

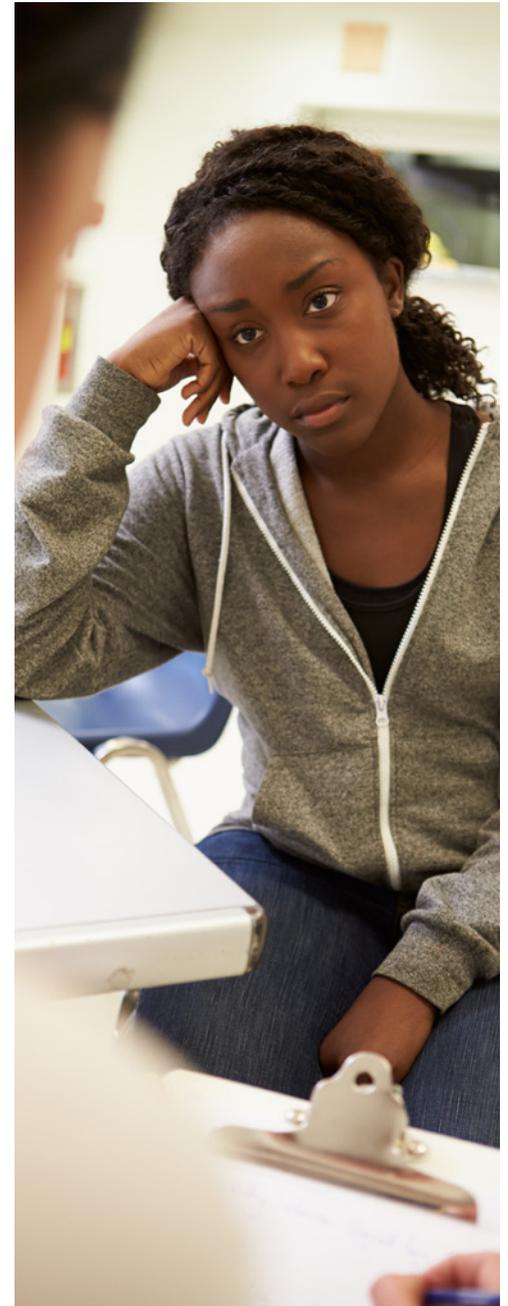
# Children and the law: child abduction

This guide is designed to give you information about the basic legal principals that apply to child abduction.

The law around child abduction is complicated and spans both criminal law and family law. There is also an element of international family law involved if your child has been removed from the country.

These issues are complicated and your circumstances will be individual to you. This guide is aimed at giving you an understanding of the basic legal principles. If you fear your child is at risk of being abducted or you have been accused of abducting your child, please call our free, confidential legal advice lines. It is likely that you will be entitled to free legal advice if you believe that your child has been abducted or you are interviewed by the police. Details of the advice lines can be found towards the end of this guide. If your child is abducted, you should contact the police and seek legal advice from a specialist solicitor urgently. Please see the **Useful contacts** section at the end of this guide.

*'...It is likely that you will be entitled to free legal advice if you believe that your child has been abducted...'*



## What is child abduction?

Child abduction is the unauthorised removal of a child from one of their parents or from the country where they normally live by either parent. The removal of the child will be unauthorised if either parent did not agree or the removal is not approved by the court.

The legal options available to a parent when they fear their child is going to be abducted or if their child has been abducted will depend on whether the abduction will be within England and Wales, within the UK but not England and Wales or outside the UK.

Although the words “child abduction” are used in this guide as a general term for the unauthorised removal of a child as described above, it is also a criminal offence in some circumstances. If the unauthorised removal of a child is within the UK, it is not a criminal offence. This does not mean that you do not have any options to have your child returned to you, but they will be different compared to if your child is removed from the UK.

It is a criminal offence for a parent or guardian of a child under the age of 16 to take or send that child out of the UK without the consent of everyone with parental responsibility for the child.

