

**International**  
**Child Abduction**  
**and Contact**

**Information for parents**

- **Has your child been taken overseas without your consent?**
- **Is your child being kept overseas against your wishes?**
- **Are you worried that your child will be taken overseas without your consent?**
- **Have you brought your child into the Isle of Man from abroad**
- **Are you being denied contact with your child overseas?**

*If the answer to any of the above questions is yes, the following leaflet contains important information which can help you.*

**H M Attorney General's Chambers**  
**Douglas**  
**Isle of Man**

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# **1. Introduction**

**This leaflet aims to give practical advice on how and where to seek help in relation to child abduction and the enforcement of contact orders relating to your children. Although it is addressed mainly to parents, it will be equally valuable to anyone who has a residence or care order for a child. It will also assist anyone who has or is seeking contact/access to a child living overseas.**

Over 10 million British nationals live overseas. Against this background, it is not surprising that international disputes concerning children continue to increase. They are always distressing and difficult for all concerned, especially the children. Very often cases are played out in the full glare of the media. Each parent may believe that he or she has the right to have the child living with them or to have contact/access with the child.

Often a parent will have court orders providing for residence or contact. In general, disputes about arrangements for children are decided by the courts of the country in which the child is located unless the parents agree. The nationality of the child will have little bearing on where the case is heard.

Parents whose children are abducted, or who have orders for contact with their children living overseas, hold high expectations of what the government and other agencies can do to help them. While help is available, the arrangements with overseas countries are complicated and you are strongly advised to contact an advocate for legal advice. Procedural advice may be given by the Attorney General's Chambers, Consular Division of the Foreign and Commonwealth Office, the Passport Agency or reunite: International Child Abduction Centre, which is a charity specialising in assisting parents. The Manx Citizen's Advice Service may also be able to offer assistance. Contact details of these and other agencies can be found in section 14 of this leaflet.

Parents who have brought their children to the Isle of Man from abroad and who are concerned as to the situation in which this action places them and their children may also approach the organisations listed in section 14 to obtain information about the implications of their situation. If you are in that position you should also consider obtaining legal advice so that the situation can be resolved.

## **2. What the law says about child abduction**

**In the Isle of Man, child abduction involves both the civil and criminal law. However, once a child has been removed from the Island, parental abduction is usually treated as a civil matter.**

### **I Civil Law**

The law in the Isle of Man is primarily governed by the **Children and Young Persons Act 2001** (the CYP Act), which came fully into force in February 2003, repeating the concept of parental responsibility, meaning the duties, rights and authority which a parent has in respect of their child which had been created by the Family Law Act 1991.

When a child's parents are married, they both have parental responsibility. When the father is not married to the mother, he does not have parental responsibility simply by being the father,

but he may acquire it either by court order or by formal agreement with the mother (a parental responsibility agreement).

The CYP Act emphasises that parents have continuing responsibility for their children and generally should have continued involvement in the children's upbringing even after separation. The Act provides a flexible system of orders intended to settle particular matters. Each parent is bound to obey any orders made under the CYP Act. Orders made under the CYP Act are based on the principle that the best interests of the child is the paramount consideration.

The orders available to the courts include **residence orders**, which settle with whom the child is to live, and **contact orders**, which deal with any form of contact which the child is to have with the other parent and significant people such as grandparents or step-parents. Orders expressed in terms of custody and access continue to have effect unless a court discharges and replaces them with a residence or contact order or the child turns 18.

Unless the court orders otherwise, a parent with a residence order may take a child out of the Isle of Man for a period of up to one month without a prior application to the court or the consent of the other parent.

Failure or refusal to return the child to the Island once this period has expired will constitute a wrongful retention of the child for the purposes of the Hague Convention and the European Convention (see section 4).

In cases where abduction is feared and there is evidence to support that fear, the court may make a prohibited steps order to restrain either or both parents from taking the child off the Island at all.

## **II Criminal Law**

Under the **Child Custody Act 1987**, it is a criminal offence in the Isle of Man for any person connected with a child (which includes parents, guardians and anyone having responsibility for the child), to take or send the child out of the Isle of Man without the consent of any other person who has parental responsibility for the child. A parent who has the right to have contact with or access to a child will usually also have parental responsibility.

No offence is committed, however, where the person removing the child has a custody/residence order in respect of the child unless in doing so he is in breach of an order made by the court under the CYP Act.

### **3. What the law says about the enforcement of access/contact orders**

#### **I Within Europe**

**The European Convention** applies between the Isle of Man and member countries. The Convention works on the principle of the mutual recognition and enforcement of orders made in the contracting states. Accordingly, there must be in existence an order of a court or other authority with the necessary jurisdiction in a European Convention country, which can be recognized and enforced in the requesting state.

[It should be noted that Council Regulation (EC) No 2201/2003 of the European Parliament (the Revised Brussels II Regulation), which came into force on 1 March 2005, does not apply as the Isle of Man is not a member state of the European Union and its limited relationship with the European Union does not impact upon this issue.]

## **II Outside Europe**

There are no provisions for enforcing access/contact orders between the Isle of Man and countries outside Europe. Enforcement may be possible in some countries under article 21 of the Hague Convention. This is discussed in section 7 of this leaflet. It is not usually possible to register British orders in overseas countries including Commonwealth countries.

