Placing Children with Family Overseas

Introduction

There are more children on the move than ever before and increasing numbers of multi-national and foreign-national families in the UK. Therefore, the social work profession – in the UK and globally - must be competent to work effectively on inter-country cases. This factsheet deals with the particular challenges of placing children in care with family overseas and provides practical advice for professionals.

When a child cannot be cared for by his or her parents, the first choice of alternative care should be with extended family and those with a kinship bond. A child’s right to preserve his or her identity, to be provided with appropriate alternative care, and for all actions to take into account the child’s best interests, are enshrined in the UN Convention on the Rights of the Child (Article 3, Article 8, and Article 20) and in the UN Guidelines for the Alternative Care of Children (2009).

When a child is deprived of parental care but has extended family members residing in another country, the same principles apply, even if this means that the placement must be coordinated across international borders. CFAB provides inter-country social work services for cases involving children in care where family members residing abroad may be able to provide a safe and permanent family home. CFAB can connect UK-based professionals to local professionals worldwide who can assess family members and assist in placement planning.

Children and Families Across Borders - CFAB

CFAB is the UK branch of the International Social Service (ISS), network with partners in 120 countries. CFAB is also the only non-government organisation (NGO) in the UK set up specifically to deal with child protection cases which involve the UK and one or more other countries. Through its inter-country social work team, CFAB provides guidance, counselling and practical support on a range of complex international child protection issues. CFAB works with professionals from Local Authorities, the Courts, the police, NGOs, Central Government and individuals.
KEY ISSUES WHEN CONSIDERING AN INTERNATIONAL FAMILY PLACEMENT

Multi-country casework requires different networks, adjusted assessment approaches and potentially greater financial resources, as well as more time to complete than assessments being conducted only in the UK. **CFAB would advise all those engaged in this work to:**

- **Work in collaboration with social service counterparts overseas at various stages of the case,** including: seeking background information; notifying the overseas authority when the child is first taken into care and when the child is placed; and collaborating with local professionals during the assessment process.

- **Request cooperation with overseas authorities as early as possible, as there can be delays in communication:** CFAB estimates that it normally takes 12 – 16 weeks to obtain an assessment report from abroad but timeframes vary from country to country and some can take much longer. It might also be possible to request a revision or extension to the court’s timetable for international cases where investigation or assessments have to be carried out abroad.¹

- **Gather information about family overseas, including their contact details, at the start of your involvement with family:** although some of CFAB’s partners can provide tracing services, in many countries it is impossible to locate or contact an individual without a full address.

PRACTICAL STEPS

**Notify the foreign embassy or consular section in the UK**

If the child is a foreign national, notify the consular section of the relevant country’s embassy in the UK at the start of a child protection plan and/or when the child is taken into care, as required by the 1963 Vienna Convention. Consulates have a role in offering support to their nationals in the UK, which can mean having access to the child where appropriate or offering the child’s family advice and support. A consular official might also request to participate in court proceedings.

However, it is important to note that consulates often do not employ social workers or child protection professionals, and therefore their skills in this field might be limited. For a list of foreign embassies in the UK, see [https://www.gov.uk/government/publications/foreign-embassies-in-the-uk](https://www.gov.uk/government/publications/foreign-embassies-in-the-uk)

**Initiate proceedings as soon as possible**

In cases where it appears that jurisdiction might be a substantive issue in the care proceedings, local authorities should commence proceedings as soon as possible so that a forum is available to discuss the question of jurisdiction in the early stages of the case.²
Jurisdiction

At the start of court proceedings, the UK court should affirm jurisdiction of the case and whether it is best placed to make a decision about the child’s future. This decision is based on the child’s habitual residence, best interests, and which court is best placed to hear the case. Sometimes it may be necessary to transfer proceedings to a court in another state where the child’s future can be better decided\(^\text{v}\) (for EU countries, refer to Article 15 of Brussels II revised – see below).

