



Department  
for Education

# **Working with foreign authorities: child protection cases and care orders**

**Departmental advice for local authorities,  
social workers, service managers and  
children's services lawyers**

**July 2014**

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# Summary

## About this departmental advice

This advice from the Department for Education provides:

- a set of principles for social workers working on child protection cases and care orders, where the child has links to a foreign country<sup>1</sup>;
- a summary of the main international legislation;
- guidance on agencies and organisations that social workers can seek help and advice from, or provide information to when working on these cases; and
- sign-posts to other relevant guidance.

This advice is non-statutory and the principles are not a complete statement of domestic and international law. The principles are based on the normal approaches social workers take and, as such, the child's welfare is paramount and should always be put first. Social workers should make decisions on a case by case basis and seek their own legal advice on individual cases as required.

The principles were developed by the Department of Education with the Ministry of Justice and the Foreign and Commonwealth Office. They have been agreed by the Association of Directors of Children's Services and The College of Social Work.

## Expiry or review date

This advice will next be reviewed before July 2015.

## Who is this advice for?

This advice is primarily for local authority staff working with children and families, frontline social workers, their team managers, service managers, and children's services lawyers.

## Main points

It is sometimes difficult for social workers to know when and how to involve foreign authorities<sup>2</sup> in child protection cases with a foreign element. It can also be difficult to decide who to inform and at what point in the process. The timeliness of these decisions can make a huge difference, both in the support that might be offered to the families by

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<sup>1</sup> A child with links to a foreign country may be a foreign national child, a child with dual nationality or a British child of foreign national parents/origin.

<sup>2</sup> The foreign authority may be the Central Authority in a contracting State of the 1996 Hague Convention or Member State of the EU, or the foreign Embassy in London.

their Embassy<sup>3</sup> and, where a case goes to care proceedings, in the timeliness of the court decision. The principles set out the key considerations for social workers when working on child protection cases and care orders where the child has links to a foreign country. They are intended to help avoid delays and deliver better outcomes for the children involved.

The key message is for social workers to consider informing the relevant Embassy when a child with a connection to a foreign country is made the subject of a child protection plan, has required immediate protection or is made subject to care proceedings. It is also recommended that social workers work with colleagues abroad when exploring potential placements for a child with family members abroad.

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<sup>3</sup> The term 'Embassy' is used in this document to cover Embassies, High Commissions and Consulates

## The Principles

The principles set out below are intended to help children's social workers in England to decide when to involve foreign authorities in child protection cases.

### Timeliness and Planning

Social workers need to consider working with foreign authorities at a number of stages during child protection cases, including:

- when carrying out an assessment under section 47 of the Children Act 1989, where the child has links to a foreign country, in order to understand the child's case history and/or to help them to engage with the family;
- when a child with links to a foreign country becomes the subject of a child protection plan, has required immediate protection, or is made subject to care proceedings, the social worker should consider informing the relevant foreign authority; and
- when contacting or assessing potential carers abroad (such as extended family members).

For more information on who to contact, please see section ['Working with Colleagues Abroad'](#).

Information requested from colleagues abroad is likely to have a much longer turnaround time, as time may be needed to arrange translations and for discussions between authorities within a State. Social workers should factor this into their plans to avoid any delay in proceedings. If a foreign authority is not forthcoming with timely information on family members in their country, and this information is not available from the parents or any other source, social workers need to weigh the advantages of obtaining this information against the potential damage to the child of a delay in proceedings.

### Information Sharing and Data Protection

Sharing of information between professionals and agencies is essential for effective identification, assessment and service provision. Fears about sharing information cannot be allowed to stand in the way of the need to promote the welfare and protect the safety of children. However, the disclosure of any information should be appropriate and proportionate and in line with the Data Protection Act and other relevant legislation. Social workers should not request or provide information if to do so could put the child or their property at risk, or would threaten the life or liberty of a member of the child's family. Social workers should not provide information if to do so would constitute a criminal offence or contempt of court or be contrary to data protection legislation. If this is a matter

of concern, legal advice should be sought. If, in potential contempt of court cases, the social worker considers it is in the child's interests to disclose information, the social worker must seek the court's leave to do so. Where necessary, the social worker should provide handling instructions to the authorities in the chain of communication to ensure that information is handled appropriately.

Social workers should inform the relevant Embassy when a child with links to a foreign country has become the subject of a child protection plan, has required immediate protection or has become the subject of care proceedings, unless doing so is likely to place the child or family in danger and provided any necessary consent to disclose information has been obtained. Decisions should be linked to a robust and thorough risk assessment.

Foreign Embassies are keen to be informed, and where appropriate involved, in child protection cases or care proceedings involving children with links to their country both to potentially provide support to the families involved at an earlier stage, and so that they can be prepared for any media attention if a case goes to court.

