



INTERNATIONAL

helping families on child abduction

A GUIDE TO INTERNATIONAL PARENTAL CHILD ABDUCTION TO NIGERIA

This guide gives you an overview of how cases of international parental child abduction to Nigeria are managed, and what your options are for seeking the return of your child. We have tried to make it as clear and detailed as possible, however it is impossible to cover everything in one document.

reunite are not lawyers and so the information in this leaflet should not be construed as legal advice. If you need legal advice please refer to the list of specialist lawyers on our website at www.reunite.org/lawyers. You can also access ongoing practical information, advice and support from the **reunite** advice line on +44 (0)116 255 6234.

This guide makes reference to the 'UK court'. Please be aware that England and Wales, Scotland, and Northern Ireland are different legal jurisdictions, and so you would need to use the court in the jurisdiction your child usually lives in.

If neither yourself nor your child are British nationals you should seek consular support from your own Foreign Ministry and Embassies rather than the British Foreign and Commonwealth Office.

This guide was created in 2018, so please be aware that law and practice may change over time.

What is international parental child abduction?

International parental child abduction occurs when a child is wrongfully removed or wrongfully retained away from their home country. Both wrongful removal and wrongful retention are given equal treatment in the family court of the UK and many other countries, and you can request the return of your child if they have been wrongfully removed or retained. The only real difference between the two is whether your case can be considered as a criminal matter.

What is a wrongful removal?

A wrongful removal happens when a child is taken out of their country of **habitual residence** without the consent of everyone with **parental responsibility** or the consent of the court.

Wrongful removal of a child under the age of 16 is a criminal offence in England, Wales and Northern Ireland, and is an offence in Scotland if there is an interdict or residence order in place. This is under the Child Abduction Act 1984, which can be viewed in full at <http://www.legislation.gov.uk/ukpga/1984/37>.

If your child has been wrongfully removed and you would like the matter to be pursued by the police then you can report it to your local police force by calling the non-emergency number 101, or by visiting a police station.

Please be aware that it is highly unlikely that the police will go and recover your child for you. The police will be focused on the person who has committed the criminal offence and possibly pursuing their conviction. You may also be asked by the court of Nigeria not to support the conviction of the other parent if the return of your child is ordered. However once the case has progressed past a certain point you may not have much control over what happens next.

Although there is an extradition treaty between Nigeria and the UK, parental child abduction is not a criminal offence in Nigeria. As a result a person cannot be extradited from Nigeria to face charges of parental child abduction in the UK.

Under UK law, **parental responsibility (PR)** is granted automatically to mothers, and to fathers who are married to the mother at the time of the child's birth.

If you are an unmarried father you will have PR for your child if you are registered on the birth certificate after December 2003 in England and Wales, April 2002 in Northern Ireland and from 2006 onward in Scotland. You can also be granted PR through a court order or formal agreement with the mother.

If you are in a same sex relationship, please seek legal advice from a specialist family lawyer as to whether or not you have PR for your child.

The country your child lives in is known as their **habitual residence**. Your child will only have one country of habitual residence and this country will have the jurisdiction to make legal decisions about them.

A child's habitual residence can change; for example if you and the other parent agree to move permanently to a different country.

Your child's place of habitual residence may also change if you do not take timely action to seek their return once they have been abducted by a parent. For example if you do not start proceedings asking for the return of your child within 12 months the court may want to know why you took so long. It may be felt that your child has set down such substantial roots in the other country that their place of habitual residence has in fact changed.

However, this change in habitual residence does not automatically occur once your child has been out of the country for 12 months, it very much depends on the facts of your situation.

It is worth noting that your child's place of habitual residence may be different to their nationality.

What is a wrongful retention?

A wrongful retention occurs when a child is taken out of their country of habitual residence with the consent of everyone with parental responsibility, or the court, for an agreed period of time, but the taking parent then refuses to return the child. An example of this would be if you agreed for your child to go on holiday or to visit family in Nigeria for 2 weeks, but then the other parent refuses to bring them home. Wrongful retention is not currently a criminal offence under the law of the UK, so if your child has been wrongfully retained in Nigeria there may be nothing the British police can do.

