriate evaluation report (if necessary) have been considered.

16 Accordingly, I found it appropriate that the Mother be granted *sole* care and control of [L]. This formalised what the existing arrangement was.

17 In fact, it was odd that the Father disagreed with a sole care and control order since he had himself asked that the current access arrangements continue (at least until [L] starts primary school). The current access arrangement provided him with weekly weekend and weekday overnight access starting on Saturday and Tuesday respectively. This meant that he had only 2 full days of access every week, with [L] living with the Mother the rest of the time. This was a quintessentially sole care arrangement, *ie*, where the Mother had sole care and control of, and the Father having access to, [L].

18 As I had emphasised to Ms Chong during oral submissions, the High Court (Family Division) made clear in *VJM v VJL* [2021] 5 SLR 1233 (at [29]) that the court would not grant a shared care order as some sort of "label". A shared care order is one where the child spends roughly equal amount of time with both parents, and where the child has effectively two homes and two primary caregivers.[11] What the Father himself has asked for in OAG 161 clearly did not meet this basic requirement.

19 For completeness, I also considered what both parents had put forward to the Court as arguments about the *other* parent's lifestyle choices, behaviour and overall conduct. This included the Mother's claim regarding the Father's

[11] *WXA v WXB* [2024] SGHCF 22 at [9].

poor and sometimes abusive behaviour,[12] as well as the Father's case as regards the Mother's sexual history and her previous work as a social escort.[13]

20 I found much of these assertions to be hyperbole and not directly relevant to each parent's ability to care for the [L]. Suffice to say, I was not persuaded that anything done to-date by the Mother impacted her ability to care for [L] or that she had deprioritised [L]'s well-being in any way. There was thus no need for a shared care and control order so that the Father can "monitor" the Mother's conduct and/or care for [L].

21 Likewise, I found the Father to be able to provide care to [L] and should be allowed overnight and overseas access. In fairness, neither party sought to argue that the other should be completely excluded from [L]'s life.

22 In this regard, I wish to highlight that Family Justice Court's Practice Directions 2024 requires parties to court proceedings to conduct themselves in a manner that is consistent with the principles set out in the *Family Justice Courts Therapeutic Justice Model* ("TJ Model"). Paragraph 12(g) of the TJ Model reminds parties that they must "*avoid provocative or inflammatory conduct and language in correspondence, court documents and courtroom communications*".

23 As such, in the spirit of therapeutic justice, I would not devote any significant part of these Grounds of Decision on the parties' previous conduct or the allegations in relation thereto as I wish to avoid further increasing the acrimony between the parties.

[12] RS at [33] and [51]. See also Drew & Napier LLC's letter dd 13.02.26 at [2].
[13] AS at [36].

24 Having determined the issue of [L]'s care and control, and given the parties' agreement on the Father's weekly access arrangements (up until [L] enters primary school),[14] the question which remained was: should the Father be allowed the same weekday access arrangement in 2027 *after* [L] starts primary school?

25 In my view, I saw no reason to change the Father's access time with [L] even after she enters primary school. I found the Mother's concerns about the alleged disruption to [L]'s schedule to be somewhat speculative, and possibly overstated.

26 In support of the Mother's case, Ms Hoon cited the High Court (Family Division)'s decision in *VXM v VXN* [2021] SGHCF 42 ("*VXM*") and the observations therein on the possible disruption which may occur where overnight access happens on weekday when a child is in primary school. While the High Court's observations are no doubt sound and logical, consideration should also be had to the differing circumstances in each family (a point I had mentioned above).

27 In *VXM*, it was observed that the father in question (who had sought both a shared care and control order, as well as overnight access) was a person with a busy schedule and who could not commit to spending the entirety of his time with the children (even if he did have the overnight access during the weekday), and it was in that context where there may be disruption to the child's routine.[15] On the other hand, I accepted Ms Chong's submission that the Father's current employment (and his relatively senior position at work) afforded him sufficient flexibility to care for [L] even on a weekday. Ms Chong submitted that the

[14] RS at p. 4.

