



International Parental Child Abduction: Prevention Guide for Scotland

CHILD ABDUCTION PREVENTION GUIDE FOR SCOTLAND

This Prevention Guide is focussed on international parental child abduction from Scotland. If your child lives in England, Wales, Northern Ireland or another country, they are living in a different legal jurisdiction and so different laws and procedures may apply. As a result, you should seek advice about what preventative measures can be put in place in that jurisdiction and what you would need to do.

reunite have a number of prevention guides for other jurisdictions available online at <http://www.reunite.org/pages/prevention.asp>. You can also speak directly with the **reunite** advice line team who can provide ongoing advice, information and support.

reunite offers the leading advice line service in the UK specialising in international parental child abduction. The advice line is open Monday to Friday, 9.30am to 5.00pm and has an out-of-hours emergency service. The advice line telephone number is **0116 2556 234**. If you have an emergency situation occur outside of office hours please call the advice line and you will be directed to our 24-hour emergency service.

Throughout this guide reference is made to 'your child'. This is purely for ease, so if you have more than one child that you feel is at risk of abduction make sure you take any necessary prevention measures for every child.

WHAT IS CHILD ABDUCTION?

In short, parental child abduction is where one parent (with or without the help of others) takes a child to another country outside of the child's country of habitual residence, when the other parent did not agree that the child could travel overseas. If a parent removes a child from Scotland without the other parent's consent, that parent will be considered to have committed a criminal offence if there is a Residence Order in place or an order prohibiting the removal of the child from the United Kingdom.

If a parent wishes to legally take a child that lives in Scotland from the UK, for any period of time, they must obtain the consent of everyone else with Parental Rights and Responsibilities or obtain a court order such as a Specific Issues Order. A Residence Order does not give the resident parent the right to remove their child from Scotland for any period of time.

Keeping a child in another country after an agreed holiday or visit is also a type of parental child abduction known as wrongful retention. Wrongful retention is not currently a criminal offence in the UK.

HOW TO USE THIS DOCUMENT

This Prevention Guide has been produced to assist you in gathering together the necessary information that you will need if you fear your child may be abducted, and explains what measures you can put into place to minimise the risk of a potential abduction being successful.

The Guide is broken down into sections for ease of reference but we encourage you to read all the advice in this Guide as situations can change rapidly. If after reading you are in doubt about what you can do, contact **reunite** for advice or speak with a specialist solicitor.

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Section 1: Warning Signs

Sometimes the reasons for your concern about the possibility of an abduction are obvious, and other times they can be more of a gut feeling. Usually there will be something that has been said, or something that has happened, that has raised your concerns.

Below is a list of possible warning signs that may indicate that the other parent is considering abducting your child. This is not an exhaustive list, and some of the actions may be completed by the other parent even though they have no intention to abduct your child.

Outright threats

- Threats to abduct your child or to take the child away and you will not see them again.
- Threats to harm you, the child, or themselves.
- Veiled threats against you, the child or themselves.

Behaviour of the other parent

- Change in behaviour – either becoming really nice or really horrible.
- Worsening relationship between yourself and the other parent.
- Violent or abusive behaviour.
- Increased contact with family, friends or other contacts overseas.
- Secretive behaviour.
- Talks more than usual about another country and a desire to go there.
- Suddenly asking for documents relating to the child, such as birth certificates or passports, without any clear, genuine reason.
- Suddenly altering well-established contact routines without any clear reason.

Other parent's life circumstances

- They are from a different country and have a lot of family, friends and other contacts in that country.
- Breakdown of their relationship with you.
- Recently experienced a life-changing event, i.e. death of a family member or loss of a job.
- Financial difficulties or high levels of debt.
- Legal issues such as ongoing court proceedings or run-ins with the law.
- Immigration problems.
- Belief that those living abroad are having a much better life.
- Has a much stronger support network abroad than in the UK.
- Feeling threatened by the involvement of Social Services.

Making preparations

- Selling their house or terminating the lease on their rental property.
- Giving up their job or selling their business.
- Closing UK-based bank accounts or transferring a lot of money overseas.
- Selling property such as cars or furniture.
- Giving notice of a move to the child's school or nursery.

Behaviour of your child

- They tell you outright that they or the other parent are going to another country.
- Asking strange questions.
- They seem anxious or worried about something.
- There is a big change in their behaviour.