The role of the Foreign and Commonwealth Office and the British High Commission

In Nigeria there is a British High Commission in Abuja and a Deputy High Commission in Lagos. The Consular team is based in the Deputy High Commission in Lagos, and are able to provide specific assistance to British nationals, including travel advice, provision of lists of English-speaking lawyers and liaison with local authorities. The High Commissions can also signpost you to other organisations within Nigeria that may be helpful to you.

We encourage you to report the abduction of your child to the Deputy British High Commission or the Consular Team in the Foreign and Commonwealth Office as soon as possible so that they are aware of your situation and can support you accordingly.

Contact details for the FCO and the Deputy High Commission can be found at the end of this guide.

If your child has gone missing

If your child has gone missing with the other parent and you believe they have travelled to Nigeria you can ask for help from your local police force. The police should be able to take actions such as searching within the UK, checking flight manifests and communicating with other police forces in the UK and internationally. Even if the police are not able to pin-point exactly where your child is, if they can confirm that your child is in Nigeria this means you can start any necessary legal process to seek their return.

From this point the Nigerian police and other organisations can help to locate your child. You should also think about anything you can do to help locate your child yourself, such as reaching out to friends and family of the other parent if possible.

Please be aware that if the police do find out where your child is they may not be able to disclose the exact address to you due to data protection and safeguarding. The police should disclose if they are in the UK or not so that you can start the necessary civil legal process.

Your Legal Options: Applicable Treaties

There are currently no treaties in place between the UK and Nigeria in relation to family matters generally, or child abduction specifically. As a result, if you are going to pursue the return of your child from Nigeria through the courts you will have to use the domestic courts in the UK and in Nigeria.

However under Nigerian law it is possible to have some foreign orders recognised and enforced in Nigeria. As a result you are encouraged to get orders from the UK, or whichever country your child was living in before the abduction, before starting proceedings in Nigeria. Even if your order is not directly enforceable for some reason it can be persuasive. There are other benefits to getting UK orders including:

- The UK orders make it clear that the UK is your child's country of habitual residence.
- The UK orders may clearly state that they wish for your child to be returned to the UK.
- Through the UK courts it may be possible to put pressure on the other parent to return your child by freezing any UK-based assets.
- If locating the whereabouts of your child is very difficult, the UK courts can ask for information from family members, friends or other individuals living in the UK who may know where they are.
- If the other parent is in the UK then efforts can be made to stop them leaving the UK, and greater pressure can be put on them to facilitate the return of your child.

Try to avoid any court proceedings in Nigeria that relate to your child before getting UK orders. If you initiate or take part in such court proceedings in Nigeria before making an application to the relevant court in the UK you may be handing jurisdiction to the Nigerian courts. As a result, the UK courts may not feel that they have the ability to issue orders relating to your child.

To start the necessary proceedings we advise that you have a conversation with a specialist solicitor in the UK. You may be entitled to legal aid to help fund proceedings in the UK. A list of specialist lawyers can be found on the [reunite](#) website, details of which can be found at the end of this leaflet.

UK Court Orders

England and Wales, Scotland and Northern Ireland are all different legal jurisdictions and have their own distinct legal systems. As a result you will need to make sure that you apply to the court in the jurisdiction your child was taken from, even if you live in a different part of the country.

If your child has been abducted from England or Wales

If your child has been abducted from England or Wales any court hearings in the UK must be in front of a High Court judge who has sufficient powers to hear international cases and issue **Wardship Orders**. The majority of child abduction cases are heard by the High Court at the Royal Courts of Justice in London, but occasionally High Court judges go out 'on circuit' to other courts around the country, and so some cases can be heard in other major cities.

Orders in child abduction cases can be sought from the High Court on an emergency basis as such cases are given priority.