[15] *VXM* at [13] and [18].

current arrangement was one where he would personally go to the Mother's residence and ferry [L] to school, and the Father has committed that he can continue to do so when [L] starts primary school. There was no reason why he could not also pick up whatever stationery or study materials from the Mother's residence after primary school starts.

28 I thus found it appropriate for the weekly overnight access to continue even after [L] starts primary school. Once again, for the same reasons I had alluded to above, *VXM* was a case where the High Court was considering the appropriate *final* AM orders consequent on the divorce granted for the parties in that case. This was *not* the case here. As I am making *interim* orders, the issue of whether overnight access would be disruptive to [L]'s schedule can, of course, be revisited after primary school has started or when the parties do eventually decide to obtain a divorce.

29 It follows from the above (and to avoid any doubt), I agree with the Father that he can (and should be allowed to) continue to ferry [L] to school every day until she goes to primary school, and on Wednesday mornings after primary school starts.

[L]'s overseas travel with both parents

30 The next area of disagreement between the parties (albeit not a significant one) related to the *length* of time which each parent should be allowed to go overseas with [L] each year.

31 By way of context, both parents agree that they can each take [L] overseas and they also agree to the following:

(a) there should be no annual cap to the *number* of trips each parent can take [L] overseas each year, save that the total number of days should not exceed 20 each year;[16]

(b) that for travel overseas, the other parent's consent should not be unreasonably withheld;[17] and

(c) that for the Father's upcoming travel with [L] in June 2026, the Mother had no objection to the trip itself (save for the *length* of the trip) and she had confirmed that she would bear the expenses associated with her own return flight tickets to and from Dublin.[18]

32 As regards the appropriate amount of time which each parent should spend with [L] overseas, I agreed generally with Ms Hoon that there needs to be consideration for [L]'s age and comfort level *apropos* overseas and overnight access.[19] However, it did not follow that adopting an incremental approach necessarily meant that an extended period of 10-day travel should start only in 2029 (which would be 3 years later). There was no clear reason provided by the Mother why the age of 9 years old (which would be [L]'s age in 2029) represented a special turning point in [L]'s life or maturity which would allow her to spend more time overseas with the Father. This age requirement appeared arbitrary in the present case.

33 In my view, while there should be a limit placed this year (*ie*, 2026) as this would be the first year which [L] would spend some time alone with the

[16] RS at p. 9 (S/No. 14 of the Table).
[17] AS at [71]; RS at p. 9 (S/No. 14(d) of the Table).
[18] See Drew & Napier LLC's letter dd 13.02.26.
[19] RS at [71].

Father overseas (and there would be a need for acclimatisation), there was no clear reason why such a limit should continue in the following years.

34 Accordingly, I agreed with the Mother that for the upcoming June 2026 trip (and any other trip this year), the Father's overseas travel access should be limited to a period of 7 days. However, from 2027 onwards, each parent may bring [L] overseas from a period not exceeding 14 days.

35 I will also make orders relating to the provision of travel information, including the names of any accompanying persons, in line with the broad agreement between the parties on these matters.

School Holidays, Public Holidays and Other Special Occasions

36 The discussion on overseas travel above neatly dovetails the issue of the [L]'s school holidays after she starts primary school – this would be when most overseas travel is likely to take place.

Father's access during school holidays

37 In this regard, there was broad agreement between the parties that they each should be able to spend about half of the school holiday period in June each academic year ("June School Holidays") and in November/December (hereinafter, "End-Year School Holidays"), and for this arrangement to be alternated each year.

38 Where they disagreed was how the June School Holidays *for 2027* ought to be apportioned as the Mother was concerned that the 2027 June School Holidays would be the first extended school holiday period with the Father, and [L] may not be comfortable spending two straight weeks with the Father. She

thus proposed that for the 2 weeks alternating school holiday access only start for the 2027 End-Year School Holidays.

39 While I acknowledge the Mother's concerns and her preference for what she believed to be a gradual and incremental approach towards the school holiday access issue, I found her concern about the Father's ability to care for [L] to be somewhat speculative. The present case was not one where the Father had no experience with overnight access with [L], and where an incremental approach should be used.