If you spot any of the warning signs above and believe they indicate that the other parent intends to abduct your child, take appropriate action as set out in the rest of this guide.

You should write down or keep a diary of things that the other parent has said or done so that this can be used as evidence of your concerns at a later date.

If you are not sure how to interpret the actions of the other parent, do speak with the **reunite** advice line so that an advisor can talk with you about your situation and advise and support you.

Section 2: First Steps

- a) Parental Rights and Responsibilities ('PRRs')
- b) Passports
- c) Description Forms

Parental Rights and Responsibilities ('PRRs')

A person with PRRs is legally entitled to be involved in certain decisions about their child, including whether their child should travel outside of the country they are living in.

Ensuring that you have PRRs for your child will greatly assist in any legal application to prevent an abduction, or any emergency action through the police.

Mothers automatically have PRRs if named on the birth certificate, unless their responsibility is removed by the courts, such as in cases of surrogacy, for example.

Fathers may gain PRRs through:

- a) Registration on the child's birth certificate in the UK (but only for children born on or after 4th May 2006);
- b) Being married to the child's mother at the time of conception or afterwards, including after the child's birth;
- c) Entering into a registered arrangement with the mother who has PRRS;
- d) Adoption or in terms of the Human Fertilisation and Embryology Act 2008; or
- e) By court order.

You may need to be able to prove that you have PRRs for your child, so make sure that you have copies of your child's birth certificate, your marriage certificate, adoption certificate, or the court order that grants you PRRs.

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

If you do not have PRRs for your child, the other parent does not need to ask for your permission to take your child out of the country. As a result there is little you can do in an emergency to stop your child from travelling. If you would like legal PRRs then speak with the **reunite** advice line or a specialist lawyer for further advice about how you can get PRRs for your child. This will usually be represented by a court order or registration on a birth certificate.

Passports

Advice and action relating to passports is dependent on whether your child is entitled to a British passport or a passport of any other nationality, and whether any passports for your child currently exist.

Dual nationals could hold more than one passport issued by other countries and, occasionally, they can be in different names. Make sure you consider all the passports of different nationalities that your child could be entitled to.

British Passports

If a British passport does not exist and your child is entitled to one

Unless an objection has been lodged with Her Majesty's Passport Office by a parent or other objector, a British passport is normally issued to children with the consent of either parent. If the father does not have PRRs the mother's consent is required.

HM Passport Office will not automatically be informed of any court orders that relate to your child's passport. As a result you must notify HM Passport Office for them to act on the order, and no action will be taken until they have received the actual court order. Details of the HM Passport Office address for notification will be at the bottom of the court order. Where it is known that the child is the subject of a Wardship Order from England, Wales or Northern Ireland, a passport is not issued without the court's permission.

When applying for a court order, remember to inform the court of possible variations in the child's name.

An objector can ask HM Passport Office not to issue a passport for a child if a court in the UK has made one of the following orders: -

- I. An Interdict made under the Children (Scotland) Act 1995;
- II. a "Prohibited Steps Order" under Section 8 Children Act 1989;
- III. a "Residence Order" or "Child Arrangements Order" under Children (Scotland) Act 1995 or under Section 8 Children Act 1989 and the objector is the person who the child lives with under that order;
- IV. an order confirming that the child's removal from the jurisdiction is contrary to the wishes of the court;
- V. an order specifying that the objector's consent to the removal of the child from the jurisdiction is necessary;

- VI. an order requiring the surrender of a UK passport and prohibiting the making of a further passport application or otherwise upholding an objection to a child having a passport or leaving the country;
- VII. An order upholding the objectors' objections to the child having a passport or leaving the country.

If there is no court order, an objection can be considered from the mother but only if the father does not have PRRs. If the father does have PRRs, the mother or father will need to obtain one of the court orders listed above. The police can also lodge an objection where they have notified HM Passport Office of an intention to exercise their power of arrest under the Child Abduction Act 1984.

Any person with PRRs for a child may obtain advice on what can be done to prevent the issue of a passport for the child. It is best to speak with the Passport Advice Line who can be contacted on **0300 222 0000**. Additional information can be found on their website at www.gov.uk/government/organisations/hm-passport-office.