Brussels IIa Regulation and 1996 Hague Convention

Be aware of the Brussels IIa Regulation (applies to all EU Member States) and the 1996 Hague Convention (applies to countries worldwide who have ratified) and their role in establishing processes, obligations and opportunities for international collaboration.\(^\text{iv}\)

UK Legislation and International Conventions

In England and Wales, the Children and Young Persons Act 2008 (Section 23 (2) ii) and the amendments to the Act in 2011 (Section 22c) promote the use of kinship care so that local authorities have to give preference to placing a child with a relative when this is in the best interests of the child.

When the family member resides overseas, international conventions regulate the movement of children and collaboration between different country jurisdictions. Countries that are signatories to these Conventions have agreed to cooperate with the UK. These international conventions include:

- The Convention on Protection of Children and Co-operation in Respect of Inter-country Adoption, 1993 (Hague Adoption Convention). Inter-country adoption placements must comply with international and UK legislation – see guidance on GOV.UK.

In addition, the UN Guidelines on the Alternative Care of Children (2009) sets guidelines for alternative care decisions to enhance the implementation of the UN Convention on the Rights of the Child.
Mirroring orders

At an early stage, seek specialist legal advice about mirroring orders in the other country to ensure that, if the child is placed abroad, the guardianship of the child will be legally recognised. If needed, support the carer to obtain legal advice overseas in the country where the child will reside. The Central Authority might be able to provide information about processes abroad.

Immigration

At an early stage, seek immigration advice about the child's immigration status and travel documents. If the child is a foreign-national who also has an entitlement to British citizenship or might return to the UK - for example, if the placement breaks down - ensure that the child will be able to re-enter the UK. You should also ensure that the child will have a permanent status to reside in the country where he/she is placed before the placement is completed. In some countries, complications in obtaining residence permits can mean that the placement must be approached through inter-country adoption rather than as a kinship placement. The Department for Education is the Central Authority for England under the 1993 Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption.

Serving documents

The Foreign Process Section is the responsible authority for the service of judicial and extrajudicial documents abroad and for the taking of evidence abroad.

Gathering evidence – assessments and social service records

Decide how you will gather evidence from overseas about prospective carers. Kinship assessments including record checks can often be obtained through CFAB’s international network. In some countries, assistance could also be requested via Central Authorities.

Consider that each country will have different laws, working processes, interpretations of the international legal framework, timescales, reporting requirements and assessment frameworks. See section below on Collaborating with Overseas Authorities. Further information about UK social workers travelling abroad to complete these assessments can be found in CFAB’s Factsheet “UK Social Workers Practising Overseas.”

Child’s wishes and preparation planning

Exploring the child’s wishes and preparation planning for a child who will be placed with family abroad will need to consider the challenges that the child might face in travelling to a new country. Some children might be moving home, to a country where they have already lived for a significant part of their lives. For other children who might be moving to a new country, the transition can be very challenging. Explore if the child has a realistic understanding of what it will be like to live in another country. Consider how the child will be able to maintain contact with important people in the UK, as well as how they will adjust to
different living routines, new diets, a different education system and potentially a new language. The child’s wishes should always be considered carefully and given significant weight when making the judgement about placement although, as in other aspects of decision-making, all relevant factors have to be carefully weighed when making the final decision.

Support

Ensure that the carers understand their rights and entitlements for support so that the placement is sustainable. What support can they receive locally in the area where they reside? What support will the UK local authority continue to provide and when will the support be reviewed? Who should the carer contact if they encounter difficulties?

Documents

In addition to mirroring court orders overseas, it is important that the carer is provided with the correct documentation to show that they are the child’s legal carer. Original copies of court orders should be provided, and copies should be translated into the local language in the country where the child will reside. In some countries, Hague Apostille certificates are required to authenticate the documents.viii Ensure that the carer also has other important documents such as the child’s birth certificate, education and medical records.

Notification

Some countries require a formal notification about a placement in their jurisdiction. Check if you need to notify the receiving country authority before the child leaves the UK. The Central Authority or foreign country embassy in the UK can advise on the necessary processes.