The key orders that you will be looking to have issued by the High Court are a Wardship Order and a **Return Order**.

Other orders may be possible and helpful but this very much depends on the facts of your situation. For further advice tailored to your case please speak with a specialist solicitor and the **reunite** advice line.

In the majority of cases any orders will be served on the other parent, regardless of whether they are in the UK or in Nigeria. This service can be carried out by the court **Tipstaff**, a **process server** in Nigeria, or by other means that the judge feels is appropriate, including email. In certain circumstances the judge will allow for the order not to be served on the other parent straight away. An example of this would be when it is thought the other parent is planning to come back to the UK for whatever reason and it is feared that the court orders will deter them from doing so.

If the other parent is in the UK you should also ask the court for an appropriate **Tipstaff Order** so that any passports or travel documents belonging to the other parent can be removed when they are served with the court papers. If the other parent is outside of the UK you should also ensure that the court issues an incoming port alert for your child and the other parent. This will mean that they will be flagged up when they enter the UK so that court papers can be served and travel documents removed. These measures may prevent the other parent from leaving the UK again.

A **Wardship Order** makes your child a 'Ward of the Court', which means that the court holds a degree of legal responsibility for your child. This makes it very clear that the High Court feels it has jurisdiction to decide on matters relating to your child.

A **Return Order** is an order that states that your child is to be returned to England or Wales. This is not necessarily a return back to the family home or a specific part of the country, unless stated within the order. Depending on what the judge feels is appropriate in your case a date may be given by which your child must be returned, or it is stated that the return is to happen as soon as possible. A **Penal Notice** may be attached to the order, which means that if the other parent does not comply with the order they risk punishment, which can include a prison sentence, for being in contempt of the court.

The **Tipstaff** is the enforcement officer of the High Court and has the power to enforce court orders issued by the High Court if ordered to do so. He has two deputies and can delegate his power to police officers to carry out enforcement work on his behalf.

A **Process Server** is a private company that officially serves court orders on the other parent.

A **Tipstaff Order** is the name given to a number of court orders issued by the High Court that order the Tipstaff to take certain actions, such as removing the passport of an alleged abductor.

If the other parent is in the UK or returns to the UK without your child they will have the opportunity to contest the orders you have applied for. If the judge does not feel there is good reason for your child to remain in Nigeria they will issue a date by which they want your child to be returned. It is best if the other parent is not allowed to go and collect your child as they may not return. Instead ask if they can organise for a family member or trusted friend to bring your child back to the UK or if you can go and collect them.

If the other parent does not do as the court has ordered they will be in contempt of the court and may be liable to prosecution and imprisonment.

If your child has been abducted from Scotland

Scotland is a separate jurisdiction to England & Wales and Northern Ireland. As a result you will need to seek the appropriate orders from the Scottish courts. Scotland does not issue Wardship Orders but the court can issue similar orders that show your child was habitually resident in Scotland and should be returned.

If your child has been abducted from Northern Ireland

Northern Ireland is also a separate legal jurisdiction from England & Wales and Scotland. Northern Ireland does issue Wardship Orders in a similar style to the High Court of England and Wales but you will have to apply to the relevant court in Northern Ireland.

If your child has been abducted from a country outside of the UK

If your child does not live in the UK you will need to speak with a specialist lawyer in the country you are living in to see what court orders are available in that jurisdiction. These orders need to demonstrate that your child was habitually resident in that country and preferably that your child needs to be returned.

There are a number of specialist lawyers detailed on [reunite's](#) lawyers listing, which can be found on the [reunite](#) website. Similarly the Foreign and Commonwealth Office keep details of English speaking lawyers in other countries.

Issues Specific to Nigeria

Voluntary Returns

Before initiating legal proceedings please consider if there is any possibility that the situation could be resolved amicably between yourself and the other parent. This could be through dialogue, negotiation or mediation, and can be directly between yourself and the other parent, or sometimes involve the wider family and other trusted individuals.