40 By 2027, the Father would have spent some time overseas with the [L] (given the upcoming June 2026 overseas travel plans) and he would have had numerous weekend and weekday overseas access sessions by then. I saw no reason to impose a 1-week travel limit for the 2027 June School Holidays. Indeed, as I had noted above, the Father should be allowed to travel overseas with [L] for up to 14 days starting 2027.

41 As such, there would be no special carve out or exception for the Father's school holiday access for 2027.

42 As regards the March and September school holidays (which, by their nature, are shorter 1-week school holiday periods), I agreed with the Mother that access should start from Sunday, 5pm to Wednesdays, 11am.

43 In my view, there would be sufficient time for the Father to spend with [L] to build their father-daughter bond and enjoy their time together. The Father's submissions focused on the *number* of hours he would spend with [L], and that his proposal (where access starts at Sunday 12.30pm) gave him more access hours as compared to the Mother's request for access to start at 5pm. He

sought to juxtapose the Mother's latest proposal with her earlier position to demonstrate that she was offering him *less* hours than what she had proposed previously.

44 As I had noted in *XLH v XLI* [2025] SGFC 43 ("*XLH*"), a mechanistic approach towards access issues, including an excessive focus on the number of hours of access, should be eschewed.[20] The focus should be on quality not quantity. In the present case, I balanced the need for both parents to spend time with [L], including the fact that having Sunday evening access (at the start of the school holidays) would often be more meaningful (and usually perceived as more "fun") than the Sunday before school reopens where [L] would be busy preparing to start schooling again. There was thus no need to be overly focused on the minutiae.

Public Holidays & Special Occasions

45 I move on now to public holidays and other special occasions (such as Father's Day, birthdays, etc.).

46 There is no disagreement that the Father should have access to [L] on alternate public holidays, and it would follow logically that the Mother would have parenting with [L] on those public holidays where the Father would not have access. The main contention between the parties is whether the Father should have *overnight* access on these public holidays access sessions.

47 I agreed with the Mother that should be no overnight access for the Father on public holidays (falling on school days) given the possible disruption to [L]'s weekly school schedule. Access should therefore be from 9.00am to

[20] *XLH* at [13], [50] and [51].

7.00pm on public holidays. In reaching this decision, I was mindful that I had already provided for weekly mid-week overnight access on Tuesdays after [L] starts primary school. Having another overnight access date in the same week (should a public holiday fall on another weekday) would be disruptive and might well engage the concern of there being a need for 2 separate sets of clothing, etc. raised in *VXM*. My order regarding overnight Tuesday access already addressed the Father's need to spend more time with [L] on weekdays, and there was no further need for additional provision for public holiday overnight access.

48 The only exception I provided for would be where the public holiday in-question falls on a Friday – as the Father would have access on Saturdays at 9.00am, it would be more convenient and efficacious for [L] to spend the night with the Father since he would have access to her the following morning. This situation arises only where the Father's alternate public holiday access falls on a Friday, which would not be a common occurrence. Thus, the impact to overall amount of time each parent has with [L] on public holiday in any given year is not significant.

49 To avoid doubt, the "public holiday" I am referring to are the gazetted public holidays in Singapore each year. Where the actual date of the public holiday falls on a non-working day and there is a further public holiday declared in lieu thereof, it is the latter which is deemed to be the public holiday for the purpose of the access order.

50 Subsequent to the delivery of my brief decision to the parties, both parties sought clarification on the order of priority as regards the parties' public holiday access or parenting time arrangements and the regular weekly access. I have since clarified that the public holiday access as well as access during

specific days or periods were meant to be the exception to regular access, and would therefore take precedence.

Special Occasions

51 With regard to various special occasions (*eg*, the Father's birthday, Father's Day and [L]'s birthday), the disagreement between the parties was not so much on whether that day ought to be treated differently from regular weekdays or weekends. Rather, the parties raised yet another quarrel – this time by the Mother – over what would constitute a "fair" split of time.

