

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.

This fact sheet should be read alongside the [Cross-Border Child Safeguarding \(CBCS\) Working Group, International Kinship Care Guidance \(2020\)](#).

Key Considerations

Research conducted by CFAB has highlighted several factors which are critical to the success of international family placements, and in minimising the risk of placement breakdown.¹

- Ensure that carers are aware of any particular behavioural or psychological issues and needs that the child may have, and what support is available to them in respect of these. This was the primary reason for placement breakdown in the majority of cases that CFAB reviewed as part of its research.
- Ensure there is clarity around the responsibilities of the placing local authority and the authorities overseas, for example in relation to post-placement support or if the placement breaks down.

¹ [Minimising placement breakdown in international family placements: Findings of a study by Children and Families Across Borders](#), 2018, CFAB: London

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- Ensure family carers should know who to contact within the local authority if problems arise, even if the case has been closed to their allocated social worker.

On a practical level, multi-country casework requires different networks, adjusted assessment approaches and potentially greater financial resources, as well as more time than casework being conducted only in the UK. **CFAB advises 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. The assessment of carers living in another country is likely to justify an extension of 26 weeks to the courts timetable according to the [Interim Guidance on Special Guardianship \(May 2009\)](#).
- **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

1. Notify the foreign embassy or consular section in the UK

If the child is a foreign national, consider notifying the consular section of the relevant country's embassy in the UK when a child is taken into care (although note that there may be situations, such as where a child or a family member has sought asylum in the UK, where notifying an embassy may place a child at risk or be contrary to their best interests).²

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.

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>

² See Office of International Family Justice, Family Courts Informing Consular Authorities of Proceedings - [Consular Authorities-Note.Final-18.04.19-1.pdf \(judiciary.uk\)](#)

2. Jurisdiction

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.³

At the start of court proceedings, the court should consider and record the basis upon which it will exercise jurisdiction in relation to the child, with the child's habitual residence being the primary basis for jurisdiction. Sometimes it may be necessary to request a transfer of jurisdiction to a court in another state better placed to decide the case, where this would be in the child's best interests.

3. 1996 Hague Convention

Be aware of the 1996 Hague Convention, which applies between the UK and a number of Contracting States worldwide. The Convention sets out jurisdictional rules in cases with an international element, provides a framework for the mutual recognition of court orders / judgments relating to children between Contracting States, and an infrastructure for cross-border co-operation between [Central Authorities](#).

4. Immigration

In all cases where an overseas placement is contemplated, it is important to ascertain the nationality and immigration status of the child you are working with at an early stage.

The [Public Law Working Group Best Practice Guidance](#) (March 2021) requires that immigration issues are addressed at the outset of care proceedings. In particular;

- a) For children with a foreign nationality without a birth certificate, a copy of the biometric page of their passport(s) or their identity documentation should be included as a core document in the court bundle.
- b) Where any party to proceedings is a foreign national, where immigration status is unclear, a Request to the Home Office (on [form EX660](#)) should be made to clarify their immigration status.

You can check whether a child is entitled to British nationality [here](#).

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.

It is also important to consider the nationality / immigration status of any prospective kinship carer overseas. This information is vital to inform the assessment and planning process for an overseas kinship placement as it may determine;

³ [Leicester City Council v S \[2014\] EWHC 1575 \(Fam\)](#)

- a) Whether it will be possible for the child to enter and remain in the country in question. It is important that children placed overseas are able to secure permanent residence in the country in question – this is vital for the long-term stability and future of the children placed overseas.
- a) The type of assessment required for a prospective carer. 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. CFAB can, through its advice line service, assist with clarifying what sort of assessment is possible in a particular state and signpost to appropriate organisations where this is the case.

For these reasons, it is advisable to consider at an early stage, and prior to embarking on the assessment process, whether the child would be able to lawfully reside in the country in question.

Ultimately, where the immigration position is not straight forward, expert evidence may be required from a lawyer qualified to advise on the immigration laws of the foreign state. The relevant [embassy](#) may however be able to give generic information on visas, sponsorship and entry requirements for a child to live in the state in question.

Please note that for some children it will be contrary to their best interests to engage in liaison with overseas state authorities, or individuals, in their country of origin. This may (for example) place extended family at risk. This may arise in particular for children who have sought asylum in the UK, or who have experienced migration through trafficking or modern slavery. Guidance is available for local authorities on this issue.⁴

5. Serving documents

Be conscious of the law surrounding the service of judicial and extra-judicial documents overseas.

The UK is a Contracting State to the 1965 Hague Service Convention, which also has Contracting States throughout the EU and beyond. Formal service on respondent's overseas may be possible under the Convention (which applies only where a respondent's address is known). The [Foreign Process Section](#) at the Royal Courts of Justice is the responsible authority for the service of judicial and extrajudicial documents under this instrument. As formal service through this route may take some time, it may be advisable to ensure that respondents overseas are aware of proceedings by a more expeditious method in addition to this formal route, so as to ensure that they can respond and participate in proceedings.

⁴ Department for Education, 'Care of Unaccompanied Migrant Children and Child Victims of Modern Slavery: Statutory Guidance for Local Authorities' (DfE, 2017) 58

6. 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.

Information about UK social workers travelling abroad to complete assessments can be found in CFAB's factsheet [UK Social Workers Practising Overseas](#).