We at **reunite** see voluntary returns from Nigeria, where the child returns without the need for court orders or criminal proceedings forcing the return.

By working with the other parent to find a solution to the situation you may not only save a lot of money and time, but you may end up with an agreement that really is best for yourself, the other parent, and most importantly your child.

We appreciate that such a resolution is not necessarily possible, successful or appropriate in every case, but it is certainly worth considering if it could work for you. Further information about mediation can be found at the end of this leaflet.

However, if it becomes clear that negotiation or mediation with the other party is not going to work, or is not possible, do not hold out for a change of heart from the other parent. Instead seek legal advice and consider instigating legal proceedings swiftly.

"I would urge any parent if there is no other choice, such as mediation or working with friends and family, then apply to the courts as soon as possible. Do not waste time."
- Father of children abducted to Nigeria

Abducting parent returns without the child

We have seen several cases where the abducting parent returns to the UK, or the country the child has been taken from, leaving the child in Nigeria. Sometimes this is so the parent can tie up loose ends before returning to Nigeria permanently, while in other cases they return to resume their life.

If your child has been abducted from the UK and the other parent returns to the UK there are actions you must consider taking. You can mediate with the other parent or engage the UK courts. The UK courts can put pressure on the parent to bring the child back to the UK, as described in the section above. Either way this could dramatically cut the length of time it takes to resolve your case, as well as save money in the long run.

If the other parent returns to Nigeria such opportunities will be lost, so please consider how you feel is best to act.

Into the Nigerian Courts

International parental child abduction cases are heard by the High Court of the Nigerian State your child is believed to be in. Major cities such as Abuja and Lagos have specialised Family High Courts that only deal with family cases. The official language of the Nigerian court is English so interpreters are not required if you attend any hearings.

Having an international order for the return of your child recognised and enforced in Nigeria is likely to be the most straightforward way to proceed in the Nigerian Courts. The court only needs to determine if the order can be recognised and enforced in Nigeria, and if so help to enforce it, rather than having to go through potentially lengthy proceedings to decide other more contentious legal issues such as who the child should live with and in which country. If an order is recognised in Nigeria it is effectively mirrored into a Nigerian order, so the wording and any return dates are the same as what was in the original order.

If recognition and enforcement of an existing order is not possible in your case for some reason, then it may be that you have to apply for full custody and permission to remove your child from Nigeria back to the country they were living in. This could take multiple hearings, and the court process in Nigeria is not particularly quick or efficient.

The amount of time it takes for the Nigerian court to make a final decision in such cases can vary greatly. **reunite** knows of one case in which a UK order was recognised by the Nigerian court within about six weeks of the application being made, but the order is yet to be successfully enforced and the children returned. Other cases, especially cases in which custody and permission to remove need to be sought, can take much longer. In some cases it may be over a year before a final decision is made. Generally the Nigerian court system is perceived to be slow.

Courts in Nigeria tend to close over the summer. It is possible to get a Vacation Judge to hear an urgent case but this is not necessarily a straightforward process.

The wishes of the child

If your child is deemed to have reached an 'age of reasoning' then their thoughts and wishes can be taken into account by the Nigerian court in custody proceedings. This can be done either through the judge speaking and questioning a child directly, or through representations made by a **guardian ad litem**.

A **guardian ad litem** can be a trusted adult or a lawyer who is recognised by the court as representing the child's views and interests in court. A guardian ad litem can be nominated by the child or appointed by the court. The court must consent to a child being involved in the proceedings in this way.

If you seek the recognition and enforcement of an existing order in the Nigerian court instead of going through custody proceedings it is unlikely the child's wishes will be taken into consideration.

If a return IS ordered by the Nigerian Court

If your existing return order is recognised and enforced in Nigeria the terms of that return are usually identical to what is stated in the original order. The court may stipulate whether you have to go and collect your child or whether the other parent is to return them. You may be asked to help facilitate the return by paying for flight tickets for your child and the other parent, or by ensuring that the other parent has somewhere to live temporarily on return, if they do return with your child.