52 At the risk of repetition, parents should avoid commoditising the children's time with each of them such that access time should be seen as some sort of commodity which can be bartered or traded. Time with *both* parents is important and both parents should endeavour to be the bigger and kinder person who should encourage (not discourage) the children to spend more time with the other parent – a point also highlighted in *XLH*.[21]

53 As regards the Father's birthday (which occurs on the 25th of November), I agreed that he should be entitled to have access from 9.00am to 7.00pm that day. The Mother's concern was that under the parties' agreed End-Year School Holiday access arrangement, each parent would be alternating between having parenting time/access on the first half and second half of [L]'s school holidays on even and/or odd-numbered years. The Father's birthday fell within the second half of the school holidays when the Mother would have parenting time with [L] on odd-numbered years. The Mother submitted that

[21] *XLH* at [15].

giving the Father access on his birthday during these years would create disruptions to the Mother's plans with [L].[22]

54 I found that this concern (which related to a very specific situation) can be fairly addressed by an order for make-up access. As such, where the Father's birthday fell within the Mother's parenting time/period during [L]'s Year-End School Holidays *and* the Mother has indicated she would be travelling during the said period, there shall be make-up access for an additional period of up to 10 hours after [L] returns to Singapore. The exact make-up access date(s) or arrangement should be agreed between the parties and be taken within 1 month after her return to Singapore (or such other time as the parties may agree in writing).

55 I did not make any orders in relation to the Mother's birthday as that was not sought in OAG 161 nor OAG 81. Nevertheless, I expected the Father to make the same accommodation in the spirit of co-parenting.

56 With respect to Father's Day (which takes place on the 3rd Sunday of every June), I found it reasonable for the Father to have access to [L] from 9.00am to 7.00pm that day, if she is in Singapore.

57 The Mother raised a concern over [L] having to attend additional classes or lessons on Sundays. I was of the view that the Father can make the necessary arrangements to ensure that [L] attends her additional classes while under his care on Father's Day. I thus did not see [L]'s extra lessons to be a reason to adjust the Father's time with her on Father's Day.

[22] RS at p. 7 (S/No. 12 of the Table).

58 Finally, with regard to [L]'s birthday, I found it appropriate and in her welfare for both parents to have time with her that day. This would give her the additional comfort and security that she remains both parent's child notwithstanding the parents' marital disagreements.

59 I broadly agreed with the Mother that there should be a differentiated treatment depending on whether [L]'s birthday falls within the September school holiday period or during a regular school week. For the former, the Father shall have access from 4.00pm to 8.00pm. For the latter, the Father's access shall be from after school until 5.00pm.

Conclusion

60 In these Grounds of Decision, I have set out my broad views on the *key* issues which were contested between the parties, and which form the relevant backdrop and context to my orders for the care of the [L], the details of which were sent to the parties via Registrar's Notice.

61 I made clear to the parties that my orders were interim in nature and would be in place until the conclusion of the parties' divorce proceedings (if any), or by further order of court. As there remained a period of time before formal divorce proceedings will be (or can be) commenced, I encouraged both parties to work together in the spirit of co-parenting and focus on making the orders work for the sake of [L].

62 For ease of future reference, my orders were made under the auspices of OAG 161, and no orders were made in respect of OAG 181. This was so that only one Order of Court would be extracted and which would cover all of the orders relating to [L].

63 Subsequent to the delivery of my brief decision to the parties via Registrar's Notice, I directed both counsel to file their respective costs submissions. Having considered both counsel's submissions, I was of the view that neither party can be said to have been the more successful party in these proceedings. Accordingly, I ordered that each party shall bear his or her own costs of the proceedings.

64 It leaves me to conclude by expressing my gratitude to both Ms Hoon and Ms Chong whose submissions were thorough, clear and fair. Their submissions assisted the Court in reaching its decision. It was also commendable that their submissions were made with restraint and focused on what their respective clients believed to be in [L]'s welfare, especially given the highly emotive and provocative matters raised by both parties in their affidavits. As I had noted above, these affidavits touched on personal and intimate matters with respect to each other's conduct and behaviour both before and during the marriage but were ultimately not entirely relevant to the proceedings.

Kevin Ho
District Judge

Ms Josephine Chong (Josephine Chong LLC)
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