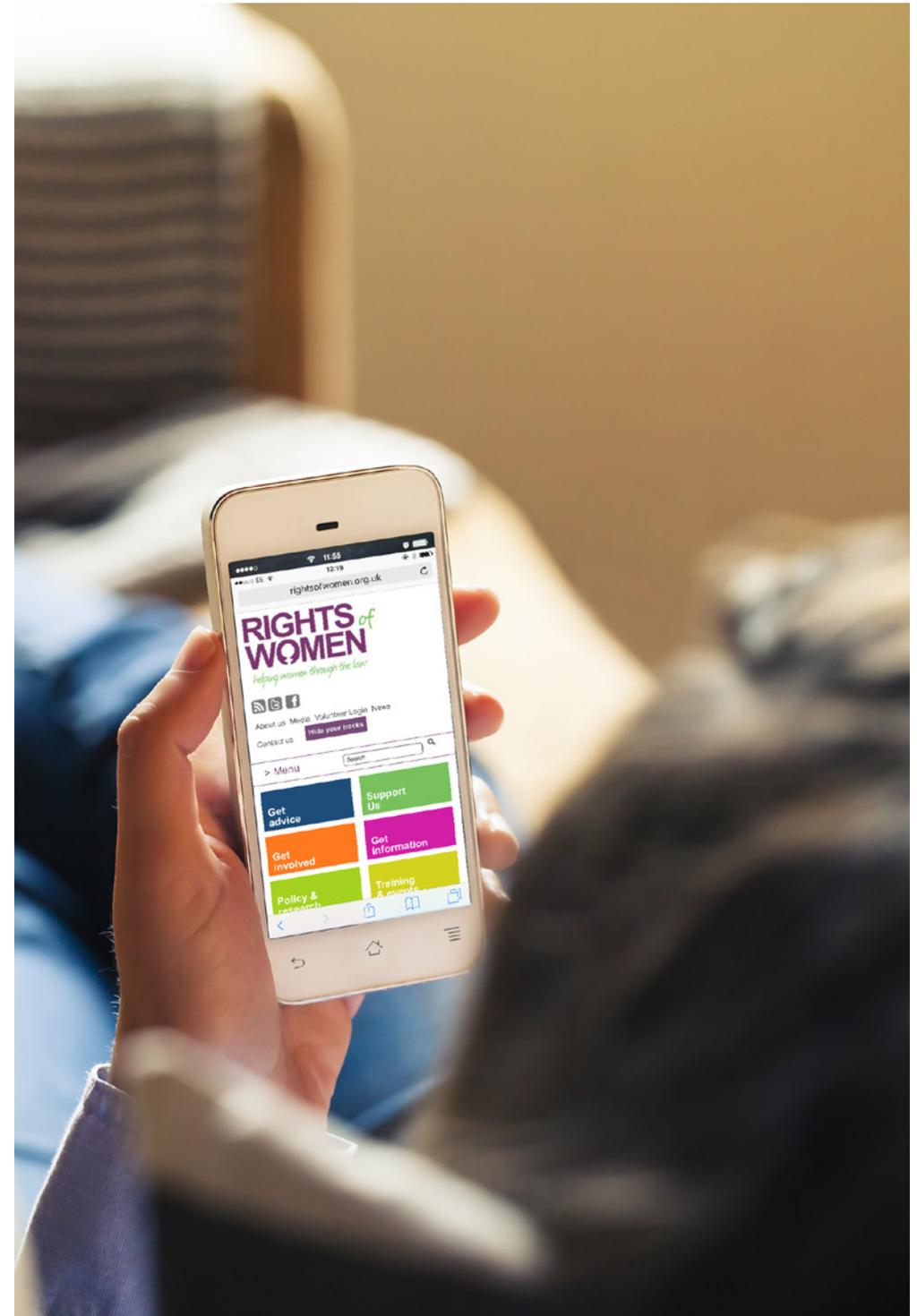
To understand who has parental responsibility for your child, please see our guide **Children and the law: parental responsibility**.

This means that if the father of your child has parental responsibility, you are not able to take or send your child out of the UK without their consent unless one of the exceptions below applies. This applies to any trip out of the UK, including school trips and holidays.

It is not a criminal offence if one of the following exceptions apply:

1. You have a child arrangements order that says the child lives with you.
2. You have an order from the court giving you permission to remove the child from the UK.

If you wish to leave the UK with your child and you do not have the consent of everyone with parental responsibility, you have options available to you. See our guide **Child and the law: holidays and relocation**.



## How do I prevent my child being abducted?

If you have concerns that your child's father will try and remove them from your care without your agreement, you can apply to the family court for a **prohibited steps order** (PSO). This is an order that prevents a parent from doing something specific. For example, a PSO can stop someone removing your child from your care, taking them out of school without your permission, or removing them from England and Wales.

If you believe that the father of your child will try to take them out of England and Wales, you can also apply for a **specific issues order** (SIO) which can require the father of your child to do certain things, for example to hand over passports to the court or his solicitor.

You can apply for these orders without telling the father if you believe that telling him will make it more likely that the child will be taken from you. This is called making the application without notice. You will need to complete a form C100 and C1A to apply for a PSO or SIO.

The father will be informed of the application after the first hearing, and there will be a further hearing which you and the father will attend for the court to decide whether the orders should continue. You may find it helpful to read our guide to **Children and the law: the Family Court process**.

If you are making the application without notice, you will need to explain the reasons why. These might include:

- Your child's father has made threats to take them from your care
- Your child's father has been violent towards you or your child
- Your child's father has tickets or travel documents to take them abroad although you have not agreed to this.

