

# Child Abduction

## Overview

This factsheet explains concepts and legal principles relevant to child abduction. It offers guidance to those affected by abduction situations, or who suspect an abduction may be imminent.

## What is child abduction?

The expression **child abduction** conjures up images of a child being snatched off the street – in other words, kidnapping.

It has a different meaning in disputes between parents. Child abduction in this setting means one parent taking or keeping a child abroad without the consent of the other parent or the permission of a court. So, for example, if a separated family ordinarily live in England, and the mother takes the children to Canada (even temporarily) without the father's permission, she might have abducted the children. Abduction works in both directions, so a child who usually lives in Canada who is brought here without permission might have been abducted.

International child abduction is not a new phenomenon: a French father tried to abduct his two sons to the USA aboard RMS Titanic in 1912. Abduction is, however, more prominent now due to the ease and economy of international travel, the increase in bi-cultural marriages and a high rate of parental separation.

In abduction situations, the parent who takes the child is referred to as the **abductor** or the **abducting parent**. The other parent is identified as the **left-behind parent**.

## Who is affected by child abduction?

There is no typical family model more likely to experience child abduction than another. It affects heterosexual and same sex parents. It affects parents across the range of socio-economic backgrounds.

It usually involves a relationship between parents from different cultures or nationalities, but this is not always so. Child abduction can occur even if both parents are British citizens and have always lived here.

A comprehensive review of child abduction cases was undertaken jointly by the Permanent Bureau of the Hague Conference and Cardiff University in 2008. That review yielded the following statistics:

- In 2008, there were 2,460 applications made worldwide for the return of abducted children;
- This figure was 45% higher than the comparable statistic from 2003;
- 69% of abducting parents were mothers, the majority of whom were the children's primary carers;
- England and Wales was the second-busiest jurisdiction for abductions worldwide, second only to the USA;
- Cases of abduction involving England and Wales had increased by 33% from 2003.

Child abduction is becoming more common is confirmed by figures released by the Foreign and Commonwealth Office (FCO) last year. Whilst their review was less detailed than the Hague/Cardiff joint enterprise, the FCO also noted an increase in the number of new cases it had handled (up by 10% from the previous year).

Historically, most child abduction cases involving the UK occurred between the Republic of Ireland, the USA, Australia, Canada and New Zealand. In the past decade, however, there has been a huge increase in the number of abductions that involve another EU Member State (especially the newer accession Members, like Romania, Bulgaria, Slovakia and Slovenia). Cases involving India, Pakistan and Bangladesh, are frequently encountered nowadays, as are abductions concerning North Africa and the Far East.

The number of child abductions spikes towards the end of long holiday periods, with more cases than usual being reported in late August/early September.

Continue overleaf >

## The effects of abduction

Those working with abducted children report the profound psychological impact the experience often has had on them. Child abduction is hugely traumatic for the children affected. It almost always involves an unexpected separation from a parent and wider family members. It involves a removal from a familiar environment and home, and from friends. Children who are abducted report feeling a sense of loss and shock which seem unbearable.

The psychological harm done to a child through abduction does not just affect him or her during childhood, but may carry on into later life.

Abduction also profoundly affects the left-behind parent, who will often feel a similar sense of shock and loss. Left-behind parents report it being similar to the feelings following a sudden bereavement.

## Is child abduction a criminal offence?

This may depend on whether the abduction is an **incoming** one (a child brought here from abroad) or an **outgoing** one (a child taken from England and Wales overseas).

In incoming cases, whether the abduction is a criminal offence will depend on the law in the country from where the child was taken. This varies from country to country: some treat abduction as a serious crime (for example, the USA) whilst others do not apply any criminal liability.

It is not a criminal offence in England and Wales to commit an incoming abduction.

An outgoing abduction may be a criminal offence. It depends on the circumstances of the abduction. The Child Abduction Act 1984 (CAA) makes it a crime in some situations to take or send a child under sixteen out of the UK. Whilst prosecutions under the CAA are uncommon, they do occur especially if there are aggravating factors (abduction by force, breach of court orders, length of abduction, etc).

A person found guilty under the CAA may be sentenced to up to 7 years in prison.

## Addressing child abduction cases

Beyond the criminal aspects, the focus in child abduction situations is to resolve which courts should make long-term decisions about the child's future. This happens under the civil law, concerned with resolving disputes between private individuals, rather than under the criminal law.

Because it is an international issue, child abduction is addressed at that level also. There are a number of international treaties, agreements and understandings that apply to child abduction situations. Whether they apply to a particular situation usually depends on where the children affected have been taken from and to.

One of the better known international arrangements is the 1980 Hague Convention on the Civil Aspects of International Child Abduction (Abduction Convention). This Convention, which operates between some eighty plus countries, defines what constitutes abduction. It identifies that the default outcome to child abduction situations is usually the return of the children to the country where they were previously living. It also specifies the limited arguments a parent can use to try to achieve an outcome other than the default one. For example, if the child objects to being sent back and is old and mature enough for a court to take that view into account.

Within the EU, there are particular rules regarding child abduction situations and how courts must respond to those.

There are also less formal arrangements – protocols, declarations, understandings, etc. – designed to address child abduction situations. The UK has entered into a Protocol on child abduction issues with Pakistan, and a Declaration with Egypt.

Child abduction cases should be resolved swiftly. They usually are in this country, within about six weeks of the case first coming before a Judge. Other countries, and particularly those who do not apply the Abduction Convention, often respond much more slowly.