## **4. Child abduction cases**

### **I The Hague Convention**

The Isle of Man is party to an international convention under which legal procedures are agreed with a number of other countries to assist in the return of a child who has been abducted. The convention is the **Hague Convention on the Civil Aspects of International Child Abduction (the Hague Convention)**.

The Hague Convention works on the principle of returning children aged under 16 years who are wrongfully removed or retained away from their country of habitual residence. In order to be considered wrongful, a removal or retention must be **in breach of rights of custody** which are **actually being exercised** by a person, an institution or any other body under the law of the state in which the child was habitually resident immediately before the removal or retention.

Under the Hague Convention courts are required to order the return of a child **wrongfully removed or retained** away from their country of habitual residence. There are, however, a number of grounds on which a return order can be refused. These grounds include: the court being satisfied that to return the child would expose him/her to a **grave risk of physical or psychological harm**, or otherwise place her/him in an intolerable situation; the child **objects to being returned** and is mature enough to have his/her views taken into account. The court may also refuse to return a child if the applicant was **not actually exercising rights** of custody at the time of removal or **consented** to or **subsequently acquiesced** in the removal or retention.

A list of the Hague Convention countries can be found at Appendix A.

### **II The European Convention**

The Isle of Man is also a party to the **European Convention on Recognition and Enforcement of Decisions concerning Custody of Children (The European Convention)**. The European Convention is rarely used in abduction cases because the Convention only operates where an order already exists. The Convention has more frequent application to the enforcement of access orders.

Orders made in European Convention countries are recognised, but must be registered before being enforced. Enforcement may not necessarily follow immediately after registration. There are a number of grounds on which enforcement can be opposed. These are set out in articles 9 and 10 of the European Convention.

A list of the European Convention countries can be found at Appendix B.

## **5. How abduction applications are handled**

The Hague Convention and the European Convention are based on a system of Central Authorities. Each member country appoints a Central Authority which functions as the contact point for all applications under the Conventions. The Central Authority for the Isle of Man is the Attorney General.

### **I The Hague Convention**

Abduction cases are divided into incoming and outgoing. **Incoming cases** are those in which a child is abducted from a Convention Country into the Isle of Man and **outgoing cases** are those in which a child is abducted from the Isle of Man to another Convention Country.

#### **A Incoming cases**

A parent whose child has been abducted to or retained in the Isle of Man may make an application for the return of the child to the Central Authority of the country in which they are living. That Central Authority will forward the application to the Central Authority for the Isle of Man. If they prefer, a parent may apply directly to the Central Authority for the Isle of Man, the Attorney General. On receiving an application, a Legal Officer in the Attorney General's Chambers will assess the application and if it meets the requirements it will be referred to an experienced advocate drawn from a firm familiar with these cases. The advocate appointed is then responsible for:

- making an application for legal aid,
- taking the applicant's instructions,
- assembling the evidence, if necessary with help from the Attorney General's Chambers
- filing affidavits of fact and about foreign law and
- instructing counsel and attending the hearing.

The advocate will often obtain orders to protect the child immediately after the proceedings start. These orders could include orders:

- requiring the surrender of passports, or
- prohibiting the removal of the child from the jurisdiction or a specific address.

All incoming cases are dealt with by the Family Division of the High Court. Adjournments are limited to a maximum of 21 days, so that the court exercises control over the progress of the case.

Applicants are not normally required to personally attend the hearing. Non means tested (free) legal aid is available to applicants seeking the return of a child under the Hague Convention.

#### **B Outgoing cases**

Outgoing abduction cases are those where children are abducted or retained away from the Isle of Man in a country which is a party to the Hague Convention. In outgoing cases the applicant is usually asked to fill in an application (questionnaire) for the return of the child. The parent may also be asked to make a written statement, and provide copies of any court orders. It is useful to provide a recent photo of the child. An application is then prepared on the basis of the material provided. That application and supporting documents are sent off, with translations if necessary, to the Central Authority of the country to which the child has been abducted or retained. Thereafter, the Attorney General's Chambers will monitor the progress of the case, liaise with the Central Authority of the requested state and the applicant, give advice about Manx law and do all that they can to help to bring the case to a successful conclusion. There is no charge for the services of the Attorney General's Chambers.

**It is important to understand that** the speed and manner in which a case is conducted in the overseas country are entirely dependent upon the internal procedures of that country. Every country has exclusive jurisdiction within its own territory. The Attorney General's Chambers provide a point of contact between the applicant or advocate and the Central Authority of each country but they cannot force another country to decide cases or enforce laws in a certain way. They will, however do all they can to press for a swift resolution of the matter and will keep you or your advocate informed of progress.

## **II The European Convention**

Applications under the European Convention are dealt with by the Attorney General's Chambers in the same manner as return applications under the Hague Convention. The form does not ask the applicant to specify which convention he or she wishes to invoke, and the Attorney General's Chambers will often suggest the use of one or the other.

Where an order exists, the applicant may find it to their advantage to use the European Convention in access cases because the existing order may be enforced. In addition, applicants are entitled to free legal aid without being subject to a means tests.

## **III Costs of an application for the return of a child**

The cost of an application for the return of a child is often a matter of concern to parents. In most countries no payment for legal proceedings is required for applications made under the Hague Convention. The Attorney General's Chambers will be able to give you information regarding legal costs in specific countries. For example in the USA, legal aid is generally not available. Efforts are therefore made by the US Central Authority, in cases of financial need, to provide legal representation for applicants either at a reduced rate or free of charge.