*'...If you believe that the father of your child will try to take them out of England and Wales, you can also apply for a specific issues order (SIO)..'*

If it is an emergency situation and you believe that the father is going to attempt to remove the child from the country in the next 24 to 48 hours, the following action can be taken:

- A court can order a port alert to prevent the child from leaving the country. This means that the police will flag the child's name at all UK airports and points of departure. This is only where the threat is real and is likely to occur in the next 24-48 hours. The port alert will last for 4 weeks unless extended further by the Court.
- The court can make an order requiring a UK passport to be surrendered or to prevent the Passport Service from issuing a passport or travel document.

- The police can issue a port alert without a court order where the criminal offence of abduction may be committed. However, they can only do so where they believe that there is a real risk of abduction and it is likely to occur within the next 24 hours.

All of these actions require proof that the child is likely to be removed from the UK within the next 24 or 48 hours without the consent of everyone with parental responsibility.

If you believe that there is a risk the father of your child may remove them from the country, you should speak to a specialist solicitor as early as possible. If you are on a low income, you may be able to get legal aid. See **Useful contacts** at the end of this guide.



## What if my child has already been abducted but is in the UK?

It is important to seek legal advice as soon as possible.

The law is different in different parts of the UK. What action you take will depend on whether your child is in England and Wales, Scotland or Northern Ireland.

Your child's father may abduct the child and stay within England or Wales, for example, he may have kept the child after contact or taken them on holiday in England and Wales without your permission. If there are already court orders in place, the police may be able to help you. It is unlikely that the police will take the child away from him and return them to you unless you already have a court order saying the child should be with you or there is a real risk of serious harm to the child with their father.

If you have a child arrangements order stating that the child lives with you, then the police can act to return your child to your care.

If the police are unable to help you, you can make an urgent application to the Family Court for a specific issues order for your child to be returned to your care. A court will make this order if it is in your child's best interests to do so. They will look carefully at where your child normally lives and will usually restore living arrangements to how they were before your child was taken away. You should apply for one of these orders quickly so it will be in the child's best interests to return to their day to day lives quickly.

You may also want to apply for other orders to protect you and your child, for example, if there has been domestic violence in your relationship you could apply for a non-molestation order. Perhaps you are worried that your child's father will abduct the child again in which case you could ask for a prohibited steps order preventing this and a child arrangements order setting out who your child lives with.

See the section above about preventing your child from being abducted. See our guide to **Domestic violence injunctions** and **Children and the law: when parents separate** for further information.

If your child is taken to Northern Ireland or Scotland, you will need to register any orders relating to them at the courts in that country. This includes orders such as a child arrangements order, or a specific issue order requiring your child to be returned to you. Once the orders are registered they can be enforced in that part of the UK. Registration can only take place until a child is 16 years old.

If there are no existing orders to register, you can apply to the court in England and Wales to make an order or apply for court orders for the child to be returned to you in the country where your child has been taken. For further information contact a lawyer in the country your child has been taken.

## What if I do not know where my child has been taken?

A court can make an order to require adults in England and Wales to reveal where your child is. A court has the power to punish someone who does not give this information with a fine, imprisonment or both. For example, if you know that the father of your child has been in contact with his family, the court can order that his family members tell the court where the child is.

In some cases, you may want to ask the court to make your child a ward of court. This is a big step as it gives the Family Court parental responsibility for your child and enables them to make any orders that they believe are in the child's best interests. For example, the court could order that everyone with parental responsibility is to provide the court with information on where they are. If you do not know where your child is and do not believe that there is anyone else that could tell the court, this may be the best option.



## What if my child has been taken out of the UK or kept abroad after a holiday without my consent?

If you fear that your child has been abducted out of the UK or has been kept abroad after a holiday you should:

- Contact the police. The police can set up a Port Alert (explained above).
- Contact a solicitor or organisation such as the International Child Abduction and Contact Unit or Reunite urgently. See **Useful contacts** for further assistance.

The procedure for bringing your child back to the UK will depend upon which country they have been taken to. The UK has signed the 1980 Hague Convention. This is an international agreement between countries which makes it easier for an abducted child who usually lives in the UK to be returned here. You can find a list of countries that have signed up to the 1980 Hague Convention on their website, <https://www.hcch.net/en/states/hcch-members> Every country that has signed up to the 1980 Hague Convention has an organisation called a Central Authority. The purpose of the Central Authority is to help with the return of children to their country of origin. If your child has been taken to a country that is part of the 1980 Hague Convention, then you should immediately contact the **Central Authority** in England and Wales which is the International Child Abduction and Contact Unit (ICACU). They will be able to assist you and can also signpost you to an accredited solicitor who specialises in these types of cases.

