

International parental child abduction:

Advice and Prevention

action against
abduction

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1. What is child abduction?

International child abduction happens “when a parent or a relative or someone acting on their behalf removes, retains, or conceals a child, under the age of 16, in breach of the other parent’s custody rights whether joint or sole”.


In the UK, it is a criminal offence for anyone ‘connected with a child’ under 16 to take or send that child out of the UK without ‘appropriate consent’ of any other person who has ‘parental responsibility’ for the child.

This is set out in the Child Abduction Act 1984 as follows:

- The people ‘connected with a child’ are the child’s parents, guardians and people with a residence order or who have parental responsibility.
- ‘Appropriate consent’ is the consent of the mother, the father (if he has parental responsibility), the guardian or anyone with a residence order or parental responsibility, or the leave (permission) of the court.
- ‘Parental responsibility’ is defined as “all the rights, duties, powers, responsibilities and authority which by law a parent of a child has”.

A mother automatically has parental responsibility for her child from birth. However, the conditions for fathers vary.

- If the parents were married to each other at the time of the birth of the child, then each parent will have parental responsibility for the child. If they divorce, their respective parental responsibilities cannot be lost, short of adoption of the child.
- If the parents were not married to each other at the time of birth of the child, the father can acquire parental responsibility through an agreement with the mother; or a parental responsibility order, made by the court; or by registering the child’s birth jointly with the mother. He can also acquire it through a child arrangements order that states that the child lives with him, but this right will only last for the duration of the order.
- A woman who is the mother’s same-sex partner can now have parental responsibility in the same manner as a legal father.



A child arrangements order that the child lives with one parent, is an order stating where a child should live. In cases where parents separate and there is a dispute about where their children should live, the court will decide this according to what it deems to be the 'child's welfare'. If the court makes a child arrangements order that states the child lives with a person or persons, they automatically have parental responsibility while that order is in force. They can also take the child outside England and Wales for up to a month at a time without needing the permission of any other person who has parental responsibility or the court.

International child abduction

If your child is abducted to, or wrongfully / unlawfully retained in, another country, the chances of recovering your child will depend on the customs and laws of that country as well as your relationship with the person who has taken the child.

If your child has been abducted to a country which is a member of the Hague Convention 1980, your Central Authority will help you commence an application for the return of your child. Contact them immediately (see next chapter).

If your child has been taken to a country that has not signed the Hague Convention 1980, you are able to apply to the court in England and Wales under wardship for the return of the child. You will also want to consider whether or not to commence proceedings in the country to which your child has been taken to secure the child's return. You should contact the Foreign and Commonwealth Office's (FCO) Child Abduction Section (see next chapter) and obtain legal advice from a specialist family solicitor in England and Wales before doing anything at all. A list of specialist family solicitors can be found on the International Child Abduction and Contact Unit's website: www.gov.uk/guidance/child-abduction-accredited-solicitors-referral-list

2. What to do if you fear your child may be abducted

Dispute resolution

In an emergency

Call the police and contact a specialist family solicitor immediately. If you have a court order, the police can put your child's name on the airport watch list and other points of exit. If you do not have a court order, your solicitor will give you advice on obtaining one which will prevent your child from being taken out of the country.

If your marriage or partnership shows signs of breaking down, try to resolve the situation in an amicable way. You can, for example, get advice from Resolution (www.resolution.org.uk), a group of family lawyers and other professionals committed to the constructive resolution of family disputes.

Alternatively, for example, try contacting the Family Separation Clinic – an organisation which brings together a range of independent professionals with backgrounds in family therapy, child and adolescent psychiatry, social work, dispute resolution and family law and is dedicated to offering you the support that you need to build and maintain strong co-operative parenting agreements that last over time.

Precautions

If your relationship breaks down completely and you have suspicions or evidence that the other parent is planning to take your child to another country without your permission, or if you are worried about letting your child visit the other parent in another country, you should take some basic precautions. Make sure you have the following information at hand. Should your child be abducted, it may be vital in locating him/her.