Some countries may require you to obtain evidence using the 1970 Hague Taking of Evidence Convention. The Foreign Process Section is the competent authority for this instrument.

7. Consent from an Overseas Authority to the Placement

Where a child will be placed with family in a Contracting State to the 1996 Hague Convention at the end of proceedings, it may be necessary for the local authority to consult the relevant 'competent authority' in that country in relation to the placement, pursuant to Article 33 of the Convention. This consultation process may take place through the Central Authority and a local authority will need to transmit a report with reasons for the proposed placement or provision of care.

If the requested Contracting State considers that the placement falls within the scope of Article 33, the child can only be placed 'if the Central Authority or other competent authority of the requested State has consented to the placement or provision of care, taking into account the child's best interests.' As such, the overseas competent authority may need to arrive at its own assessment of whether a placement is in a child's best interests.

A number of Contracting States consider that placements with kin at the end of care proceedings fall within the scope of Article 33 and it is therefore advisable to consider this issue at an early stage by contacting the relevant UK Central Authority for the 1996 Hague Convention.

A failure to follow the Article 33 procedure may result in the order placing the child overseas not being recognised (1996 Hague Convention Article 23 (f)). CFAB have produced a factsheet dealing with Article 33 of the Convention in greater detail which is available [here](#).

8. Child's wishes and preparation planning

Exploring the child's wishes and preparing plans for a child's placement 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

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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.

9. Contingency plan

Think about the contingency plan for if the 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?

In some cases, you may need to assess contingency carers before a final decision can be made about the placement.

CFAB recommends arranging post placement visits for all children placed with carers overseas to reduce risk of placement breakdown. CFAB's ISS partners can assist with

10. Post-placement support

To maximise the likelihood of a successful placement, it is important that carers overseas are aware of their rights and entitlements and the services available to them, especially where the child has any particular psychological or behavioural needs.

If a child is placed overseas under an SGO, and was 'looked after' immediately before the SGO was made, the Local Authority's obligations to support the placement are the same as if it were an 'out of area' placement (See SGO Regulations 2005 Reg 5 and *Re K, T and U (Placement of Children with Kinship Carers Abroad)* [2019] EWFC 59 [129]). As such, the local authority will retain a responsibility to support the placement for a minimum of 3 years (save for in relation to any financial support promised before the SGO is made).

Local authorities should in all cases (and irrespective of the legal order placing the child overseas) consider how long-term support will be provided for the placement, and by whom. Kinship carers should know who they can contact if there are changes which require an adjustment to the support provided for the child.

CFAB's ISS partners can sometimes assist with identifying and signposting to relevant local support services that can help carers following placement. Central Authorities may also be able to assist with providing this information pursuant to the 1996 Hague Convention co-operation provisions.

11. Recognition and Enforcement / Mirror Orders

At an early stage, seek specialist legal advice about the recognition and enforcement, or 'mirroring' of orders in the other country to ensure that, if the child is placed abroad, the care of the child, and the carer's parental responsibility, will be legally recognised. You may need to obtain legal advice from the relevant country in which the child will be placed about the

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procedure for securing recognition and enforcement under the 1996 Hague Convention, or mirroring an order. 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.

Please note that CFAB's Legal Advice Service can provide expert reports from lawyers in other countries on this issue. Please contact legal@cfab.org.uk for further information.

12. Documentation

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, and it may be helpful for a carer to have a legalised copy of a the final court order. Ensure that the carer also has other important documents such as the child's birth certificate, education and medical records.

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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 (see Children Act 1989 s 32 (5) – (8) and s 38; FPR 2010 R 12.6; PD 12A 6.1-6.6. See also the President's View No. 1 (April 2013) and the judgment in *Re S (A Child)* [2014] EWCC B44 (Fam). See also Family Justice Council: Interim Guidance on Special Guardianship.)

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 or recognised overseas, their guardianship of the child might be questioned or the placement might be undermined by a child's parents. 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.

CFAB's Legal Advice Services may be able to provide further support with the legal issues associated with overseas placements – legal@cfab.org.uk

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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 unless this would place the child at risk of harm.
- 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.
- Request that overseas judicial authorities take appropriate measures to protect a child where 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 longer 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.

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HOW CFAB CAN HELP

CFAB is the UK branch of the International Social Service (ISS) network and has local partners in around 130 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, 10am to 3:30pm) - or email info@cfab.org.uk

WHO ELSE CAN HELP?

Central Authorities in England, Northern Ireland, Scotland and Wales for the 1996 Hague Convention can assist in establishing cooperation with Central Authorities in other countries. The contact details for the Central Authorities can be found here: <https://www.hcch.net/en/states/authorities/details3/?aid=941>

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 (subject to this not presenting a risk to the child or any family overseas).

The Foreign & Commonwealth Development Office (FCDO) 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.

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FREQUENTLY ASKED QUESTIONS

1. Can I request an initial assessment through CFAB?

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 an initial assessment in most cases. It is best only to request the full assessment from the overseas social worker.

Initial screenings can be made by the UK social worker over the phone or via virtual means, 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. However, it is recommended to consult with the Central Authority in the relevant country, or the country's Consulate in the UK, before doing this.

2. What support 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 possible. See CFAB's Factsheet [UK Social Workers Practising Overseas](#).

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, 10am – 3:30pm) 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

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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.

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