



AUTHOR / KEY CONTACT

Taking children abroad



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Have you got concerns about taking your child abroad this summer? Or are you concerned about someone else taking your child abroad this summer?

Summer holidays are the perfect opportunity to arrange family holidays or visits to relatives abroad. However separated parents or grandparents may not be aware of the legal implications of taking their children or grandchildren abroad. Below are some frequently asked questions to help you understand the importance of this area of law before taking a child on holiday this summer.

“Do I have to ask permission of their mother/father?”

The first question to answer in this potentially complex area of law is who has Parental Responsibility (PR) for the child? Mothers automatically have PR. If mother is married to the father then he will also acquire PR at the time the child is born. If the mother and father are unmarried then the father can acquire PR in one of 3 ways:

- Being named on the birth certificate (from 2003)
- through a PR agreement with the mother, or
- an order of the court.

Divorce does not remove PR from either parent.

Assuming both parents have PR, if you have the day to day care of the child, then you need the written consent of the other parent and anyone else with PR before taking the children abroad, as well as when children are going away on their own, for example, on school trips.

“What if the mother/father refuses permission?”

If the other parent withholds consent, then you can apply to the Family Court on an emergency basis for a

Specific Issue Order for permission to take the child abroad. The court can also deal with issues relating to the passport.

“What if I don’t want someone else to take my child abroad?” or “what can I do if I am concerned that they will refuse to return my child?”

If you are the parent who wishes to prevent the child’s removal from the country, you can apply to the Family Court for a Prohibited Steps Order (PSO) even if you don’t have PR. A PSO imposes restrictions on a parent from doing something in relation to a child.

In all applications relating to children the child’s welfare is at the forefront of any decision by the court.

“What if I take a child abroad without the required consent?”

Taking a child abroad without the required consent may result in a criminal offence being committed under the Child Abduction Act 1984. Where there is a real and immediate threat that the other parent may try to take the child abroad without your consent, the court can take a number of urgent steps to prevent this from happening. If a child has been removed without your consent then it is important to act quickly to secure the child’s return.

If you would like any further information about the law relating to children and travelling abroad after divorce or separation, or further information on the services that the Family Team at Lester Aldridge can offer, please contact the [Family Team](#) on 01202 786104.