

Information about the Operation of the 1980 Hague Convention

ICACU Responses – March 2025

1. Locating children

In your country, which agencies are involved in locating children and what is the process for the location of missing children? Is there specific information which the applicant parent may be able to provide which would assist with location?

In England and Wales, proceedings can be issued under section 33 of the [Family Law Act 1986](#) for a location order which instructs local and central government offices, private companies and other institutions to release information which may lead to discovering the whereabouts of a child.

Individuals may be required to attend court to give evidence and can be imprisoned for contempt of court if it is believed they are deliberately misleading the court. Once the court has made an order, all enquiries are made by the Tipstaff, the enforcement officer of the High Court, who may also involve the police or other agencies in the recovery of a child.

2. Judicial procedures

a) In your system, which courts/administrative bodies have jurisdiction to consider applications for return orders (and to determine questions of access) in 1980 Hague Convention cases?

In England and Wales, all applications for the return of abducted children under Article 12 of the Hague Convention are issued as applications under the Child Abduction and Custody Act 1985 and are dealt with by a High Court judge based at the Royal Courts of Justice in London.

Access applications are issued as applications for a child arrangements order under the Children Act 1989 and may be allocated to a judge of the Family Court.

b) What measures/processes are in place to ensure return applications are dealt with expeditiously at first instance and on appeal?

These cases are dealt with exclusively by the High Court. Following the issue of proceedings, court rules provide that a return case should not be adjourned for more than 21 days (the court rules are in [Part 12 of the Family Procedure Rules 2010](#)).

Judges will, at these hearings, give directions as to the filing of evidence and list cases for final hearing.

c) Who brings the return application – for example, does the responsibility lie with the central authority, the State or with the parent?

The applicant sends the application and supporting documents either via their own central authority or directly to the ICACU (the operational central authority team for England and Wales). The ICACU checks the application meets the requirements of the Convention and if so, refers it to a solicitor on its list of solicitors accredited by ICACU to deal with return applications ([Child abduction: accredited solicitors referral list - GOV.UK](#)) with a letter confirming that the applicant is entitled to free legal aid. It is the solicitor's responsibility to take instructions from the applicant about issuing the application and during the progression of the return case.

d) What type of legal representation is available to an applicant parent to assist them in bringing their application before the courts? Will legal representation be provided or arranged by the central authority? Is legal aid available and, if so, on what basis?

Applicants in Article 12 return cases are entitled to free legal aid for representation. Once their case is accepted by ICACU, ICACU will refer the case to a solicitor on the ICACU's accredited list of specialist solicitors.

3. Enforcement procedures

a) What is the process for the enforcement of:

i) a return order?

In England and Wales, once a return order is made under the 1980 Hague Convention, the parent or person who wrongfully retains the child is required to comply with the return order. If they do not do so voluntarily, the left-behind parent can apply to the court for enforcement. This may include seeking a warrant for the arrest of the non-compliant party and potentially using police or other authorities to ensure the child is returned.

If the retaining party fails to comply, they can be held in contempt of court. Contempt of court is potentially punishable by a fine or imprisonment.

In some cases, the enforcement of the return order may be delayed if either party seeks permission to appeal and is granted a stay of the return order pending determination of the appeal.

ii) a contact/access order?

If a parent fails to comply with a child arrangements order for contact (access) - referred to as a 'spends time with' child arrangements order - the other parent can apply to the court to enforce the order.

The court will want to know more about why the applicant parent believes the other parent has broken (or 'breached') the terms of the order. If the judge agrees that the terms have been broken, then they will want to hear what the other parent's reasons are.

If there are no justifiable reasons, then the court will consider taking action against that parent in an attempt to make them comply with the order. There are a range of actions available to the court in these circumstances, including issuing a warning, ordering a change in the contact arrangements, or, in more serious cases, holding the non-compliant parent in contempt of court.

b) Who takes responsibility for enforcement – for example, is it the responsibility of the parent or the State? Will the parent need to retain a lawyer, or can they make a direct enforcement application to the court?

The Tipstaff is the High Court officer responsible (at the direction of the court) for the enforcement of High Court orders. If necessary, the Tipstaff can involve the police to assist with the collection of a child for the purpose of the return order being carried into effect. If a return order is breached by the abducting parent the case may be referred to the court who will make further orders.