- Get copies of any relevant court orders.
- A written description of your child including hair and eye colour, height, weight and any distinguishing characteristics.
- Your child's date of birth, passport details, and a current photograph.

- Information about the other parent including: physical description, passport details, bank account details, driving licence number, a recent photograph, list of addresses and telephone numbers of the other parent's relatives, friends, and business associates abroad.


If not too young, give your child a mobile and teach him/her to use it and a public phone.

A list of specialist family solicitors can be found on the website for the International Child Abduction and Contact Unit

[\[www.gov.uk/guidance/child-abduction-accredited-solicitors-referral-list\]](http://www.gov.uk/guidance/child-abduction-accredited-solicitors-referral-list).

If the risk is imminent:

- Contact a specialist family solicitor.
- Obtain an urgent without notice application before the Urgent Applications Judge who sits in the Family Division of the High Court, The Royal Courts of Justice, The Strand, London, WC2A 2LL. (The Applications Judge sits all day, Mondays to Fridays. Applications can be made at 10.30am and 2pm. 'Out of hours' emergency applications can also be made.)
- Obtain a 'Port Alert' and a 'Tipstaff order' as part of your urgent, without notice application. A Port Alert will put a warning on the borders so that your child will be stopped by the authorities if someone tries to take the child across a border. A Tipstaff order will allow the police to go round to the proposed abductor's house and take away all passports and travel documents in respect of them and your child.
- The application to the court should be your first port of call.
- Then go to your local police and ask them to circulate an "All Ports Warning" and put your child on the 'child abduction list'.
- If your local police are not responsive, insist on speaking to a Senior Officer. Do not just rely on the police to act.

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- If your child has dual nationality, or you fear that the other parent will apply for a second passport, you can obtain a respectful request through the courts that the Embassy / High Commission does not issue any passports in respect of the child, and shall inform you if any passport applications are made in respect of your child. Such a request can be made by the court at the same time as a Port Alert and Tipstaff Order are obtained.
 - You can also obtain a court order against the UK Passport Office directing them not to issue any passports in respect of your child, and to inform you if any passports applications are made in respect of your child. Such an order can be made by the court at the same time as a Port Alert and Tipstaff Order are obtained.

3. What to do if your child has been abducted from England and Wales to another country

You should take the following steps if your child has been abducted:

Gather information

Make sure you have the right information to hand – see page 4, above.

Contact a specialist solicitor

International child abduction is primarily dealt with as a civil matter. You will need to contact a specialist family lawyer.

You will also need a solicitor / lawyer in the country to which your child has been abducted. One of the best ways of finding such a solicitor / lawyer is through the International Academy of Family Lawyer's website at www.iafl.com. Your specialist solicitor in this country may also be able to recommend someone suitable.

A list of specialist family solicitors can be found on the website for the International Child Abduction and Contact Unit
[\[www.gov.uk/guidance/child-abduction-accredited-solicitors-referral-list\]](http://www.gov.uk/guidance/child-abduction-accredited-solicitors-referral-list).

Call the police

- Report your child missing, and seek advice from the police.
- If not too late, ask them to circulate an "All Ports Warning" and put your child on the 'child abduction list'.
- If you do not know where your child is ask the police to launch a [Child Rescue Alert](#). With your permission, the child's photograph and description may also be circulated to the media in the country to which you believe the child may have been taken.
- If your local police are not responsive, insist on speaking to a Senior Officer. Do not just rely on the police to act.