## Warning signs

The most common warning sign that ought to make parents vigilant about the spectre of child abduction is the end of a relationship. A relationship breakdown can be as profound a trigger as other dramatic life events, and drive parents to behave uncharacteristically. Different people respond in different ways to the end of their relationship and sometimes the response is to abduct the child or children.

Other warning signs might include:

- A parent showing a sudden interest in knowing where a child's passport is, and getting hold of it (and likewise in relation to birth certificates);
- A parent expressing a wish to take children on holidays without the other parent;
- A sudden change in circumstances, such as a parent leaving their job or accommodation, and/or
- A parent putting belongings into storage.

A reduction in the time a child is permitted to see the parent they do not usually live with might also be a cause for concern.

None of the above is a sure-fire indicator of an imminent child abduction, but they ought to make parents more alert to the risk.

Of course, in some cases the abduction will take the left-behind parent completely by surprise and will not be preceded by any of these signs.



## Practical advice for parents

The immediate response of a left-behind parent who knows or suspects his or her child has been abducted should:

- Contact the police;
- Contact a solicitor specialising in child abduction cases;
- Contact an organisation called **Reunite** (see below);
- If the abduction is to a country that applies the Abduction Convention, to contact the International Child Abduction and Contact Unit (ICACU) (see below), and
- If the abduction is to a country that does not apply the Abduction Convention, to contact the FCO Child Abduction Section (see below).

The same responses are appropriate if the abduction has not occurred but where one is suspected or has been threatened. In those cases, specialist legal advice can prove crucial. This is because there are court orders that can be obtained very quickly to ensure a threatened or suspected abduction cannot occur.

A parent concerned that an abduction is about to take place should think about:

- Securing the children's passports and making sure they are somewhere safe (such as with a solicitor, a trusted friend or family member);
- Contacting the UK Passport Agency, to ask them not to issue a replacement passport;
- If the other parent and/or the child has a nationality other than British, contacting that country's Embassy or High Commission here, to request that a passport not be issued.

An abducting parent should also consider contacting a specialist solicitor as soon as possible. Expert advice is crucial early, as it might prove possible to bring a case within one of the exceptions to the general rule that abducted children should be returned home. It may also be possible to resolve an abduction case through the use of specialist mediation and counselling services.

In incoming abductions covered by the Abduction Convention, legal aid will always be available for the left-behind parent. In outgoing cases covered by the Abduction Convention, many countries will meet or at least subsidise the legal costs of the left-behind parent. In other situations, the individuals will need to qualify for legal aid on the usual terms.

The law and procedure relating to abduction situations is complex, and cases develop extremely quickly. Time can often be of the essence in abduction cases, either in terms of preventing it occurring in the first place, or else achieving the proper resolution quickly and effectively if the abduction has already happened.

Continue overleaf >

## Resources

### Reunite International

Reunite is a UK based charity specialising in international parental child abduction. It provides advice, publishes prevention guides and resources, and information on support services. Reunite operates a telephone advice line offering practical, impartial advice, information and support to those affected by abduction.

PO Box 7124  
Leicester  
LE1 7XX  
Advice Line: +44 (0) 116 2556 234  
Telephone: +44 (0) 116 2555 345  
Fax: +44 (0) 116 2556 370  
E-mail: [reunite@dircon.co.uk](mailto:reunite@dircon.co.uk)

<http://www.reunite.org/>

### ICACU

The ICACU is attached to the Ministry of Justice. It is the agency responsible for administering in this country the Abduction Convention (as well as other international agreements). The ICACU processes applications and can provide practical advice to parents, solicitors and others on steps they may take to recover children who have been abducted to and from England and Wales. The ICACU has good links with similar agencies in other countries, with whom they regularly communicate about cases, passing on information and providing assistance where necessary.

81 Chancery Lane  
London  
WC2A 1DD  
Tel: 020 7911 7047/7045 (10:00am-4:00pm)  
Fax: 020 7911 7248  
E-mail: [enquiries@offsol.gsi.gov.uk](mailto:enquiries@offsol.gsi.gov.uk)

<http://www.justice.gov.uk/protecting-the-vulnerable/official-solicitor/international-child-abduction-and-contact-unit>

### FCO Child Abduction Section

The FCO Child Abduction Section provides help for British and dual-British nationals affected by child abduction. The FCO will provide advice to those who feel a child is at risk of being abducted, refer affected individuals to specialist legal advisers, and share their general experience of responding to abduction situations. The FCO can be especially useful in outgoing cases to countries that do not participate in the Abduction Convention.

Telephone: 020 7008 0878  
Out of hours: 020 7008 1500

<http://www.fco.gov.uk/en/travel-and-living-abroad/when-things-go-wrong/child-abduction/>

Please feel free to discuss your own position and concerns. Contact your nearest office on:

T: 0800 916 9015  
E: [enquiries@slatergordon.co.uk](mailto:enquiries@slatergordon.co.uk)  
W: [www.slatergordon.co.uk](http://www.slatergordon.co.uk)

Slater & Gordon Lawyers (UK) LLP is one the UK's leading and largest legal practices with offices throughout England, Wales and Scotland.

Slater & Gordon (UK) LLP is authorised and regulated by the Solicitors Regulation Authority and the Financial Conduct Authority for insurance mediation activity. The information in this factsheet was correct at the time of going to press January 2013.