If you are in England and Wales and your child has been abducted or kept in a country that is part of the 1980 Hague Convention, you should get legal aid. You should contact ICACU and Reunite immediately. See the **Useful contacts** section below.

If your child has been taken to a country that has not signed the 1980 Hague Convention, you can still apply to the court for your child to be made a ward of court as explained above. The court can then make orders for the child to be returned to the UK. You should also think about starting proceedings in the country where your child is and ask for orders for your child to be returned to your care. You should contact the Foreign and Commonwealth Office and a specialist solicitor. See **Useful contacts** below.

*'...The procedure for bringing your child back to the UK will depend upon which country they have been taken to...'*

## What if I have been accused of child abduction?

If you have received court documents which suggest that you have abducted your child, do not ignore them. You should contact a solicitor straightaway and you may be able to get legal aid.

If you have been wrongfully accused, you should write to the court and explain this. You should make sure you attend any hearings that are taking place on time. You can prepare a position statement to summarise your views before the hearing and should send a copy of this to the court and the other side. See **How to write a position statement for a Family Court hearing**.

If you have fled to another country with your children as a result of domestic abuse and have received an order from the country you fled telling you to return, you should contact a solicitor in the country you fled to straightaway. If you are in the UK, you may be able to get legal aid. See **Useful contacts** below. You can make an application to the High Court in England and Wales arguing that you should not have to go back to the country where the other side is living. The arguments about whether you should have to go back to the country with the children are complicated which is why you should speak to a solicitor.





The issues relating to orders about children can be complex and we have provided a very basic overview of terminology, law and court practice and procedure. We would also strongly advise you to seek legal advice by either telephoning our legal advice line or a solicitor. Where your child has been abducted from your care, it is important that you seek advice urgently.

Please note that the law as set out in this legal guide is the law as it stood at the date of publication. This guide sets out the law in England and Wales only. The law may have changed since then and accordingly you are advised to take up to date legal advice. Rights of Women cannot accept responsibility for any reliance placed on the legal information contained in this legal guide. This legal guide is designed to give general information only.

For free, confidential, legal advice on family law including domestic violence, divorce and relationship breakdown and issues relating to children call the following:

Women living and working in London: call 020 7608 1137. The advice line is open Mon 11am-1pm, Tues to Thurs 2-4pm.

For all women: call 020 7251 6577. The advice line is open Mon to Thurs 7 – 9pm and Friday 12-2pm.

Rights of Women publishes a number of other guides that may be useful. For further information about these contact us or visit our website [www.rightsofwomen.org.uk](http://www.rightsofwomen.org.uk)

## Useful contacts

### Emergency contacts

**International Child Abduction and Contact Unit (ICACU)**

020 3681 2608

[www.justice.gov.uk/protecting-the-vulnerable/official-solicitor/international-child-abduction-and-contact-unit](http://www.justice.gov.uk/protecting-the-vulnerable/official-solicitor/international-child-abduction-and-contact-unit)

**Reunite International**

0116 2556 234

[www.reunite.org](http://www.reunite.org)

**Foreign and Commonwealth Office (FCO)**

020 7008 1500

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

**Gov.uk information page on child abduction**

<https://www.gov.uk/return-or-contact-abducted-child>

**Police (emergency)**

999

**24 hour domestic violence helpline**

0808 200 0247

[www.nationaldomesticviolencehelpline.org.uk](http://www.nationaldomesticviolencehelpline.org.uk)

### Find a Solicitor

**The Law Society**

0207 320 5650

[www.lawsociety.org.uk/find-a-solicitor](http://www.lawsociety.org.uk/find-a-solicitor)

**Ministry of Justice**

020 3334 3555

<https://find-legal-advice.justice.gov.uk>

**Resolution**

01689 820272

[www.resolution.org.uk](http://www.resolution.org.uk)

### Advice and Support

**Citizens Advice**

[www.citizensadvice.org.uk](http://www.citizensadvice.org.uk)

**Law Centres Network**

020 7749 9120

[www.lawcentres.org.uk](http://www.lawcentres.org.uk)

**Law Works Clinic Network**

[www.lawworks.org.uk](http://www.lawworks.org.uk)

**Personal Support Unit**

020 7947 7701

[www.thepsu.org](http://www.thepsu.org)

**Disability Law Service**

020 7791 9800

[www.dls.org.uk](http://www.dls.org.uk)

**Rights of Women,**

52 – 54 Featherstone Street, London EC1Y 8RT

**Office:** 020 7251 6575

**Email:** [info@row.org.uk](mailto:info@row.org.uk)

**Website:** [www.rightsofwomen.org.uk](http://www.rightsofwomen.org.uk)

**Charity number:** 1147913

**Funded by:**

**RIGHTS** of  
**WOMEN**  
*helping women through the law*

**LONDON**  
**COUNCILS**