



PRESIDENT OF THE  
FAMILY DIVISION

## **Liaison between Courts in England and Wales and British Embassies and High Commissions Abroad**

### *Guidance from the President's Office*

- (1) This guidance note describes procedures which are to be followed when a court in England and Wales exercising family jurisdiction seeks to invoke consular assistance. The procedures have been agreed between the President of the Family Division and the Foreign, Commonwealth and Development Office (FCDO).
- (2) Courts exercising family jurisdiction in England and Wales regularly deal with cases where children have been wrongfully removed to a foreign country or have been retained there wrongfully, most commonly by a parent or relative. Such cases may involve abduction or removal by one or both parents with a view to forced marriage or female genital mutilation, in which case a Forced Marriage Protection Order (FMPO) or Female Genital Mutilation Protection Order (FGMPO) may be appropriate.
- (3) When the court is exercising family jurisdiction in such circumstances, consular assistance may be sought, via the FCDO in London, from the relevant British Embassies, High Commissions or Consulates abroad.
- (4) Where the country to which the child has been taken is a party to the Convention on the Civil Aspects of International Child Abduction signed at The Hague on 25 October 1980 (1980 Hague Convention), established procedures apply for the making of applications for the return of the child, via the central authority, which for England and Wales is The International Child Abduction and Contact Unit (ICACU), situated

in the office of the Official Solicitor and Public Trustee at Post Point 0.53, 102 Petty France, London, SW1H 9AJ, telephone +44 (0)20 3681 2756, email [icacu@ospt.gov.uk](mailto:icacu@ospt.gov.uk).

- (5) Where the country to which the child has been taken is a party to either of the following Conventions, the court will need to consider the Convention when deciding what steps to take:
- 1980 European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on the Restoration of Custody of Children (a Convention of the Council of Europe, also known as the 1980 Luxembourg Convention);
  - 1996 Hague Convention on jurisdiction, applicable law, recognition, enforcement and cooperation in respect of parental responsibility and measures for the protection of children. Please note that for the 1996 Hague Convention, ICACU is the (operational) central authority for England and the Welsh Government is separately the central authority for Wales (Tel.: +44 (29) 23000 61500) Email: [WalesCAHague1996@gov.wales](mailto:WalesCAHague1996@gov.wales).
- (6) ICACU has published explanatory guidance and application forms regarding the assistance which can be provided in respect of the above-named Conventions. The relevant forms for the 1980 and 1996 Hague Conventions can be found at:  
<https://www.gov.uk/government/publications/international-child-abduction-and-contact-unit-application-form>  
<https://www.gov.uk/government/publications/international-child-abduction-unit-request-for-co-operation-form>
- (7) Where, however, the country concerned is not a party to any of the above Conventions, consideration will need to be given in each case as to what orders if any should be made to seek to secure the return of the child to England and Wales.
- (8) It may be possible in appropriate cases for representatives from the relevant British Embassy, High Commission or Consulate to follow-up with the competent safeguarding authority to check the child[ren]'s welfare, engage local police to

ascertain what efforts have been made to locate the child[ren], to host consular appointments involving the child[ren], and to advise on travel arrangements for the return of the child[ren] to England and Wales. Such activities will however always be subject to the requirements of the domestic law of the country in question. The Foreign Secretary has discretion in deciding how to conduct international affairs, and the court cannot order the FCDO to exercise consular assistance. There is no general duty for the FCDO to provide consular assistance to British nationals. There may be limits to what the FCDO can do to help when a dual national child is in the country of their other nationality.