Non means tested (free) legal aid is available to meet the applicant's legal costs for applications for the return of a child made in the Isle of Man under the European Convention.

Expenses incurred when returning the child are not covered by the conventions but applicants may request in the questionnaire that an order for travel costs be made against the person who has removed/retained the child. The court will consider the request but is not bound to make such an order.

There is no charge for the services provided by the Central Authority, including the translation of documents necessary to an application under one of the Conventions.

## **IV Mediation**

The Hague Convention encourages the resolution of disputes through mediation. Article 7(c) of the Hague Convention requires Central Authorities to secure the **voluntary** return of the child or to bring about an amicable resolution of the issues. The Attorney General and the lawyers to which cases are referred encourage parents to try to resolve their differences without the necessity of a contested hearing.

## **6. Abduction within the British Isles**

The laws differ between the United Kingdom and the Isle of Man. In the past these legal differences caused conflicts of jurisdiction where proceedings could be brought in respect of the same child in the different jurisdictions at the same time. Orders made in one court were not necessarily recognised or enforceable in the other court which made it possible, for example, for parents to ignore an order obtained in the United Kingdom, remove the child to the Island and institute fresh proceedings there in the hope of obtaining a different result.

To overcome this problem, Parliament passed the Family Law Act 1986 and Tynwald enacted Part I of the Child Custody Act 1987. The legislation aims to prevent competing proceedings being commenced in the two jurisdictions at the same time and also allows orders made in the United Kingdom to be recognised and enforceable in the Isle of Man, and vice versa.

The party wishing to have an order enforced in the other jurisdiction should apply to the court which made the order. That court will then forward the papers to the appropriate court in the other jurisdiction, which will then register it.

A court in either jurisdiction may order that a child may not be removed from the United Kingdom or the Isle of Man. If the child is removed in contravention of an order, the child has to be returned from where he or she was taken and only the court which made the original order may give consent to the child being removed from that place.

A court may also order passports to be surrendered, the disclosure of the child's whereabouts or particulars of other proceedings concerning him or her and may give special authority to an officer of the court or constable to ensure the recovery of the child.

## **The Channel Islands and the Overseas Dependent Territories**

The United Kingdom is responsible for the Channel Islands which, together with the Isle of Man, make up the 3 Crown Dependencies.

The United Kingdom is also responsible for 14 Overseas Dependent Territories, namely: Anguilla; Bermuda; the British Antarctic Territory; the British Virgin Islands; the Cayman Islands; Gibraltar; Monserrat; Pitcairn Island; St Helena and dependencies (Asuncion and Tristan Da Cunha); South Georgia and the South Sandwich Islands; and the Turks and Caicos Islands.

Although orders made in the Isle of Man are recognised and enforceable throughout the United Kingdom, and vice versa, orders made in the Channel Islands and the Dependant

Territories are not. However, such orders are likely to be given considerable weight in the respective courts.

The Hague Convention has been extended to the Cayman Islands, the Falkland Islands, Montserrat and Bermuda. Local specialist legal advice should be taken in the event of an abduction between the Channel Islands or the Dependant Territories and the Isle of Man.

## **7. Having Contact/Access with your Children overseas**

### **I Contact with your child within Europe**

#### **You have existing contact orders**

You may be able to register the orders in the country in which your child is living under the European Convention. You should seek advice from the Attorney General's Chambers.

#### **You do not have existing contact orders**

You may be able to make an application under article 21 of the Hague Convention if your child is located in a Hague Convention country. If not you will need to establish contact orders in the country in which your child is living. You should seek advice from the Attorney General's Chambers.

### **II Establishing contact with your child in a Hague Convention Country**

The assistance which can be offered to applicants seeking to establish or enforce rights of access under the Hague Convention is limited. The reason for this is to be found in the case of *Re G (a Minor) (Hague Convention: Access)* [1993] 1 FLR 669 (Court of Appeal: 9th December, 1992). In that case the Court of Appeal held that Article 21 of the Hague Convention (which is incorporated into English law by Schedule 1 to the Child Abduction and Custody Act 1985 (of Parliament) and into Manx law by Schedule 1 to the Child Custody Act 1987) gives no power to a court to determine issues or make orders, and that, therefore, those wishing to apply for access must apply for a "contact order" under the usual domestic law provisions contained in section 8 of Children Act 1989 (of Parliament) (which are equivalent to the provisions in the Manx CYP Act ).

A circular dated 5 March, 1993 (reported at [1993] 1 FLR 804) explains that the duty of the Central Authority in access cases under the Hague Convention is limited to finding lawyers who are willing to act for the applicant and assisting them to apply for legal aid.

Once lawyers have accepted an applicant's instructions, the case will be conducted as if it were an ordinary application for contact under the CYP Act. This means that no special priority is accorded to these cases and no special provisions are made for the fact that the applicant is overseas.

Although it is possible to make an application for contact under the Hague Convention to any level of court competent to deal with family proceedings, it is generally accepted that, because of their substantial foreign element, contact applications arising from Article 21 should be heard and determined in the High Court.

### **III Establishing contact with your child in a non Hague Convention Country**

If your child lives in a country outside Europe and that country is not a party to the Hague Convention you will need to commence legal proceedings in the country in which your child is living. If you have existing British orders they will not be enforceable in the country in which your child is living but such orders may be of evidential value in the foreign proceedings.

