

Children and the law: holidays and relocation

This guide is designed to give you information about holidaying or relocating with your children when parents do not agree.

Many parents arrange to go on holiday or relocate with their children but these issues can be one of the most complex and confusing areas of family law when parents do not agree. This guide sets out some of the common areas of dispute and explains what you can do if your child's other parent doesn't agree with your plans.

Some of these issues can be complicated and your circumstances will be individual to you. You should therefore also seek legal advice. You can obtain free, confidential legal advice on these issues by contacting our advice lines. Details of the advice lines can be found towards the end of this guide. If your child is abducted, you should contact the police and seek legal advice urgently.

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I want to go on holiday with my children

If you look after your children on a day to day basis, then you can take them on holiday within the UK. However, you will need to make them available for any court ordered contact. For example, if the father of your children has court ordered contact every weekend, you can take them on holiday in the UK during the week, but you have to make the children available for contact when the court order says. If your children do not live with you, you can take them on holiday within the UK during the time you have contact.

It is a good idea to inform the other parent where you are going, how long for and how to contact you in an emergency unless you believe it would not be safe to do so.

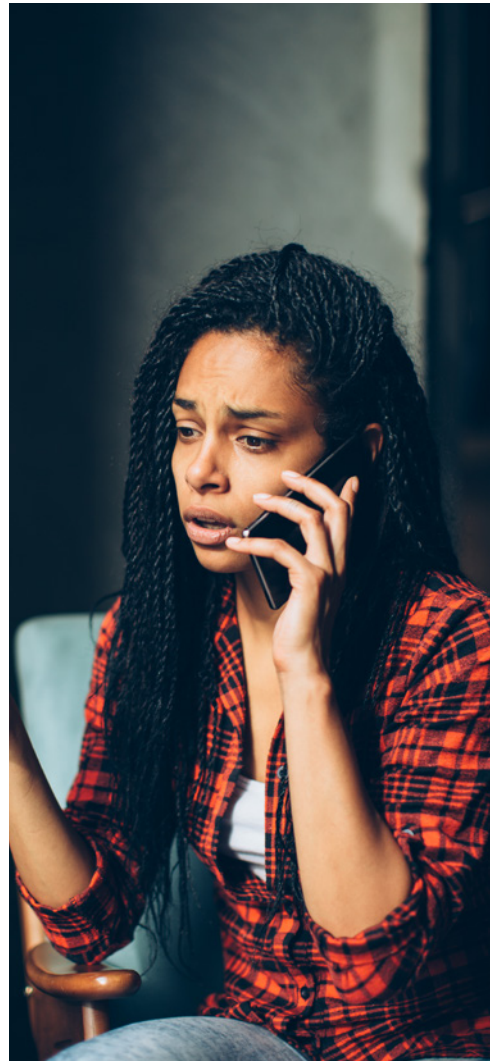
If you would like to take your children abroad, then you must get the agreement of everyone who has parental responsibility for your children. To find out who has parental responsibility for your children, see our guide, **Children and the law: parental responsibility**.

If you do not get the consent of everyone with parental responsibility, you may be committing a criminal offence. See our guide **Children and the law: child abduction**

You are required to obtain consent even if your children are going away without you, for example on a school trip.

If you have a court order which states that your children live with you, then you can go abroad with the children for up to 28 days without getting permission from everyone with parental responsibility. You must, however, still make the children available for any contact arrangements ordered by the court.

If your children's father does not have parental responsibility for your children, then you do not require his permission to take your children on holiday either in the UK or abroad. As explained above, you must still make sure you comply with any court ordered contact. It is best to provide the other parent with information about the holiday unless you believe it is not safe to do so.



What if my child's father refuses permission?

If your child's father refuses to agree to you going on holiday abroad with your child, then you will need to apply to the Family Court for a **specific issue order**. This is an order the court makes when it is asked to decide a particular issue that the parents are not able to agree on.

You can make this application on an emergency basis if you have travel plans, but you should be aware that the Family Court may not be able to deal with your case very quickly. A court is unlikely to make an order allowing you to go on holiday with your children unless they have heard why your children's father does not agree.

The Family Court can make an order allowing you to go on holiday on one occasion, or if there are likely to be further disagreements, can set out an order which allows for regular holidays and school trips. For example, you could ask the court to make a child arrangements order that says the children live with you so that you can give permission for the children to travel out of the country for up to 28 days. The court may make this order if there is a history of your children's father refusing to give permission for holidays for no apparent reason.

If your children's father is very worried about you going on holiday in the UK or abroad with your children, then he can make an application for a **prohibited steps order**. This is an order which stops a parent from doing something or taking particular steps in relation to the children. For more information on these orders, see **Children and the law: when parents separate**. Your children's father can make an application for a prohibited steps order even if he does not have parental responsibility. If a prohibited steps order is in force, then you can be punished by the court if you do something you are forbidden from doing.

Note on passports and names

If you are travelling without the other parent, but you have their agreement to the holiday, it is sensible to get this agreement in writing, especially if your children have a different surname from you as you may be asked to provide this information on your way in or out of some countries.

Although it is not a legal requirement in the UK, you may also wish to travel with some form of written confirmation that you are your children's parent, for example, their birth certificates.

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I would like to move abroad permanently with my children

You will need the permission of everyone who has parental responsibility, or a court order to relocate to a new country.

If the other parent with parental responsibility does not consent to the relocation, you must apply for a relocation order in the Family Court. The order will be granted if relocation is in the best interests of your children.

