

10 facts about child abduction

1. To move your child abroad (or retain them following a trip to another country), where England and Wales is their country of Habitual Residence, without the consent of all other persons or bodies with rights of custody, is Child Abduction. This is even the case for a short holiday abroad.
2. England is a signatory to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. This Convention operates between contracting states to facilitate return of abducted children to their country of habitual residence.
3. Whilst there are defences under the 1980 Hague Convention, these are extremely limited and apply in a very limited set of circumstances.
4. The mechanism provided for in the 1980 Hague Convention for securing the return of wrongfully removed or wrongfully retained children is, in short, a procedure which eventually sees the 'left behind' parent (or other qualifying individual or body) seeking a remedy from the courts in the country the child is physically present.
5. Each country that is a signatory to the 1980 Hague Convention is required to designate a Central Authority to facilitate the conventions operation. In England this is the International Child Abduction and Contact Unit (ICACU).
6. A 'left-behind' parent can commence an application for the return of their child through the Central Authority in the country where they live; the application is then translated where necessary and sent to the country where the child is. However, commencing action via the Central Authority in the country where you live is usually not a pre-requisite to commencing proceedings in the state where the child is.
7. If your child is unlawfully removed or retained, it is extremely important to get legal advice and move quickly in commencing legal action. Cases for return can be brought at any time in theory, but the longer things are left, the more difficult it can become.
8. In addition to the 1980 Hague Convention, England is a signatory to several other Conventions. It is also bound by the European regulation known as Brussels II Revised. These other conventions and regulations are in force in some countries that are not signatories to the 1980 Hague Convention, and can also provide mechanisms for securing the return of abducted children.
9. Under the Child Abduction Act 1984, Child Abduction is a Criminal Offence in this country.
10. What is the right thing to do if you cannot get the consent you need to take your child abroad? You need to apply to the Court for 'Leave to Remove'.

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An Abduction Example

Children, Bart, Lisa and Maggie, live at home in England with their mother Marge and her second husband Ned. Marge and the children's father, Homer, separated a few years ago and following the divorce she and the children moved to St. Albans in England. Marge and Homer agreed that the children would spend either their summer holidays or Christmas holidays with Homer in America each year. It is the end of the summer holidays this year, and Homer is due to bring the children home on 30 August. Homer does not bring the children home on 30 August. Marge is unable to get through to Homer on the telephone, and the children have not been on Skype with her during the past week. Marge is extremely worried and she wants her children to return home as soon as possible. Marge speaks to a solicitor, she contacts the ICACU and commences an application for the children's return under the 1980 Hague Convention. The ICACU send Marge's application to the US Central Authority and assist her in communicating with them. Proceedings get underway with Marge instructing her lawyer in America from England. Marge decides to travel to America for the final hearing. Homer defends Marge's application but he is not successful and the court in America makes an Order for Bart, Lisa and Maggie to return home to England with their mother.

We offer expert and confidential legal advice on matters of international law concerning both children and divorce. We recognise that dealing with matters pertaining to your child's future can be very stressful and difficult, in different ways for both parents. No two families are the same, the situation is often extremely delicate, and requires a sensitive but tactical approach to achieve the desired outcome.

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