### **IV How access cases are handled**

Cases which come under either the Hague Convention or the European Convention will be handled by the Attorney General's Chambers. If the Attorney General's Chambers is unable to secure voluntary compliance with the orders, the application will be forwarded to lawyers with experience in these matters. The lawyers will then take instructions, secure legal aid if you qualify and commence any necessary proceedings.

If your case does not come under the Conventions you will need to secure the services of a lawyer in the country in which your child is living. The Foreign and Commonwealth Office (FCO) will be able to offer assistance in locating a lawyer and may be able to provide similar assistance to that provided in the case of abduction to a non Hague Convention country. Contact details for the FCO are provided in section 14 of this leaflet.

### **V Costs**

Except in a very few countries such as Australia and New Zealand, legal assistance is not available for access cases under the Hague Convention. No payment for legal costs is required for applications made under the European Convention. Legal assistance is not available in other countries unless you qualify under the domestic rules for the provision of legal aid in the country to which you are applying.

## **8. Prevention of child abduction**

**If you fear that your child may be taken abroad without your consent you should consider the following:**

### **I Legal advice**

If your legal position with regard to the child is unclear you should seek legal advice.

If you have parental responsibility for the child or a court order relating to custody/residence, access/contact or guardianship (or if you have applied for such an order) you or your solicitor should consider taking the following steps:

- **Alert** your local police station, by telephone and then in person. You should be asked to give a statement. Where threat of removal is 'real' (more than a mere insurance policy) and 'imminent' (within the next 48 hours) and there is evidence to support the allegation, they will circulate details of the possible abductor and child to points of

departure via the Police National Computer. A court order is not necessary for the police to act. The police will take a statement, which gives evidence of your responsibilities/rights in relation to the child and of your objection to the removal of the child out of the Isle of Man. However, if the child is aged 16 or 17 years, then a court order in respect of the child is needed. The police will need to see the order, as will the Passport Agency for the procedure described below.

- Write to the Passport Office, asking them not to grant passport facilities to the child(ren). They will usually need to see a court order such as a custody/residence, prohibited steps or wardship order. It should be noted that the Passport Office cannot prevent a person obtaining a passport from another country's Embassy, High Commission or Consulate in this country. If the other parent is not a British national or has dual nationality, you or your advocate should consider writing a letter to the Embassy or Consulate of their country asking those officials not to issue a passport to your child. They are not obliged to comply with your request, but may do so voluntarily.
- **Contact reunite** International Child Abduction Centre for a prevention guide. reunite's address can be found at Section 14 of this leaflet. reunite is the leading British charity offering advice, information and support to parents, guardians and family members affected by international parental child abduction.

## **II Criminal Law**

Section 2 of this leaflet sets out the criminal law in matters of child abduction. You should report any abduction to your local police station.

## **III Civil Law**

If you fear that your child might be abducted, then you and your advocate should consider making an application to the court for either, a Prohibited Steps order, Residence order and/or a Parental Responsibility order under the CYP Act. It may also be prudent to obtain an injunction preventing the other parent from removing the child, or seeking that the child be made a ward of the High Court. Wardship imposes an automatic prohibition on taking the child out of the Isle of Man. Orders can, if necessary, be made without notice to the other side (*ex parte*).

In addition, where there is a contact/access order in force, and it is feared that the child may be abducted by the person exercising contact, an application may be made for a variation of the order to provide for the contact to be supervised.

A wide range of orders may be made under the High Court's inherent jurisdiction with respect to children or within wardship proceedings, including "Seek and Find" orders, orders restraining persons from leaving the jurisdiction and requiring the surrender of passports.

In the Child Custody Act 1987, there are powers to order disclosure of a child's whereabouts, to order the recovery of a child, to restrict the removal of a child from the Isle of Man and to require the surrender of any passport containing details of a child.

If it is feared that a child might not be returned from a visit abroad, then it is possible to ask the court to allow the visit only on condition that the person taking the child abroad lodge a sum of money in court, (a bond - or a charge on property) which will be forfeit if the child is not returned.

## **9. What action should you take in the event of an abduction**

H M Attorney General for the Isle of Man is the designated Central Authority for the Island and is responsible for administering the Hague Convention and the European Convention. England and Wales, Scotland, Northern Ireland and some overseas territories of the United Kingdom each have their own Central Authorities. Contact details can be found in Section 14 of this leaflet.

Legal Officers in the Attorney General's Chambers process applications and provide advice to parents, advocates and others on steps they may take to recover children who have been wrongfully removed to and from the Isle of Man. The Attorney General's Chambers also communicate with Central Authorities in other countries regarding cases, passing on information and providing assistance where necessary.

### **I Your child has been taken to a Convention country**

You (or your legal adviser) should contact the Attorney General's Chambers. A Legal Officer there will take brief details over the telephone and will send you a questionnaire to complete which will request further information. Alternatively, you can complete the questionnaire by using the application form for the return of a child on the Attorney General's Chambers website. The website also provides guidance notes to help you complete the questionnaire. The completed questionnaire should be accompanied by:

- copies of photographs of the missing child and of the person who has taken the child and
- any other relevant information which may explain the circumstances of the removal/retention and which may help in locating the child.
- copies of any court orders concerning the child

#### **Requirements for the Hague Convention and the European Convention**

In order to come under the **Hague Convention**

- the child must be under 16
- the child must have been habitually resident in the Isle of Man prior to the abduction
- the applicant must have and have been exercising rights of custody in relation to the child although this does not mean that the applicant has to have a custody or residence order
- the abduction must have taken place after the Hague Convention came into force between the Isle of Man and the country to which the child has been taken

In order to come under the **European Convention** the applicant must have a court order made in a country which is a party to that convention.