Contingency plan

Think about the contingency plan if placement breaks down. Will the child return to care in the UK? Will the overseas authorities accept responsibility for the child? What is the most appropriate care order to ensure that the local authority’s duty is discharged at the right time?

CFAB Kinship Care Audit

In 2013, CFAB conducted a case audit exploring the outcomes for children placed with family members overseas. A sample was drawn from CFAB’s archived cases between 2007 and 2010. The key findings were:

- Between 2007 and 2010, CFAB assisted with 101 cases assessing a potential family carer overseas.
- Of these, 30% resulted in the child(ren) being placed with family abroad.
- Where children were not placed abroad, the most common reasons cited were the child’s wishes, an alternative family placement in the UK was available, or there was a negative assessment of the family member abroad.
- Carers reported that children settled into the placements well, but carers had difficulty accessing support when it was needed.
COMMON CHALLENGES

Working to the child’s timeframe: The complexity of inter-country casework and working in collaboration with overseas authorities can result in delays that will affect the timeframe of the case. CFAB encourages all those involved in these cases to ensure that requests for international collaboration are made as early as possible and for the court timetable to take into account delays that might be caused from securing information from abroad. It might also be possible to request a revision or extension to the court’s timetable for international cases where investigation or assessments have to be carried out abroad (Section 14 of the Children & Families Act 2014; see also the President’s View No. 1 (April 2013) and the judgement in Re S (A Child) [2014] EWCC B44 (Fam)).

Legal and immigration issues: There can be legal and immigration issues in recognising the carer’s guardianship of the child abroad and ensuring that the child has a permanent immigration status in the country where they will be residing. These issues should be identified early to avoid complications and delays. The consular section of the foreign country’s embassy in the UK and the Central Authority can be useful resources to obtain information about laws and processes abroad. It is also advisable to secure specialist legal advice in the UK and overseas. The Foreign Commonwealth Office maintains a list of lawyers in other countries on their website, see - https://www.gov.uk/government/collections/list-of-lawyers

Post-placement support: Family carers often do not understand their rights and entitlements to support and might receive little support from the local authority, which can compromise the sustainability of the placement. Ensure that the carer is aware of the child’s needs and any behavioural issues, understands their rights and entitlements, can access local support for family carers if it is available in their country, and knows who to contact if things are not going well.

Recognition of the placement abroad: Some family carers have reported not having the correct documents to ensure that their guardianship of the child is recognised abroad. Where carers do not have the correct documents, and the order has not been mirrored overseas, their guardianship of the child might be questioned or parents who should not have primary care of the child could pose a risk to the placement. Some carers have also reported not being able to register children in school and for national health services, or obtain kinship carer allowances. Ensure that the carer has original copies of all court and other official documents, including birth certificates as well as school and medical reports. Translate key documents to the language of the country where the child will reside. Some countries also require Hague Apostille certificates to authenticate documents.
COLLABORATING WITH OVERSEAS AUTHORITIES

It is good practice to collaborate with social service counterparts overseas when a case involves more than one country. This might be necessary to:

- Notify the foreign authority that the child has been made subject of a child protection plan or taken into care.
- Request social service record checks during a section 47 investigation, when a child is made subject of a child protection plan, or when a child is taken into care.
- Transfer jurisdiction of the case when the UK court does not hold jurisdiction.
- Identify family members abroad who might come forward to care for the child and obtain assessments of family members living abroad as permanent carers.
- Arrange to place a child with family members abroad or in foster care abroad.

Collaborating with overseas authorities and professionals means that you have access to local knowledge and resources. However, it can also pose challenges due to differences in social work practice, different child protection systems, unfamiliar laws and processes, and long timeframes in communication.

Standards of practice vary from country to country for many reasons, including:

- Differing legal systems and interpretations of – for example – what constitutes a public or private law matter.
- Different thresholds for intervention and different approaches to conducting assessments.
- Different approaches to social work practice and education.