Find out which government Authority can help you

Which government Authority will be able to help you depends on where in the UK you live, and the type of abduction case. Use this website to identify the right place to go for support: <https://www.gov.uk/return-or-contact-abducted-child>

- If your child has been abducted to, or illegally retained in, a country that is a signatory to the Hague Convention 1980 there will be procedures under the Convention that you must follow. See next chapter, and the list of Hague Convention 1980 signatory countries in “Useful Links” below.
- If your child has been taken or wrongfully / unlawfully retained in a non-Hague signatory country, you may have to follow different procedures. Find out more by visiting: <https://www.gov.uk/return-or-contact-abducted-child>.
- In some instances, other Conventions may be applicable, such as Hague Convention 1996. Ask you Central Authority for guidance and ultimately discuss with your specialist lawyer.
- Contact your Embassy in the country to which your child has been taken (where applicable) and ask them to alert the police.

Keep a record


Keep a record of everything that takes place. This may be vital when your case comes to court.

Contact reunite

The charity Reunite (www.reunite.org) will also give you support and additional contact information.

Consider negotiation

Legal proceedings can be long and expensive. If the child’s safety is not at risk, consider negotiating with the abducting parent for a voluntary return of your child. Compromise may be the best solution – both for you and your child – but be aware of potential legal pitfalls.



Despite unavoidable set-backs and difficulties, your persistence provides the best chance of having your child returned.

Always discuss any negotiations with your specialist lawyer before coming to a concluded agreement with the abducting parent. Any decision you make is likely to have a long-term and marked impact on your child.

4. The Hague Convention 1980

The Hague Convention on the Civil Aspects of International Child Abduction 1980 is a multilateral treaty which seeks to protect children from the harmful effects of abduction or retention across international boundaries by providing a procedure to bring about their prompt return to their home (their country of “habitual residence”).

The Hague Convention 1980 is not concerned with the merits of a custody case (see Article 19). Criticisms or complaints about the custodial parent, or the terms of a custody award, are matters to be dealt with in the courts in the jurisdiction of the child’s habitual residence. The Convention is based on the assumption that it is in the child’s best interests to be returned quickly. This assumption is there to ensure that the abducting parent cannot profit from the abduction or retention by choosing one jurisdiction over another (i.e. “forum shopping”).

The Convention also seeks to secure protection for rights of access (see Article 21).

Who has signed up and when?

The Hague Convention 1980 was first concluded in October 1980 and it came into force in 1986. Today, over 70 countries are members of the Convention. The date on which the Convention came into force between your country and the country to which your child has been taken is important, as the Convention will not apply if your child was taken before that date.

How does it work and what should I do?

Each country that is party to the Convention has a designated government office, known as the “Central Authority”. Its duty is to send and receive requests for the return of children or the enforcement of orders. Central Authorities are also bound to provide information about the laws of the country where your child has been abducted to or retained in and help you with the legal process. In most Hague Convention countries, the Central Authority will apply, on your behalf, to the Central Authority of the country where your child has been retained or abducted.

What should the Central Authority do for me?

- Act as your primary point of contact.
- Liaise with law enforcement agencies.
- Assist you in contacting local officials in foreign countries or contact them on your behalf.
- Help you in filing your application for return or access.
- Keep you informed of the progress of your application.
- Provide you with information on the country to which your child has been taken, including its legal system.
- Provide you with a list of competent, specialist family solicitors.
- Some authorities will translate documents for you free of charge.
- Some Central Authorities do provide legal advice and / or legally represent parents who have had their child abducted. (The Central Authority for England and Wales does not provide either of these services – legal advice and / or legal representation is provided by your specialist family solicitor and, in all likelihood, your specialist family barrister who is instructed by your specialist family solicitor.)

The extent of the Central Authority's roles in facilitating proceedings will vary from country to country. Check their individual websites to find out more.

You can apply directly to the courts of the country where your child has been retained or taken to — but generally speaking we would not advise you to do so. Your Central Authority is there to help you and expedite the process.

What can I apply for?

Under the Hague Convention 1980 you can make an application for a return if:

- Your child has been taken to another signatory country, in breach of your custody rights (wrongful removal), OR

- Your child has been retained in another signatory country, in breach of your custody rights (wrongful retention), OR
- You have not been able to secure access to your child who is living in another signatory country

What conditions do I need to meet?