- (9) Before the court requests assistance from the FCDO, contact should be made with the Child Policy Unit in Consular Directorate ([Consular.ChildrensPolicyOfficer@fcdo.gov.uk](mailto:Consular.ChildrensPolicyOfficer@fcdo.gov.uk)), or the Forced Marriage Unit ([FMU@fcdo.gov.uk](mailto:FMU@fcdo.gov.uk)) if the case involves forced marriage or female genital mutilation. This is to provide the FCDO with an opportunity to clarify what level of assistance it may be in a position to offer in the country concerned. The FCDO will be able to identify the relevant Embassy, High Commission or Consulate to which any order or request for assistance should be directed, and to forward documents.
- (10) The FCDO provides a facilitative role in relation to the return of the child but is not able to care for, take control of, or assist in procuring the return of the child. The naming of specific officials (for example Ambassadors, High Commissioners or other FCDO officials) must be avoided. Instead reference should be made to ‘The Consular Directorate of the Foreign, Commonwealth and Development Office’.
- (11) Consular staff are not trained to assess the welfare of a child as a professional Social Worker would be. Accordingly, the FCDO cannot conduct welfare visits or safe and well checks. The FCDO can provide information and contact details for the competent safeguarding authority/ies and Non-Governmental Organisations (NGOs) in the relevant country who may be able to undertake welfare checks on the child[ren].
- (12) The FCDO will take practical steps to co-operate in any way which is appropriate on UK passport handling. It should be noted that:

- (a) The FCDO is dependent upon the co-operation of the parent or adult to comply with an order. The FCDO is unable to authorise or enforce compliance.
  - (b) The FCDO or UK diplomatic premises should not be used as a depository for the return of UK passports.
  - (c) The FCDO is not in a position to carry passports across international borders via the diplomatic bag or other means. Arrangements to transport a UK Passport should be made by the passport holder or, if a child passport, those with parental responsibility.
  - (d) On return of the child[ren]'s passport/s no further responsibility lies with the FCDO in relation to the parties' future movements.
- (13) The FCDO can provide information and contact details for the competent safeguarding authority and NGOs in the relevant country to assist the court and other parties. Authorities and NGOs in the relevant country may be able to assist in locating the child[ren], and arranging to return the child[ren]. However, Social Services in England and Wales are not authorised to work outside the UK and as such the primary work of returning the child will require the cooperation of in-country authorities.
- (14) The FCDO can issue Emergency Travel Documents (ETDs) to British citizens or those with a claim to British nationality providing they meet the eligibility criteria. ETDs do not replace full validity passports, but in issuing them the FCDO is providing consular assistance to a person who urgently needs to travel. ETDs are only issued to those who have not held a British passport before in exceptional circumstances. Ordinarily, first time applicants should apply for a passport to travel. FCDO policy states that ETDs can only be issued to those who are 15 years old and younger when all those with parental responsibility have given consent. This policy is deviated from only in exceptional circumstances. It is helpful to the FCDO if the court can make it clear when an ETD may be issued with the consent of only one person with parental responsibility or, where necessary, without the consent of anyone with parental responsibility. Foreign nationals looking to travel to the UK will need to make the necessary visa arrangements with UK Visas and Immigration (UKVI).

- (15) The FCDO can provide advice on the repatriation of a child, including options for financing travel. Financial assistance (such as a loan) can be considered in exceptional circumstances, but will be considered on a case by case basis. The court or those with parental responsibility may contact the FCDO before an order is made to discuss these options.
- (16) Whilst the FCDO stands ready to assist the court in any way which is appropriate, the repatriation of foreign nationals from the UK to a third country is outside the scope of consular assistance. Likewise, the submission of visa applications to a third country is the responsibility of the applicant.
- (17) In a case where assistance can be given by the FCDO, the order should provide for disclosure of the specific documents required in order for the FCDO to provide the necessary assistance. A copy of all such orders should be sent to the Child Policy Unit, Foreign, Commonwealth and Development Office, King Charles Street, London, SW1A 2AH; [Consular.ChildrensPolicyOfficer@fcdo.gov.uk](mailto:Consular.ChildrensPolicyOfficer@fcdo.gov.uk) .
- (18) If the order relates to the 2003 UK-Pakistan Protocol on Child Contact and Abduction, a copy should in addition be sent by email to the International Family Justice Office [IFJOffice@Justice.gov.uk](mailto:IFJOffice@Justice.gov.uk).
- (19) The FCDO has published guidance on the assistance which can be provided in respect to international parental child abductions:  
<https://www.gov.uk/government/publications/international-parental-child-abduction/international-parental-child-abduction>.
- (20) Attached is a Schedule of specimen provisions which may be included in orders principally directed to cases where a child has been wrongfully removed to/retained in a foreign country.