To ensure that collaboration is as smooth and efficient as possible:

- Requests to overseas authorities should be clear and concise with specific details of the collaboration that is requested. Information about the child and situation should be provided in summary format.
- Court bundles and local authority assessment templates should not be sent overseas as these can be confusing for a non-UK social worker. Instead, provide a set of clear topics for the assessor to address and background information in summary format.
- Avoid jargon and explain local authority and court processes in the UK.
- Do not include confidential information (for example, historical sexual abuse or a confidential address of the child in foster care) unless it is necessary, in which case it should be clearly marked. Data protection and confidentiality laws vary around the globe which could mean that information might be compromised.
- Translate documents to the language of the recipient.
- Approach referrals to overseas authorities as requests. Be as diplomatic, flexible and helpful as possible.
HOW CFAB CAN HELP

CFAB is the UK branch of the International Social Service (ISS) network and has local partners in around 120 countries. CFAB’s partners abroad are social workers or local equivalents. Some partners are non-government organisations, some are independent professionals, and others are governmental departments for social services or Central Authorities.

In collaboration with its partners abroad, CFAB can act as a link between local authorities in the UK and their counterparts abroad. This can be for a range of inter-country social work services, including requesting social service record checks, obtaining assessments, sending a child protection alert abroad or arranging post-placement welfare visits.

CFAB’s partners abroad are approved and monitored by the ISS network through its General Secretariat in Geneva. CFAB recognises that practice and procedures differ among countries and we cannot guarantee that reports will follow UK assessment formats. CFAB also regularly engages in training and exchanges with its partners overseas to better understand local practice abroad and explain the requirements of UK local authorities and courts.

For more information about CFAB’s services, contact our Advice Line on 020 7735 8941 (Monday to Friday, 9:30am to 4:30pm) - or email info@cfab.org.uk

WHO ELSE CAN HELP?

The International Child Abduction and Contact Unit (ICACU) is the Central Authority in England and Wales for the Brussels IIa Regulation and, in England, for the 1996 Hague Convention. ICACU can assist in establishing cooperation with Central Authorities in other countries. ICACU can be contacted by email at icacu@offsol.gsi.gov.uk or their telephone line 020 3681 2608 is open Monday to Friday, 10am to 4pm.

Foreign embassies, and specifically their consular sections, can be a useful resource to understand local processes, provide support to a foreign-national family, and should be notified when a foreign national child is taken into care.

The Foreign & Commonwealth Office (FCO) maintains a list of lawyers in other countries on their website. British embassies abroad and their consular sections can sometimes assist when a British-national child is abroad. The FCO switchboard for consular assistance abroad is 020 7008 1500. To help assess if it is safe for a child to travel to a particular country or region, see the Government’s Foreign Travel Advice - https://www.gov.uk/foreign-travel-advice.

If the placement is through inter-country adoption, the Department for Education, as the Central Authority for England under the 1993 Hague Convention, must be involved.
FREQUENTLY ASKED QUESTIONS

1. Can I obtain a viability assessment done first?

Due to sometimes long timeframes in obtaining assessment reports from abroad, and differences in social work practice in other countries, CFAB does not recommend requesting a viability assessment in most cases. It is best only to request the full assessment from the overseas social worker. Viability work can be completed by the UK social worker over the phone or via Skype, using a proper interpreter, verifying information and the identity of the person as best as possible, and being open minded if there are misunderstandings due to communication and cultural differences.

2. What services are available in a country to help the family?

CFAB sometimes receives requests from local authorities who commission their own assessments of family members abroad and seek assistance from local professionals only to understand local resources available to the family. This type of request is difficult for the professionals overseas to respond to as they have not had the opportunity to work directly with the family to assess their needs and entitlements. To receive the most useful information from professionals abroad, CFAB does not recommend sending generic requests to overseas authorities, but rather recommends that a qualified professional abroad is asked to complete the full assessment.

3. Can the local authority social worker or an Independent Social Worker travel abroad to complete the assessment?

CFAB does not recommend sending a UK social worker to complete an assessment abroad for a range of legal (right to work, right to practice social work abroad) and ethical reasons (understanding local culture, family dynamics, being able to advise the family on local resources).