A. For a return:

- Your child is not yet 16 years old, and;
- Your child was habitually resident in the country in which you make your application, and;
- You have rights of custody in respect of the child at the time of the wrongful removal / retention, and;
- You were exercising your rights of custody in respect of the child at the time of the wrongful removal / retention.

If one of these requirements is not met your child will not be returned under the Convention. Be very careful. Your specialist family solicitor will be able to advise you in relation to these issues.

There are also various defences to any Hague Convention 1980 application that the abducting parent may be able to plead. Your specialist family solicitor will be able to advise you in relation to any possible defences and how these should be addressed.

B. For securing access rights:

- Your child is not yet 16 years old
- You have been denied access to your child.

Speed of proceedings

The merit of the Convention is in the speed of its proceedings (Article 11). The proceedings are meant to be concluded in six weeks from the time they are issued up until the final hearing (including any appeal hearings). Lengthy proceedings can jeopardise your chances of having your child returned as it may create defences to your child being returned.

Enforcement of orders

It may also be possible to obtain the recognition and enforcement of your foreign order in the state to which your child has been abducted, under either the European Convention on the mutual recognition and enforcement of orders 1980, Brussels II (bis) or Hague Convention 1996.

You may be able to apply to enforce the orders instead, or as well, as seeking the return of your child under the Hague Convention 1980.

You may also be able to utilise the enforcement process in tandem with any application for access rights under article 21 of Hague Convention 1980 (as discussed below.)

Discuss all options with your specialist family solicitor before taking any action.

Securing Access Rights – Article 21

The Convention seeks primarily to secure the ‘prompt’ return of children wrongfully removed or retained. But Article 1 makes it clear that the objectives also include securing “protection for rights of access” and the “effective respect” for such rights. Furthermore, Article 7 states that the Central Authorities are bound by the obligations of co-operation to promote the peaceful enjoyment of access rights. The drafters of the Convention recognised that the issue of contact can have a link to the phenomenon of abductions; and that some abductions are triggered by parents who have been unable to gain access to their children living abroad.

As a consequence, an application for access can be lodged under Article 21 for access (contact) to your child, in the same way as an application for a return.

If the two countries concerned are members of the European Union and if you have an existing order granting you access rights, the European Convention on the mutual recognition and enforcement of orders 1980, Brussels II (bis) or Hague Convention 1996, may be a more efficient means for you to have that order enforced. Discuss your options with your specialist family solicitor before taking any action.

5. Mediation

Consider mediation. Legal proceedings can be long and expensive. If the child's safety is not at risk, consider negotiating with the abducting parent for a voluntary return of your child. Compromise may be the best solution – both for you and your child – but be aware of potential legal pitfalls.

If you need help, for example, the International Family Law Group LLP, offers a specialist resolution service: www.iflg.uk.com, as does Reunite: www.reunite.org

6. Useful links

Central Authorities and solicitors

Identify the right government Central Authority to help you: <https://www.gov.uk/return-or-contact-abducted-child>

List of family lawyers specialising in child abduction matters:

www.gov.uk/guidance/child-abduction-accredited-solicitors-referral-list

British Embassies – www.gov.uk/government/world/organisations

International Academy of Family Lawyers: www.iafl.com

Non-governmental organisations

Reunite (international parental child abduction and contact): www.reunite.org

Family Separation Clinic (parental alienation and abduction):

www.familyseparationclinic.co.uk

International Family Law Group LLP: www.iflg.uk.com

Resolution (family lawyers and professionals promoting constructive resolution of family disputes): www.resolution.org.uk

Information

Foreign and Commonwealth Office guidance on international parental child abduction, including the Pakistan Protocol:

<https://www.gov.uk/government/publications/international-parental-child-abduction>

List of Hague Convention signatory countries

www.hcch.net/index_en.php?act=states.listing