If you are granted custody and permission to remove there is usually a date after which you are free to leave Nigeria with your child.

If a return is ordered, or you are given custody and permission to remove your child from Nigeria, the other parent may be able to appeal. This may add expense and will add time on to the process. Typically you will have 3 months to lodge and appeal. It is still possible to enforce a court order within this possible appeal period, unless the other parent applies to suspend the order pending appeal.

If a return order IS NOT ordered by the Nigerian Court

If your existing order is not recognised in Nigeria, or you are not granted custody and permission to remove your child from Nigeria, you may have the opportunity to appeal the decision. Appealing will add time and expense to the proceedings but may result in a more favourable decision. There will be a time frame in which you will need to submit an appeal, which is typically 3 months after a final decision has been made. An appeal application does not automatically stop the order that is made from being enforced, so you will also need to make an application for the order to be suspended pending appeal.

If you do not wish to appeal the order it may be that you are able to have a contact arrangement put into place. This can be done through the court or through agreement with the other parent.

There are multiple levels of appeal in the Nigerian court system and so this could also increase the length of time your case will take to be resolved. Appeals from the State High Court are made to the national Court of Appeal and finally to the Supreme Court of Nigeria.

It is worth noting that mediation can be considered at any point in the legal process as a way of avoiding further litigation and coming to an arrangement that potentially both parents are satisfied with. There is further information about mediation towards the end of the guide.

Lawyers and other professionals

It is advisable that you use a lawyer who has experience of international children's cases, particularly in child abduction cases as child abduction is a niche area of family law. **reunite** maintains a list of specialist lawyers based in the UK and overseas which can be found on the reunite website at <http://www.reunite.org/lawyers>.

The Foreign and Commonwealth Office also has a list of English speaking lawyers in Nigeria, but these may not have experience of child abduction cases. The list can be found at <https://www.gov.uk/government/publications/nigeria-list-of-lawyers>.

UK

In the UK legal aid is available for child abduction cases, which is granted on a means and merits basis. This means that the Legal Aid Agency will take into account your income, outgoings, assets and the merits of your case when deciding whether or not to issue legal aid. Legal aid applications are usually filed through the lawyers you wish to instruct, so for further information speak with a specialist lawyer. A legal aid application will usually take around 4 weeks to be decided.

If you have to pay privately for UK orders the price will vary depending on the lawyers you use, the orders you apply for and the complexity of your case.

You can make an application to the High Court and represent yourself if necessary. If you are considering self-representing it is worth speaking with **reunite** and other organisations for advice and support.

Nigeria

There is a small legal aid service in Nigeria but legal aid is not available for family proceedings generally or child abduction cases specifically. As a result, you will either have to pay privately for legal assistance or try to secure **pro bono** help.

The Nigerian Bar Association encourages its members to undertake pro bono work, but this is generally to be organised with lawyers and law firms individually rather than through an umbrella organisation.

Total costs of legal proceedings in Nigeria can vary greatly and will depend on the facts of your case and the charge-out rate of your lawyer. Be prepared for the possibility that proceedings could be expensive.

Legal work that is completed without charge is described as being done '**pro bono**'.

The British High Commission - Passports and Emergency Travel Documents

There have been cases where a child has been returned to the left-behind parent for the purposes of a return to their country of habitual residence, but the child's passport has been lost, stolen, destroyed or the other parent has refused to hand it over.

The British High Commission and the British Deputy High Commission are only able to issue Emergency Travel Documents (ETDs) with the consent of everyone with PR unless there is a court order from any country that the FCO's legal team believe gives the British High Commission the ability to issue ETDs without the consent of everyone with PR.

If you think this could be an issue in your case, it is worth speaking with the FCO and a specialist lawyer for further advice and to possibly start the process of asking the court for the necessary order. In the UK you are able to ask the court for an order that requests the High Commission to issue ETDs without the consent of all with PR. If your child was abducted from a country outside of the UK speak with the FCO or British Embassy directly to find out what wording would need to be included in an order from the jurisdiction your child was living in for ETDs to be created for your child.

