

iGuide: What is Child Abduction?

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Child abduction is a very emotive term. The family courts are not usually called upon to deal with stranger abduction, that is to say the situation where a minor is taken away by a stranger. That crime is governed by the Child abduction Act 1984 which, thankfully, is a relatively unusual event.

The vast majority of child abductions that take place involve the removal of a child without the knowledge and consent of the other parent. An abduction will often occur following the breakdown of an adult relationship and when one parent decides to leave, with the children, and return 'home'. At a time when people married someone from their own, or neighbouring village, this did not present a problem. As people now marry people from all over the world 'home' is, increasingly, abroad, and this has caused widespread problems.

Child abductions also take place when one parent deliberately sets out to forum shop i.e., seek to move the children to a country where they feel the Court/authorities will favour their wishes regarding the children or, alternatively, where one parent is disgruntled with a decision that a Court has made regarding the child's upbringing and seeks to take the child beyond the reach of the Court and, in some cases, the other parent. Sometimes, parents will go to elaborate ends to abduct and conceal children but the court has a vast array of powers at its disposal to locate missing children and we are recognised specialists in this field.

During the 1970's a number of states had become increasingly concerned about the rise in parental child abduction and so the Convention on the Civil Aspects of International child abduction 1980 came into being. This convention is commonly known as the '*Hague Convention*'. This convention came into being, together with the European Convention, on the Recognition and Enforcement of Decisions Concerning Custody of Children 1980. This latter convention is commonly known as the '*European Convention*' in England or the Luxembourg Convention in the rest of Europe.

The Child Abduction and Custody Act 1985 is the domestic legislation which brought into effect the Hague and European Conventions.

The purpose of the Hague Convention was to secure a common accord and aim that a child removed or retained across an international border without the consent of all persons who have the right, in law, to care for the child should be speedily returned to the state of his/her habitual residence for the Courts in that state to determine the child's future.

The primary objective of the Conventions was to deal with those '*conscious*' child abductors. However, increasingly, it has been the '*innocent*' child abductors that have been caught by the provisions of the Convention.

"Of all international family law instruments, none generates more reported case law than Hague cases".

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