

Tan Huy Yen

...Petitioner

AND

Lim Kuo Sheng

... Respondent

**(High Court of Brunei Darussalam)
(Divorce Petition No. 15 of 2022)**

Edward Timothy Starbuck Woolley, J.C.

Date of Hearing: 1st November, 2025.

Date of Decision: 6th November, 2025.

Headnote: Application to vary terms of access to children – overriding consideration the welfare of the children – importance of stability and certainty in their lives,

Ms Evelyn Lee Xin Yin (M/S YC Lee & Lee) for the Petitioner.
The Respondent In Person.

DECISION

Woolley, J.C.:

This is an application by the Respondent to vary the terms upon which he has access to the children of his former marriage, Jun Hein and Allie, now aged 10 and 7 years respectively, following the parties' divorce in 2023.

2 The background to this is that the parties, who were married in 2012, separated in 2019 and entered into a deed of separation on 13 July 2019. This followed a protection order which was granted to the Petitioner who had made a number of allegations regarding the Respondent's behaviour. Under the terms of the deed of separation access to the children by the Respondent was specified in some detail with quite wide discretion given to the Petitioner to vary the terms on occasion and to refuse consent if she considered it appropriate. This deed of separation, and the terms of access, the Respondent now claims were agreed to under duress. However, having seen the correspondence leading to the signing of the deed it is clear that he agreed to it after negotiations with the Petitioner's

solicitor. In an email to the solicitors dated 13 April 2019 he states, “*I have read through the document and largely happy with it (sic)*”.

3 This application then is made in the light of present circumstances as the children are getting older, and his wish to have increased contact with his children, rather than trying to correct what he feels was an injustice, and I will look at it in that light.

4 At present the Respondent has access to the children on Fridays from 6.00pm to 9.30pm, on Saturdays from 4.30pm to 9.30pm, to Jun Hein only on Sunday from 12.30pm to 5.00pm and sleepovers for Jun Hein on a Friday or Saturday subject to prior agreement, together with video calls to the children on school days.

5 The Respondent wishes to increase this to:

- i) Transporting the children to and from school on weekdays where practicable;
- ii) The children residing with him from Friday after school until Sunday evenings on alternate weekends, or as otherwise agreed between the parties;
- iii) That he be allowed to bring the children to their extracurricular activities on Saturdays and Sundays when they are in his care;
- iv) That he be permitted to travel overseas with the children on holiday;
- v) That he has weekday access from 4.00pm to 8.00pm;
- vi) That he be allowed to spend time with the children on special occasions such as birthdays, Chinese New Year and school-related events;
- vii) That he be allowed to attend the children’s school for events and meetings, where appropriate.

6 The Petitioner opposes this application and says that the current arrangements have developed with careful consideration of the children’s emotional well-being, developmental needs and the importance of maintaining a structured and consistent routine. She says that the Respondent sees the children on a weekly basis and they have shown significant progress in their development. As to the Respondent’s requests above, she says that school transportation is not possible as he has not proposed a fixed consistent schedule and has previously been inconsistent in pick up and drop off times. Furthermore, it is impractical as he lives in Bandar and the Petitioner and children live in Seria where they also attend school. Having considered the evidence and submissions from both parties I think this is right as there would be too much uncertainty and possibly disruption to the children’s schedule.

7 For weekend overnight access, she agrees to the present arrangement for Jun Hein alone on Fridays or Saturdays. She says it is too much for Allie who was only one year old when the parties separated and who is not as close to her father. She has a similar objection to his request to take the children to their extracurricular activities as with the school drop offs and pickups, in that the Respondent is not sufficiently reliable and the activities have been carefully worked out and managed by the Petitioner.

8 In respect of the overseas holidays proposal, I agree that this is too big a step to consider at this time. If, in the future, the Respondent has a specific proposal for such a trip, it can be further discussed by the parties then, or an application made to the Court to take one or both of the children out of Brunei for a short period.

9 The weekday contact is also opposed as it would disrupt the children's school work routine, particularly if they have homework to do. I also agree with this submission as it would not be sensible to take this time out of their weekday evenings.

10 As to special occasions and school involvement, the Petitioner has no objection to this provided they are discussed and agreed to in advance, and with the schools administration where necessary. She also undertook, in the hearing before me, that she would cooperate with the Respondent with goodwill where there were reasonable requests.

11 In any matter such as this before the Court the overriding consideration is the welfare and wellbeing of the children. It is inevitable that, when unhappy differences arise between spouses leading to separation, children can be much affected to their detriment and, as far as possible, stability, and continuity of things that are important in their lives must be ensured. It cannot be for the benefit of children that there are sudden changes to their lives in addition to their parents' separation. Their relationship with both parents is important, but it is also inevitable that they will have a closer relationship when young with the parent who has custody and care of them. The other parent is also entitled to maintain a relationship with the children and it would be a tragedy if it were otherwise. But a balancing act has to be created where rights are upheld within the framework of the welfare of the children.

12 Here a number of allegations have been made by both parties against the other. I do not propose to enumerate them or to assess their validity. They remain allegations unsupported by any third party evidence such as a social worker or similar. It would in any event serve no purpose when considering what is best for the children, accepting that sometimes feelings in these situations run high. At the same time, I have no doubt of both parents' overall consideration for the children's welfare.

13 Doing the best I can on what is before me, I consider that it is the best interests of the children for the present arrangements to largely continue without major changes. I do not propose to make any order in respect of the special occasions and school events, relying on the Petitioner's goodwill and good sense to agree to any reasonable request. In the same way, it will happen on occasion that circumstances, illness or some other reason prevents the Petitioner from complying with some scheduled access, and I expect the Respondent to deal with the matter with similar understanding and goodwill. In the event of difficulties, either party may of course apply to the Court for any change they propose.

14 I accordingly order and direct that the Respondent should have access to the children as set out in paragraph 48 of the Petitioner's affidavit of 28 July 2025. This is of course subject to the possible events as suggested in paragraph 12 above which I expect both parties to deal with sensibly and reasonably.

15 As the Respondent has been unsuccessful as to the majority of his application, I also order that he pays the Petitioner's costs of this application to be taxed.

A handwritten signature in black ink, appearing to read 'E. Starbuck Woolley', with a long horizontal stroke extending to the right.

EDWARD TIMOTHY STARBUCK WOOLLEY
Judicial Commissioner