The Rt Hon Sir Andrew McFarlane  
President of the Family Division  
14 March 2022

*Schedule*

**Specimen Provisions for Orders**

AND WHEREAS [AB] is a Ward of the High Court of England and Wales and is a British citizen; and currently [believed to be] travelling outside England and Wales with a United Kingdom passport

AND WHEREAS in consequence of the fact that this Court has ordered that [AB] remain a Ward of this Court, the High Court of England and Wales, while (until [s]he attains the age of 18 years on [date]) [s]he remains a minor, this Court is empowered and required to exercise its custodial jurisdiction over him/her and to ascertain his/her best interests and to facilitate and protect those best interests

AND WHEREAS it appears from an order made in [details of proceedings] on [date] (of which a copy is attached) that [AB] was habitually resident in England and Wales [on[date]/at the time [s]he was removed from this jurisdiction]

AND WHEREAS the High Court of England and Wales is anxious to protect and secure his/her wellbeing and best interests and to ensure that he/she may freely express his/her wishes concerning his/her country and place of residence

AND WHEREAS the High Court of England and Wales is anxious to ensure that [s]he is not induced or coerced into contracting any marriage or betrothal against his/her will

AND WHEREAS the High Court of England and Wales is satisfied that all interested parties are before the Court including Cafcass (the Children and Family Court Advisory and Support Service) appointed by the Court to represent the Ward

AND WHEREAS the High Court of England and Wales having heard oral evidence from [ ] is of the view that serious grounds exist in the present circumstances to question whether this Court's Ward [AB] is able freely to express his/her views and wishes and in particular with regard to his/her country of residence

AND WHEREAS the High Court of England and Wales has in the interests of [AB] determined that [s]he should so soon as practicable return/be returned to England and Wales

IT IS ORDERED that every person within the jurisdiction of this Court who is in a position to do so shall co-operate in assisting and securing the immediate return to England and Wales of [AB], a Ward of the High Court of England and Wales

AND NOW THEREFORE THIS COURT RESPECTFULLY REQUESTS any person not within the jurisdiction of this Court who is in a position to do so to co-operate in assisting and securing the immediate return to England and Wales of the Ward [AB]

AND THIS COURT RESPECTFULLY REQUESTS all judicial and administrative bodies in the State of [ ] to consider what assistance may be provided pursuant to the exercise of their respective powers, and to provide such assistance that they consider appropriate, with a view to establishing the whereabouts of the Ward of the High Court of England and Wales.

AND NOW THEREFORE THIS COURT RESPECTFULLY REQUESTS all judicial, administrative and law enforcement authorities to consider what assistance may be provided pursuant to the exercise of their respective powers, and to provide such assistance that they consider appropriate, with a view to locating, safeguarding and facilitating the return to England and Wales of the said minor child[ren] pursuant to the laws of England and Wales [and in accordance with the Protocol made on 17 January 2003 in London and signed by the Honourable Chief Justice of the Supreme Court of Pakistan and by the Right Honourable The President of the Family Division of the High Court of Justice of England and Wales].

**Other Examples of Helpful Wording**

FOR THE AVOIDANCE OF DOUBT the Foreign, Commonwealth and Development Office and/or Her Majesty's Passport Office may grant a passport, travel document or emergency travel document to [names of child/ren] without the consent of [name of parent/mother/father]

PERMISSION IS HEREBY GIVEN to the Foreign, Commonwealth and Development Office of the United Kingdom to share the information disclosed to them in accordance with paragraph [X] above with [named bodies/persons] [and any other relevant agency]