### **II Your child has been taken to a non-convention country**

You should contact the Foreign and Commonwealth Office. They will advise you of the options available to you.

If you cannot reach an agreement with the person who has taken your child, beginning legal proceedings in the courts of the country concerned may be your only option.

It is important to establish as soon as possible what your parental rights are under local law and what the local child care and control practices are. You should therefore consider obtaining legal advice about the laws and practice of the country concerned.

The Consular Division of the Foreign and Commonwealth Office (FCO) can help by providing a list of local lawyers who correspond in English. Contact details of the FCO are provided in Section 14 of this leaflet.

Please note that neither the Consular Division nor British consular officers abroad can give legal advice or act as your legal representative.

No court will pass down judgments which are contrary to their own law. They might be unable or unwilling to oppose family, religious or cultural traditions which are customary or obligatory in their country.

In some countries the law may structure the parental rights of men and women differently and may give importance to the religious upbringing which one or other of the parents can offer. This will usually influence the outcome of a child custody case, especially when one parent is from a different social, cultural or religious background and intends, if granted custody, to remove a child from those traditions.

### **Dual Nationality**

In many instances abducted children will also have the nationality of the country to which they have been taken, in addition to their British nationality. In such cases, international law restricts the scope for formal action by consular officers. They will always do everything possible to help informally.

### **Costs**

Legal proceedings can be both long and expensive and British legal aid is not available for actions overseas. You may be able to get legal aid from the country to which your child has been taken. You should discuss this with your lawyer.

## **What the Foreign and Commonwealth Office do to help**

### **British Consuls can:**

- provide a list of local lawyers who correspond in English
- approach local authorities for help in tracing the whereabouts of the child
- once the child is located, and with the other parent's consent, obtain a welfare report
- with the Manx court's permission, draw to the attention of the local authorities the existence of any Manx court order(s)
- help establish and keep open lines of communication between parent(s) and the child
- provide informal practical help locally

**No consular fees will be charged for this work**

**British consuls cannot:**

- recover children for parents
- become involved in illegal attempts to return children to the Isle of Man or the United Kingdom
- pay legal costs
- fund air travel for parents
- obtain visas on behalf of parents

**III You do not know where your child has been taken**

Alert your local police station, first by telephone and then in person. You will be asked to give a statement. Where threat of removal is real and imminent the police will institute a Port Alert. This means that the child's name will be circulated to points of departure. If there are any difficulties ask to speak to the senior officer in charge.

A court order is not necessary for the police to act in the Isle of Man. They will only require a statement which gives evidence of your rights/responsibilities in relation to the child and of your objection to the removal of the child.

Contact the Attorney General's Chambers. Contact details are set out in section 14 of this leaflet.

**IV You have brought your child into the Isle of Man from abroad**

If you are uncertain about the basis on which your child has been brought from overseas you should consult an advocate or one of the organisations listed in section 14 of this leaflet for information on your situation.

**10. Child Abduction Checklist**

*If your child has been abducted or you fear that abduction may occur in the future, it would be useful to have on hand as much of the following information as possible.*

**On the child**

- full name
- date and place of birth
- passport number, date and place of issue
- photographs or a physical description
- any entitlement to a passport other than a British passport

**On the person who has taken the child**

- full name (including any prior or maiden name and any aliases if applicable)
- date and place of birth
- passport number, date and place of issue
- photograph or a physical description
- occupation
- probable date of departure
- departure information (ie flight, train, ferry)

- details of ties to a foreign country, such as the names, addresses and telephone numbers of relatives, friends and business contacts.

### **Copies of documents**

- any agreements or court orders which relate to the child
- child's birth certificate
- marriage certificate or divorce decree

### **other**

- name and address of advocate (if you have one).

## **11. Additional sources of information**

**reunite:** International Child Abduction Centre is a charitable organisation. Its main aim is to provide advice, support and information to parents and families who are in any way affected by the issues surrounding international child abduction. This includes parents and families, who have had a child abducted or fear that their child will be abducted as well as parents who are concerned about the circumstances under which their children entered the British Isles.

### **The services that reunite provides are as follows:**

- national advice line
- child abduction prevention guide (available upon request)
- newsletters
- emotional support for parents and families by trained staff and volunteers
- contact with the Parent Support Network

reunite continues to develop a National/International Lawyers Network and carries out research into the laws of the countries to which children are abducted.

### **Other Contact Points:**

The Manx Citizen's Advice Service may be able to assist in directing you to services available within your community.

Your local **police station** may be able to check through the police in the country to which the child has been taken that the child is safe and well.

## **12. Glossary**

*The following are terms you will come across in this leaflet*

### **access order**

An order made prior to the implementation of the Family Law Act 1991, providing for a parent without actual custody to have access to the child and the terms on which access is to take place.

**applicant**

Parent or guardian who has applied to have the child returned.

**contact order**

An order under the law as reformed by the Family Law Act 1991 and the Children and Young Persons Act 2001, requiring the person with whom the child lives to allow the child to visit or stay with the person named in the order, or for the child and that person otherwise to have contact with each other.