It is important to note that if no-one has already informed the relevant foreign Embassy that a child with a foreign connection is the subject of care proceedings prior to the case going to court, then the court should normally do so itself without delay. If the court decides not to inform the consular officials, it will give reasons<sup>4</sup>. It is therefore good practice to share with the court whether the relevant Embassy has been informed, and if not the reasons for this decision.

## Assessment

A good assessment should systematically draw on all the evidence available so that the social worker can make an informed decision. Social workers should consider working with colleagues abroad when assessing a family with links abroad, unless doing so is likely to place the child or family in danger. This may provide a more holistic picture, and help the social worker understand the unique characteristics of a child within their family, cultural, religious, ethnic and community context.

## Family Engagement

Social workers should consider with the family at an early stage the potential assistance a foreign Embassy might be able to provide. They may be able to help the social worker to work with a family and explain any differences in approach to child protection clearly and sensitively. This support may make the difference in engaging a family in making the changes needed to provide for the needs of their child.

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<sup>4</sup> Paragraph 47(iii) of the judgement by Sir James Munby, President of the Family Division, in the case of [Re E \(A Child\) \[2014\] EWHC 6 \(Fam\)](#) given on 14 January 2014.

## Child Placement Abroad

Social workers may need to contact an Embassy or the [Central Authority](#) when considering the placement of a child with family members who live abroad. In [Brussels IIa<sup>5</sup> and 1996 Hague Convention<sup>6</sup>](#) cases, permission may need to be sought from the other State before an English court could make an order for placement of the child in that State. Whether consent is required is a question for the other State. If placement abroad is a possibility the social worker should check if the consent of the other State will be required as it may take some time to obtain that consent. For more information see the DfE advice 'Cross-border child protection cases the 1996 Hague Convention' and 'Advice on placement of looked after children across Member States of the European Union'

An Embassy may be able to help social workers locate family members or put social workers in touch with the right local child welfare authority. It is good practice to work with colleagues abroad when contacting family members abroad and assessing their suitability as carers for a child. In many cases a social workers counterpart in the other State may be well placed to undertake this work on their behalf. Where this is not appropriate, it is important to check that the English social worker has the appropriate licences and legal cover to undertake the work themselves in the country in question before they travel there.

Social workers should be mindful of immigration issues when looking to place a child abroad. They should also consider immigration issues if they wish for family member to travel to England to be assessed as a potential carer for a child. The Home Office's Border Force, Immigration Enforcement and UK Visa and Immigration officials can work with social workers to ensure that immigration issues relevant to child protection plans or planned visits abroad are identified and considered early in the planning process.

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<sup>5</sup> Council Regulation (EC) No 2201/2003 (also known as Brussels II bis or Brussels II Revised) of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgements in matrimonial matters and the matters of parental responsibility.

<sup>6</sup> 1996 Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and measures for the Protection of Children.

## International Legislation

There are two key international law instruments that apply in child protection cases, depending on the country in question and the plan for the child:

- For EU Member States, local authorities must comply with Brussels IIa including Article 55 and Article 56.
- Local authorities must also comply with requirements under the 1996 Hague Convention in relation to countries that have ratified it (known as 'contracting states').

The Department for Education has produced advice on the [1996 Hague Convention](#), which is also relevant to the practical application of Brussels IIa.



## Working with Colleagues Abroad

There are a number of different agencies who may be able to help social workers in working with colleagues abroad. Contact details for these agencies and organisations are set out in the section [useful resources and external organisations](#). Guidance on who to consider contacting and when is set out below.

It is inadvisable for an English social worker to travel overseas to work on cases unless they have first contacted the relevant foreign authority. English social workers' qualifications may not be automatically recognised overseas, and it is therefore important to check that the social worker has the appropriate licences and legal cover to undertake this work.

## International Child Abduction and Contact Unit (ICACU)

In cases where the child has links to a foreign country which is either an EU Member State or [a contracting state to the 1996 Hague Convention](#), the [ICACU](#) is the primary point of contact. The ICACU becomes involved when it receives a request from either a local authority here or from the Central Authority of another country.

Social workers will wish to consider contacting the ICACU:

- when a child with links to a foreign country becomes the subject of a child protection plan, has required immediate protection, or is made subject to care proceedings;
- if it is appropriate to request information about family members abroad; or
- about the child's personal history and background if the child has lived abroad.

The ICACU may also contact a local authority in response to a request received from the Central Authority of another country about a child here.

Both the 1996 Hague Convention and Brussels IIa require each country to establish a Central Authority to help ensure effective communication between contracting states to the 1996 Hague Convention and between EU Member States on the aspects of the protection of children covered by the instruments. The day-to-day administration of the Central Authority in England for the 1996 Hague Convention and for Brussels IIa is discharged by the ICACU which is located in the Office of the Official Solicitor and Public Trustee (OSPT).