The court will look at a number of factors when they make this decision, in particular, they will consider the welfare checklist. This is a list of factors the court has to consider for every child before they make orders relating to their upbringing. They are:

1. Your child's wishes and feelings.
2. Your child's physical, emotional and educational needs.
3. The likely effect on your child of any change in his or her circumstances.
4. Your child's age, sex, background and any relevant characteristics.
5. How capable both parents are of meeting your child's needs.
6. The range of powers available to the court .

The court has to consider the welfare checklist when deciding any application for an order about how a child is going to be brought up. If you are asking the court to make an order for your children to permanently move to another country, there are some additional factors the court will want to know about before they can make a decision.



The court will want to make sure that there is a detailed and well thought out plan for the children in the country you are planning to move to. This plan should include detailed information on:

- Your motivation for relocating. It will be important to demonstrate it is not because you want to deny your children a relationship with their other parent.
- Your job prospects, or other details about how you will support yourself and your children financially.
- Information about where you will live including considerations about how much it will cost to rent or buy a home;
- Immigration status for you and your children, including any applications you will need to make. You will need to consider what type of visa you will need, how long it will take to get it, how long it will last and if there is a risk that you may not be able to stay in the country at the end of your visa.
- Arrangements for your children's schooling including whether you will need to pay for schooling and how much this will cost.
- Arrangements for the children's health care if the country you are moving to does not have a national health service, how will you afford to pay for health insurance for you and the children. If any of your children have any special medical requirements, how will these be met.

- Any family support you will have if you move. If you will not have any family support in the country you are moving to, how will you be able to build up a support network.
- Details about how your children will continue to have contact with their other parent, including telephone contact, contact over the internet and visits or holidays. You will need to think about a plan that is realistic depending on how far away the children will be from their other parent, how long they will travel for and how much it will cost. You may be expected to contribute towards the costs of visits or holidays.

The purpose of the court looking at these factors in detail is to understand how your children's welfare will be met in the country you want to move to.

As part of looking at the best interests of your children, a court will look at how the decision will impact on you as your child's carer. A court will be concerned if you do not intend on helping your children maintain a relationship with their other parent.

Finally, the court will also consider the reason why your children's father does not agree and will want to understand whether his concerns are child focussed or are motivated by an ongoing battle between the parents.

Effect of relocation on child arrangements orders

Not all countries will recognise a child arrangement order that is made in the UK. This means that even where there is a court ordered arrangement for contact with your children's other parent, it is not necessarily enforceable in that country. If it is not, then the court will consider this when they make an order for relocation.

My children's father would like to move abroad

If your children's other parent would like to move abroad without your children, then that is their choice and the Family Court cannot prevent an adult from moving to another country. They can still apply to the Family Court for child arrangements orders, for example, to arrange holiday or staying contact as long as your children remain in this country.

If the father of your children wishes to move abroad with the children, he will need either your permission or an order from the court. The factors the court will consider are set out above.

'...If the father of your children wishes to move abroad with the children, he will need either your permission or an order from the court...'

Immigration and family proceedings

If you or your children's other parent do not have settled status in the UK, then this may also be considered as part of the family proceedings. You can apply to remain in the UK if you have a child arrangements order to spend time with children who live here, or if you are caring for children who have contact with a parent who is British or settled in the UK. In most cases, telephone contact or indirect forms of contact will not be sufficient.

If you are making immigration applications at the same time as a case is being heard in the Family Court, then the information can be given to each court. There is a special procedure for sharing information between the two courts. If you believe that your immigration status, or the immigration status of your children's father is relevant to the case, you can ask the court for an order that this information is given to the court.



The issues relating to orders about children can be complex and we have provided a very basic overview of terminology, law and court practice and procedure. We would also strongly advise you to seek legal advice by either telephoning our legal advice line or a solicitor. Where your child has been abducted from your care, it is important that you seek advice urgently.

Please note that the law as set out in this legal guide is the law as it stood at the date of publication. This guide sets out the law in England and Wales only. The law may have changed since then and accordingly you are advised to take up to date legal advice. Rights of Women cannot accept responsibility for any reliance placed on the legal information contained in this legal guide. This legal guide is designed to give general information only.

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For free, confidential, legal advice on family law including domestic violence, divorce and relationship breakdown and issues relating to children call the following:

Women living and working in London: call **020 7608 1137**. The advice line is open **Mon 11am-1pm, Tues to Thurs 2-4pm**.

For all women: call **020 7251 6577**. The advice line is open **Mon to Thurs 7 – 9pm and Friday 12-2pm**.

Rights of Women publishes a number of other guides that may be useful. For further information about these contact us or visit our website www.rightsofwomen.org.uk

Useful contacts

Emergency contacts

Police (emergency)
999

24 hour domestic violence helpline
0808 200 0247
www.nationaldomesticviolencehelpline.org.uk

Emergency contacts

The Law Society
0207 320 5650
www.lawsociety.org.uk/find-a-solicitor

Ministry of Justice
020 3334 3555
<https://find-legal-advice.justice.gov.uk>

Resolution
01689 820272
www.resolution.org.uk

Emergency contacts

Citizens Advice
www.citizensadvice.org.uk

Law Centres Network
020 7749 9120
www.lawcentres.org.uk

Law Works Clinic Network
www.lawworks.org.uk

Personal Support Unit
020 7947 7701
www.thepsu.org

Disability Law Service
020 7791 9800
www.dls.org.uk

Rights of Women,

52 – 54 Featherstone Street, London EC1Y 8RT

Office: 020 7251 6575

Email: info@row.org.uk

Website: www.rightsofwomen.org.uk

Charity number: 1147913

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