**custody order**

An order made prior to the implementation of the Family Law Act 1991, giving to a person either legal custody (the rights over a child affecting his or her person, including how the child spends his or her time), or actual custody (physical possession of the child).

**guardian**

A person other than a parent, appointed by a court, or by a parent to look after the interests of a child after the parent's death. A guardian has parental responsibility for the child.

**jurisdiction**

The power of a court to hear and decide a case or make a certain order; the territorial limits within which the judgments or orders of a court may be enforced or executed.

**prohibited steps order**

An order under the Family Law Act 1991 or, since 2003, the Children and Young Persons Act 2001, that no step of the kind or kinds specified in the order, which could be taken by a parent in meeting his or her parental responsibility, shall be taken by any person without the consent of the court. Typically these orders prohibit a person from taking the child away from their usual home.

**residence order**

An order under the Family Law Act 1991 or, since 2003, the Children and Young Persons Act 2001, settling the arrangements to be made as to the person with whom the child is to live. A residence order does not deprive either of the child's parents of parental responsibility for other aspects of the child's upbringing. In particular it does not deprive the non residence parent of the right to have a say in where the child will live.

**respondent**

The parent or guardian who is alleged to have wrongfully removed or retained the child.

**rights of custody**

For the purposes of the Hague Convention, rights of custody include, but are not limited to, rights relating to the care of the child and in particular the right to determine the place of residence of the child. For example, a parent who has a residence/custody or a contact/access order with respect to a child will have rights of custody.

## **13. Frequently Asked Questions**

### **How do I apply for the return of my child via the Attorney General's Chambers?**

If the answer to the questions set out below is yes, you should complete an application form for return of a child. The form is available on the Attorney General's Chambers website. A

guide to completing the form is also on the website. Alternatively, you can contact the Chambers to request copies of the form and guide. You should then forward the form and supporting documents to the Attorney General's Chambers.

If the answer is no to any of the questions, you should contact the Attorney General's Chambers for advice before completing the questionnaire. Contact details can be found at section 14 of this leaflet.

- Is your child aged under 16 years?
- Prior to the abduction, had your child been living permanently in the Isle of Man?
- Do you have parental responsibility for your child?

### **How quickly do I have to make my application after my child's abduction?**

It is advisable to make your application to the Attorney General's Chambers as soon as possible. However, if you believe there is a chance the abducting parent will return your child voluntarily, you may decide to delay making a formal application. Any delay will need to be explained to the Central Authority in the foreign jurisdiction. If there is a legitimate reason, this will not cause a problem. It is as well to remember, however, that if the delay is over 12 months, your application can be rejected by the foreign Central Authority and if accepted a return may be refused on the basis that the child is now settled in the new country.

### **When I have submitted a completed questionnaire to the Attorney General's Chambers, what happens next?**

A legal officer within Chambers will check your application and will prepare a formal request using the information you have provided. The application and supporting documents including any necessary translations will be submitted to the Central Authority in the country where your child has been taken. How your application is dealt with in the foreign jurisdiction varies slightly from one country to another. Broadly speaking, if it is not possible to organise the voluntarily return of your child to the Isle of Man, arrangements will be made for your application to be filed at the appropriate court in the jurisdiction where your child is living, for a judicial determination.

### **How quickly will my application be processed?**

The Attorney General's Chambers will aim to forward your application to the foreign Central Authority within 5 working days of receiving all the necessary paperwork. Cases where documents need to be translated may be delayed by a few days.

The Attorney General's Chambers has no control over how quickly your application is processed by the foreign Central Authority. However, Chambers will liaise regularly with the Central Authority to ensure that your application is not delayed unnecessarily.

### **What is the cost of my application?**

The Attorney General's Chambers make no charge for processing your application. The Central Authority in the foreign jurisdiction will make no charge for any work that they do. However, in some countries you may be required to pay all or part of the cost of legal representation. You should also be prepared to pay the travel costs for your child's return. You may also have to meet travel costs if you are required to give evidence in the proceedings in the foreign country. This is not usually necessary but may be required in certain cases.

If you are seeking contact/access with your child in a Hague Convention country outside the European Union, non means tested legal aid is only available in a very few countries such as

Australia and New Zealand. You should contact the Attorney General's Chambers to obtain details.

If you are seeking to enforce access orders within Europe you may be eligible for non means tested legal aid if the country is a signatory to the European Convention.

### **When will I hear how my application is progressing?**

The Attorney General's Chambers will inform you, or your advocate in this jurisdiction, as soon as your application is forwarded to the Central Authority abroad. You will then receive progress reports as soon as any information is received about how the application is proceeding. You should contact the Attorney General's Chambers if you are concerned because you have not received an update.

### **Will I have to travel to the country where my child has been taken for a court hearing?**

Courts dealing with applications under the Hague Convention are encouraged to do so without the need for the applicant being present at hearings. However, in some cases where an application is strongly defended by the abducting parent, the court requests the attendance of the applicant so that evidence from both parents can be given in person.

### **If I do have to travel abroad to attend court, who will assist me in the foreign country?**

You will need to make your own travel and accommodation arrangements. Before you travel the Attorney General's Chambers will provide you with the address of the court and the time and date of the hearing. A lawyer will attend the hearing to present your application to the court. If there is a language difficulty, you should discuss with the Attorney General's Chambers before you travel whether an interpreter can be arranged for the court hearing.