When it is not possible to work in collaboration with a local professional (for example, because there is no social work profession in that country, and no alternative has been found), the UK social worker should ensure that they have the right permission to travel and practice social work abroad and that they work jointly with local professionals as much as

4. How do I refer to CFAB and what happens next?

The first step in referring to CFAB is to call CFAB’s Advice Line on 020 7735 8941 (open Monday to Friday, 9:30am – 4:30pm) or email info@cfab.org.uk. This will allow CFAB to advise on whether we have a partner in the country, the likely timescales and other specific details of the case. CFAB will then send you a referral form to complete and return to us. Once CFAB receives the referral, it will be allocated to a caseworker or social worker in the inter-country social work team within one week who will be the contact person to liaise with CFAB’s partner overseas. CFAB’s partner overseas might complete the work themselves or might refer to a regional social services department, depending on the case and the social service systems abroad.

5. What can I do to send CFAB the best referral possible?

Call CFAB’s Advice Line on 020 7735 8941 before making a referral to ensure that we offer a service in the country abroad and so that we can flag any issues that might arise.

Make referrals to CFAB early, allowing ample time to receive information from abroad. It usually takes 12 to 16 weeks to receive a report, but it is wise to allow more time for follow-up information.

Identify a contact person in the local authority who the CFAB worker can contact when needed. If information is unclear or missing, this will cause delay as the CFAB worker will need to contact this person to clarify or request more information before the request can be sent overseas.

Ensure that written referrals are concise, with a clear service requested and full contact details for the family members abroad.
Section 14 of the Children & Families Act 2014 deals with time limits and timetables in care, supervision and other family proceedings. See also the President’s View No. 1 (April 2013) and the judgement in Re S (A Child) [2014] EWCC B44 (Fam)).

See judgement of Mr. Justice Moylan in Leicester City Council v S & Ors. Summary available from Family Law Week at http://www.familylawweek.co.uk/site.aspx?i=ed129639

See example of case law Re A ([2014] EWHC 6 (Fam)), a summary by Family Law Week is available at http://www.familylawweek.co.uk/site.aspx?i=ed126781


The International Child Abduction and Contact Unit (ICACU) is the Central Authority in England and Wales for the Brussels IIa Regulation and, in England, for the 1996 Hague Convention, and accepts requests that fall within the scope of those international agreements. The Central Authority in Scotland and Northern Ireland for the Brussels IIa Regulation is the same Central Authority as for child abductions. Scotland, Wales and Northern Ireland have a different Central Authority for the 1996 Hague Convention, see list of Authorities on the Hague website. See the “President’s Guidance on the International Child Abduction and Contact Unit and its role” (November 2014) https://www.judiciary.gov.uk/publications/presidents-guidance-on-the-international-child-abduction-and-contact-unit-icacu-and-its-role/

The Department for Education is the Central Authority for England under the 1993 Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption. In cases where local authorities are considering placing a child for adoption with relatives overseas under the 1993 Convention, it is essential that the Department is informed well in advance of an application being made for either a Hague Adoption Order or for an Order under section 84 of the Adoption and Children Act 2002 (which gives the prospective adopters parental responsibility). The Department, as the Central Authority, needs to liaise closely with the overseas Central Authority in the receiving State and exchange various reports and agreements prior to the prospective adopters obtaining a Convention or a section 84 Order. The intercountry adoption casework team can be contacted by email at ica.darlington@education.gsi.gov.uk, or telephone on 0370 000 2288.

For information about the Foreign Process Section, see https://www.justice.gov.uk/courts/rcj-rolls-building/queens-bench/foreign-process

For information about legalising documents, see https://www.gov.uk/get-document-legalised

For a list of foreign embassies in the UK, see https://www.gov.uk/government/publications/foreign-embassies-in-the-uk

For FCO list of lawyers abroad, see https://www.gov.uk/government/collections/list-of-lawyers