If a British passport already exists

It frequently happens that when HM Passport Office accepts an objection the child already has a valid passport. HM Passport Office is not able to force the surrender of a passport in order to give effect to the objection. The most that can be done by HM Passport Office is to note the name of the child for a period of 12 months so that if during that time the passport should come into the possession of HM Passport Office, or another application is made for a passport for the child, they could then act on the objection. At the end of the 12 months you will need to provide evidence that the court order remains in force.

If there is an immediate threat of abduction you or your solicitor can ask the Sheriff Court or the Court of Session for orders compelling the surrender of your child's passport, as detailed in Sections 4 and 5 of this guide. If such an order is obtained then you or your solicitor can instruct Sheriff Officers (court enforcement officers) to remove the passport.

If an abduction is suspected in the future and you are visiting a foreign country with your child, you are advised to have details of the numbers of both your passport and your child's passport. In the event of theft or loss you will be able to obtain a replacement from the nearest British passport issuing authority more easily.

Passports of other nationalities

If you are unsure as to whether your child is a dual national, a national of another country or entitled to nationality of another country, you should check this with the Embassy or Consulate of that country.

If your child is a dual national or is not a British national, you must contact the Embassy or Consulate of the other country and ask them not to issue a passport for your child. They are not obliged to follow your request but may do so voluntarily. If you do not succeed, take legal advice. It is possible that the court may order the surrender of the foreign passport or respectfully request an Embassy or Consulate not to issue any travel documents for your child.

Although it is no longer possible for a child to be included in the British passport of a relative, this still may be possible for passports of other nationalities. Therefore you should ask the relevant Embassy or Consulate if this is possible and, if so, if such an inclusion exists. Similarly you can request that your child is not included on the passport of anyone else.

Actions to take if your child already has a passport (or passports) of any nationality

- a) If you have your child's passport(s) then keep it in a safe place that the potential abductor will not be able to find or access.
- b) If you do not have your child's passport(s), if possible try and get it and keep it in a safe place.
- c) If the passport has genuinely been lost inform HM Passport Office or the relevant Embassy so that you can get a replacement. If you report a passport as being lost or stolen but know that it is being held by another person, this is deemed as a malicious cancellation. If it is a British passport, HM Passport Office will report the fraudulent declaration to the police.
- d) If the passport is with the other parent who you fear could possibly abduct your child, and they have PRRs, ask that person to give the passport to you. If they refuse obtain legal advice. A court may order the surrender of any passport issued to, or which contains particulars of, any child likely to be abducted.
- e) If the passport is with someone else who is not the other parent, they have no right to hold it unless a court has allowed them to do so. If no court order exists, ask for the return of the passport. If they refuse, inform the police who may be able to help you recover the passport. If not, speak with the **reunite** advice line or a specialist solicitor to discuss getting an order that states that the passport must be returned to you.
- f) If your child is mentioned in the passport of another person keep it safe if you have it, or seek legal advice if not. A court may order the surrender of any passport that contains particulars of any child likely to be abducted.

Description forms: fill these out as soon as possible!

The description forms in Appendix A will help you to collect information about your child, the potential abductor and yourself so that you have all of these details ready if the threat of abduction becomes real and imminent. This is the kind of information the police and lawyers will want to know so that they can act swiftly and appropriately.

As soon as possible after receiving this Guide you should do the following:

For ***every child*** in your family you think is at risk of abduction:

1. Complete a description form – photocopy the form if you have more than one child.
2. Take two photographs of the child (passport sized photos are ideal).
3. Write on the back of the photographs the name and date of birth of the child and the date the photo was taken. Keep these photographs up to date.
4. Make a photocopy of your child's birth certificate and any court order relating to your child.

For ***every person*** you think is likely to be a future abductor:

1. Complete a description form – photocopy the form if you need more than one.
2. Try to find a photograph of the likely abductor.
3. Write on the back of the photograph the name and date of birth of the likely abductor and the date the photo was taken. If the photograph is of a group of people, write on the back the location of the subject in the group e.g. back row, third from left.

In relation to ***yourself***

1. Complete the details form.
2. Make one photocopy of your marriage certificate to any likely abductor if applicable.

Photocopy all the forms, orders and certificates and create two sets as follows:

Set 1: The originals for you to store safely:

The original forms, birth and marriage certificates, court orders, and one set of photographs.