Mediation

Mediation is a process by which one or two trained mediators would meet with yourself and the other parent to discuss the long-term arrangements for your child. Any agreement reached through mediation can be made into a formalised, legally binding court order. Mediation can run alongside court proceedings so you do not have to choose one route or the other.

reunite has its own mediation service that specialises in cases of international parental child abduction and international cases involving children. If necessary such mediation can take place over Skype so there is no need for both parents to be in the same country. If you would like more information on the **reunite** mediation service, please contact the mediation team on +44 (0)116 255 5345.

In Nigeria negotiation and mediation has traditionally played a major role in settling disputes between family members and is a practice that is still prominent today. Community elders and religious leaders help to facilitate constructive discussion between family members before parents approach the court.

As well as these informal mediation and negotiation settings, Nigeria is beginning to embrace professional forms of alternative dispute resolution. Some States have created 'Multi-Door Courthouses' where parties to a dispute can access support such as mediation to resolve their situation without having to present the case before a judge for adjudication. Cases can be referred to the Multi-Door Courthouse by judges, or parents can approach them directly. Such Multi-Door Courthouses exist in Lagos, Abuja and Kano states.

There are also independent professional mediators in Nigeria who work outside of the Multi-Door Courthouse system.

When selecting a mediator please ensure that you use qualified mediators and make sure that they have experience of international children's cases.

Other sources of support

reunite advice line

The **reunite** advice line provides ongoing practical advice, information and support on child abduction and the international movement of children. The advice line is a confidential service and Advice Line Co-ordinators will remain in contact with you until a resolution is reached in your case.

Foreign and Commonwealth Office (FCO)

As mentioned above, if you or your child is a British National you are able to report their abduction to the consular division of the Foreign and Commonwealth Office. The FCO will then liaise with the embassies overseas to see what support can be provided for you.

If you live outside of the UK you can report the abduction of your child directly to your local British Embassy, High Commission or Consulate, who can again liaise with other organisations and the British High Commission in Nigeria and provide support.

Travelling to Nigeria

You may be asked or advised to travel to Nigeria to participate in court proceedings.

If you are not a Nigerian passport holder you will need to apply for a visa to travel to Nigeria. You cannot get a visa at a port of entry into Nigeria so you will need to arrange a visa in advance. Further information about visas can be found in the FCO's Travel Advice website at <https://www.gov.uk/foreign-travel-advice/nigeria/entry-requirements> or from the Nigerian Embassy, High Commission or Consulate of the country you are living in.

It is also worth checking the FCO's Travel Advice for any security concerns or other possible issues relating to the part of Nigeria you will be travelling to.

Should you need assistance from the British High Commission or Deputy High Commission while in Nigeria, their contact information can be found at <https://www.gov.uk/world/organisations/british-high-commission-abuja> and in the 'Useful Contacts' Section below.

Useful Contacts

- reunite Advice Line: +44 (0)116 255 6234 www.reunite.org
- Foreign and Commonwealth Office Consular Team: +44 (0)207 008 1500
- Deputy British High Commission in Lagos: +234 (1) 277 0780/0781/0782
British High Commission in Abuja: +234 (9) 462220
<https://www.gov.uk/world/organisations/british-high-commission-abuja>
- British Passport Office Advice Line: +44 (0)300 222 0000

What you can do now

- Start collecting information about your child and the abducting/retaining parent that may be useful at a later date such as name, date of birth, nationality, passport number, physical description etc.
- Make sure you have copies of important documents such as birth certificates and marriage certificates.
- Keep copies of any communication between yourself and the other parent that is conducted through email, text message or any sort of instant messenger. These conversations could be used as evidence if needed.
- If possible keep open channels of communication with the other parent and with members of their family.
- If you have not already done so, contact the **reunite** advice line for ongoing advice, information and support.