When making a new request via ICACU the request should clearly be headed 'New Request' and any key date such as a hearing date in court proceedings or the date of a child protection conference should be clearly identified and prominent.

Please note that the ICACU will not inform the Embassy where a child is made the subject of a child protection plan, has required immediate protection; and/or has become the subject of care proceedings, as this is not a central authority function.

## **Foreign Embassies, High Commissions and Consulates**

Whilst the resources available vary from one foreign Embassy to another, they may be able to assist in the following ways:

- provide contact with the social services in the home country;
- explain applicable child protection laws in the context of the customs and laws of the family's home country;
- help search for relatives;
- obtain official documents;
- make travel arrangements; and
- in some cases offer translation and interpretation services.

Where appropriate, social workers will wish to consider contacting the relevant Embassy when a child with links to a foreign country becomes the subject of a child protection plan, has required immediate protection or has become the subject of care proceedings.

In cases where the child has links with a foreign country which is neither an EU Member State or a contracting state to the 1996 Hague Convention (and therefore outside the remit of ICACU), the local authority may also wish to consider contacting the Embassy:

- to request information about family members abroad; or
- to request information on the child's personal history and background, if the child has lived abroad.

## Further information

### Useful resources and external organisations

#### ICACU

Address: The International Child Abduction and Contact Unit  
Victory House, 30-34 Kingsway,  
London WC2B 6EX

Tel: 020 3681 2608

Fax: 020 3681 2763

General enquiries email: [enquiries@offsol.gsi.gov.uk](mailto:enquiries@offsol.gsi.gov.uk)

New requests only email: [ICACU@offsol.gsi.gov.uk](mailto:ICACU@offsol.gsi.gov.uk)

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

The International Child Abduction and Contact Unit is open Monday to Friday 9am to 5pm.

#### Embassies, Consulates and High Commissions

A list of embassies and consulates contact details can be found at:

<https://www.gov.uk/government/publications/contact-an-embassy>

#### The Hague Conference website

The Hague Conference website provides details on all the Hague Conventions, including the full text of each Convention, useful summaries and a status table showing the contracted states.

[http://www.hcch.net/index\\_en.php](http://www.hcch.net/index_en.php)

#### Children and Families Across Borders (CFAB)

CFAB is the UK branch of the International Social Service (ISS) network. It aims to promote and protect the rights of family members left vulnerable or at risk through separation by international borders. CFAB provides inter-country casework services, training and advice to local authorities, CAFCASS, solicitors, judges, individuals and

families. CFAB also offers a free advice and information helpline for individuals or practitioners facing an inter-country situation. Contact details can be found on this page.

Children and Families Across Borders (CFAB)  
Canterbury Court, Unit 1.03  
1-3 Brixton Road  
London  
SW9 6DE  
Telephone: 020 7735 8941

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

Website: <http://cfab.org.uk/>

### **Africans Unite Against Child Abuse (AFRUCA)**

With offices in London and Manchester, AFRUCA promotes the welfare of African children in the UK. They also work in partnership with other organisations in Africa and across Europe. Contact details can be found on this page.

Africans Unite Against Child Abuse (AFRUCA)  
Unit 3D/F Leroy House  
436 Essex Road  
London  
N1 3QP

Telephone: 0844 660 8607

Website: <http://www.afruca.org/>

### **UK Visas and Immigration**

General immigration enquiries can be directed to the UK Visas and Immigration Contact Centre.

Telephone: 0300 123 2241

Website: <https://www.gov.uk/contact-ukvi/overview>

## **Other relevant departmental advice and statutory guidance**

### **Cross-border child protection cases: the 1996 Hague Convention (October 2012)**

This is advice from the Department for Education. The advice is non-statutory, and is designed to help local authorities when dealing with cross-border child protection cases under the 1996 Hague Convention. This advice is also relevant to the practical application of Brussels IIa.

['Cross-border child protection cases: the 1996 Hague Convention guidance'](#)

### **Working Together to Safeguard Children (March 2013)**

This guidance outlines the legislative requirements and expectations on individual services to safeguard and promote the welfare of children.

['Working Together to Safeguard Children guidance'](#)

### **The Children Act 1989 Guidance and Regulations Volume 2: Care Planning, Placement and Case Review (March 2010)**

The guidance is issued as part of a suite of statutory guidance which, together with the 2010 Regulations, set out how local authorities should carry out the full range of responsibilities in relation to care planning, placement and review for looked after children.

['The Children Act 1989 Guidance and Regulations Volume 2'](#)

### **Placement of looked-after children across EU member states (January 2013)**

This is advice from the Department of Education and has been produced to help local authorities understand their responsibilities under Article 56 of Brussels IIa.

['Placement of looked-after children across EU member states guidance'](#)



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