### **If the abducting parent decides to remain in the foreign country, how will arrangements be made for my child's return to the Isle of Man?**

Although the court in the foreign jurisdiction can order the return of your child to the Isle of Man, the Judge will have no authority to compel the abducting parent to return with your child. If your application is successful, you may need to travel to collect your child if the abducting parent does not wish to return. You should be prepared for this eventuality.

### **If I do not know the exact whereabouts of my child abroad, what steps will be taken to locate him or her?**

If you know which country your child has been taken to, and have some idea where in that country he or she may be living, this is probably enough information for the Attorney General's Chambers to submit an application to that country. In most countries the local police and/or Interpol will assist in locating your child. It is very important that you provide as much information as possible about the probable whereabouts. This will speed up the process in the foreign jurisdiction.

The Attorney General's Chambers can only start to assist you when you know which country your child is in. If you are unsure of this information, you should consider consulting an advocate in this jurisdiction to assist you in tracing your child.

**While my application is being processed in the foreign jurisdiction, will I be able to have contact with my child?**

Any contact with your child while your application is pending should be made on a voluntary basis with the abducting parent. In most cases formal applications for contact are not advisable as a court may misinterpret such a request as an agreement on your part that your child can remain living in the foreign jurisdiction as long as you can have contact. This may jeopardise your request for your child's return

**My children have lived in Greece for 3 years. I have been having regular contact with them each summer but I do not have any court orders. My former wife has now remarried and has refused to send the children. What can I do?**

Because the Hague Convention is in force between Greece and the Isle of Man you will be able to make an application to establish rights of access in Greece. You should contact the Attorney General's Chambers or visit their website. The phone number and web address are set out in section 14 of this leaflet.

**I moved to the Isle of Man 3 years ago. My children still live in Australia. I would like to re-establish contact with them. What can I do?**

The Hague Convention is in force between the Isle of Man and Australia. You may therefore be able to make an application to establish contact with your children. The legal costs of the application will be met by the Australian government. You should contact the Attorney General's Chambers or visit their website. The phone number and web address are set out in section 14 of this leaflet.

If your question is not covered by the above FAQs, you can contact the Attorney General's Chambers using the contact details in section 14.

## **14. Useful telephone numbers and addresses**

### **Central Authority for the Isle of Man**

Attorney General's Chambers  
3<sup>rd</sup> Floor,  
St Mary's Court  
Hill Street  
Douglas  
Isle of Man, IM1 1EU  
Tel: 01624 685452  
Fax: 01624 629162  
E-mail: [childabduction@attgen.gov.im](mailto:childabduction@attgen.gov.im)  
Website: [www.gov.im/government/offices/attorney.xml](http://www.gov.im/government/offices/attorney.xml)

### **Central Authority for England and Wales**

The International Child Abduction and Contact Unit  
Office of the Official Solicitor and Public Trustee  
81 Chancery Lane, London, WC2A 1DD  
DX0012 London Chancery Lane  
Tel: 020 7911 7047/7045  
Fax: 020 7911 7248  
E-mail: [enquiries@offsol.gsi.gov.uk](mailto:enquiries@offsol.gsi.gov.uk)  
Website: [www.offsol.demon.co.uk](http://www.offsol.demon.co.uk) (and follow the prompt to International Functions).

*The International Child Abduction and Contact Unit is open Monday to Friday 9am to 5pm.  
In an emergency outside these hours you may contact the Royal Courts of Justice on either  
0207 9476000 or 02076260.*

### **Foreign & Commonwealth Office**

Consular Division  
Old Admiralty Building  
London, SW1A 2PA  
Tel: 020 7008 0200  
Website: [www.fco.gov.uk](http://www.fco.gov.uk)

### **The Passport and Immigration Office**

Prospect House  
Prospect Hill  
Douglas  
Isle of Man, IM1 1ET  
Tel: 01624 686285  
Fax: 01624 685210

### **The United Kingdom Passport Service**

London Passport Office  
Globe House  
1 Eccleston Square London, SW1V 1PN  
Tel: 08705 210 410 (UKPS Advice line)  
Website: [www.ukpa.gov.uk](http://www.ukpa.gov.uk)

### **reunite International Child Abduction Centre**

PO Box 7124  
Leicester, LE1 7XX  
Tel: 0116 255 6234 (Advice Line)  
Fax: 0116 255 6370  
E-mail: [reunite@dircon.co.uk](mailto:reunite@dircon.co.uk)  
Website [www.reunite.org](http://www.reunite.org)

### **The Manx Citizen's Advice Service**

4 Bourne Concourse, Peel Street  
Ramsey, Isle of Man  
IM8 1JL  
Tel: 01624 813466

**Central Authority for Scotland**

Scottish Executive Justice Department  
Private International Law Branch  
St Andrews House  
Edinburgh, EH1 3DG  
Tel: 0131 244 4827  
Fax: 0131 244 4848  
Website: [www.scotland.gov.uk/childabduction](http://www.scotland.gov.uk/childabduction)

**Central Authority for the Falkland Islands**

The Governor  
Government House  
Stanley  
Falkland Islands

**Central Authority for Bermuda**

The Attorney General  
Attorney General's Chambers  
Global House  
43 Church Street  
Hamilton HM12  
Bermuda  
Tel: 001 441 292 2463  
Fax: 001 441 292 3608

**National Missing Persons Helpline**

Tel: 0500 700 700

This is a Freephone number from within the United Kingdom.

If you are calling from outside the UK, you can reach the Missing Persons Helpline on +44 (0)20 8392 4545

Website: [www.missingpersons.org](http://www.missingpersons.org)

**Permanent Bureau of the Hague Convention on Private International Law**

Scheveningseweg 6  
2517 KT The Hague  
The Netherlands  
E-mail: [secretariat@hcch.net](mailto:secretariat@hcch.net)  
Website: [www.hcch.net](http://www.hcch.net)

**The Isle of Man Law Society**

27 Hope Street  
Douglas  
Isle of Man  
IM1 1AR  
Tel: 01624 662910  
Website: [www.iomlawsociety.co.im](http://www.iomlawsociety.co.im)

**Central Authority for Northern Ireland**

Northern Ireland Court Service  
Civil and Family Branch  
Windsor House, 9-15 Bedford Street  
Belfast BT2 7LT  
Tel: 02890 328 594  
Fax: 02890 314 854  
Website: [www.nics.gov.uk](http://www.nics.gov.uk)

**Central Authority for the Cayman Islands**

The Attorney General  
Government Administration Building  
Grand Cayman, Cayman Islands

**Central Authority for Montserrat**

The Attorney General  
Attorney General's Chambers  
Legal Department  
Montserrat  
West Indies  
E-mail: [legal@gov.ms](mailto:legal@gov.ms)

**The Law Society (of England and Wales)**

113 Chancery Lane  
London  
WC2A 1PL  
Tel: 0870 606 6575  
E-mail: [info.services@lawsociety.org.uk](mailto:info.services@lawsociety.org.uk)  
Website: [www.lawsociety.org.uk](http://www.lawsociety.org.uk)

## APPENDIX A

### Hague Convention Countries

**Countries in which the Hague Convention on the Civil Aspects of International Child Abduction is in force with the Isle of Man as at 1 August 2005**

The countries are listed in the Child Abduction and Custody (Parties to Conventions) Order 2005 made under the Child Custody Act 1987. New countries will be added as they become parties to the Convention by the making of a new order. Copies of orders made under the 1987 Act can be obtained from the Tynwald Reference Library.

Country	Date entered into force	Country	Date entered into force
Argentina	14/10/91	Latvia	01/10/03
Australia	14/10/91	Lithuania	01/03/05
Austria	14/10/91	Luxembourg	14/10/91
Bahamas	01/01/94	Macao	01/03/99
Belarus	01/10/03	Macedonia	01/12/91
Belgium	01/05/99	Malta	01/03/02
Belize	14/10/91	Mauritius	01/06/93
Bosnia/Herzegovina	01/12/91	Mexico	14/10/91
Brazil	01/03/05	Monaco	01/02/93
Burkina Faso	01/11/92	Netherlands	14/10/91
Canada (most states)	14/10/91	New Zealand	14/10/91
Chile	01/05/94	Norway	14/10/91
Colombia	01/03/96	Panama	01/05/94
Croatia	01/12/91	Peru	01/10/03
Cyprus (southern)	01/02/95	Poland	01/11/92
Czech Republic	01/03/98	Portugal	14/10/91
Denmark	14/10/91	Romania	01/02/93
Ecuador	01/06/92	St Kitts and Nevis	01/08/94
Estonia	01/10/03	Serbia/ Montenegro	01/12/91
Fiji	01/10/03	Slovakia	01/02/01
Finland	01/08/94	Slovenia	01/06/94
France	14/10/91	South Africa	01/10/97
Georgia	01/10/97	Spain	14/10/91
Germany	14/10/91	Sweden	14/10/91
Greece	01/06/93	Switzerland	14/10/91
Honduras	01/03/94	Turkey	01/08/00
Hong Kong	01/09/97	Turkmenistan	01/05/98
Hungary	14/10/91	U.S.A.	14/10/91
Iceland	01/11/96	Uruguay	01/10/03
Republic of Ireland	14/10/91	Uzbekistan	01/10/03
Israel	01/12/91	Venezuela	01/01/97
Italy	01/05/95	Zimbabwe	01/07/95

## APPENDIX B

### European Convention Countries

#### Countries in which the European Convention is in force with the Isle of Man as at 1 August 2005

The countries are listed in the Child Abduction and Custody (Parties to Conventions) Order 2005 made under the Child Custody Act 1987. New countries will be added as they become parties to the Convention by the making of a new order. Copies of orders made under the 1987 Act can be obtained from the Tynwald Reference Library.

Country	Date entered into force	Country	Date entered into force
Austria	01/11/91	Lithuania	01/05/93
Belgium	01/11/91	Luxembourg	01/11/91
Bulgaria	01/10/93	Macedonia	01/03/03
Cyprus	01/11/91	Malta	01/02/00
Czech Republic	01/07/00	Moldova	01/05/04
Denmark	01/11/91	Netherlands	01/11/91
Estonia	01/09/01	Norway	01/11/91
Finland	01/08/94	Poland	01/03/96
France	01/11/91	Portugal	01/11/91
Germany	01/11/91	Romania	01/09/04
Greece	01/07/93	Serbia/Montenegro	01/05/02
Hungary	01/06/04	Slovakia	01/09/01
Iceland	01/11/91	Spain	01/11/91
Republic of Ireland	14/10/91	Sweden	01/11/91
Italy	01/06/95	Switzerland	01/11/91
Latvia	01/08/02	Turkey	01/06/00
Liechtenstein	01/08/97		