Set 2: For your solicitor, or for a trusted person if you haven't appointed a solicitor:

Photocopies of forms, birth and marriage certificates, court orders and one set of photographs.

If you seek legal advice we recommend that you speak with a specialist solicitor who has experience of preventing abductions. A list of specialist lawyers can be found on our Lawyers Listing at <http://www.reunite.org/lawyers.asp>.

Scanned copies:

If possible make a scanned copy of all of the forms, photographs, orders and certificates so that these can be emailed out quickly in an emergency.

Section 3: Low level risk or concern about abduction

Mediation

If you are at an early point in the relationship breakdown between yourself and the other parent, and/or in the process of discussing long-term arrangements for your child such as where they will live, then mediation may be a constructive option.

Mediation is a voluntary process that offers parents the opportunity to meet together with an independent third party who will help them to identify the issues they wish to resolve and then reach workable solutions that are acceptable to both parents.

Mediation should not be raised in circumstances where the concerns are so great that there is a real risk that, if alerted to what is proposed, the potential abductor will accelerate their plans to abduct your child. However, if there doesn't appear to be an imminent risk, or if you do not think that raising the possibility of mediation will spark your former spouse/partner into action, then the best answer at this stage is to talk to one another. You may realise that this is not a risk, or you may become aware that this is something that needs to be sorted out. Any agreement that can be worked through between parents is always going to benefit the children involved more than legal proceedings or uncertainty.

Any agreement reached in mediation can be made legally binding by being drafted up into a Minute of Agreement and registered in the Books of the Council of Session.

reunite has its own mediation service that specialises in cases of the prevention of abduction, abduction, relocation and contact across international borders. If you would like more information on the **reunite** mediation service, please contact the mediation team on 0116 255 5345.

Section 4: Increased level of concern but not likely that an abduction will take place in next 48 - 72 Hours.

- a) Interdicts
- b) Specific Issue Orders
- c) Residence and Contact Orders
- d) Practical Measures

Interdict

What this is: An order that states that a certain action must not happen. An example of this is an order prohibiting the removal of a child from Scotland or the United Kingdom.

When it is required: An Interdict can be made prohibiting the other parent from removing your child from the jurisdiction, or from a certain area. If you believe that a move (even within the UK) is likely to take place, an Interdict will assist in preventing such a move.

How to get it: You will need to make an application for an Interdict to the Sheriff Court that covers the area where your child lives or the Court of Session. Interim Interdicts can be applied for on an urgent *ex parte* basis, which means without providing notice of any application or hearing to the other parent. This urgent *ex parte* application is appropriate where the concerns are so great that there is a real risk that if 'tipped off', the other parent will attempt to remove your child before preventative measures can be put into place.

What it will do: In reality, an Interdict is not a guarantee that your child will not be taken out of the country as there are no compulsory exit checks when leaving the UK. However, if the other parent were to take your child out of the country when an Interdict prohibits such travel, that parent may be committing a criminal offence and face prosecution. Moreover, if you believe there is a real and imminent risk of abduction the police can put measures in place to stop the offence of abduction being committed, such as a Port Alert, once an Interdict or Residence Order is in place.

Specific Issue Order

What this is: An order that decides a certain matter, such as where a child should go to school, if a child can move to another country or who should hold a child's passport.

When it is required: To minimise the risk of abduction, especially if you are concerned that the other parent will not abide by any court order that prohibits the removal of your child from the UK.

How to get it: Make an application to the Sheriff Court of the area your child normally lives in.

What it will do: The order will require that the other parent is to surrender your child's passport to you or to the court, depending on what is ordered. Without a passport it becomes more difficult to remove a child from the UK. If a parent does not comply with the order to surrender a passport you can ask Sheriff Officers to remove the passport. Moreover if your child is taken from the UK, the fact a Specific Issues Order removing the passports exists will make the abduction a criminal offence under Section 6 of the Child Abduction Act 1984.

Residence and Contact Orders

What this is: These orders set out with whom a child should live and contact arrangements with the other parent.

When it is required: Usually in circumstances where you and the other parent are unable to agree about whom your child should live with and what time your child should spend with the other parent. A Residence Order can be put in to place to set out arrangements for whom the child should live with, while a Contact Order would regulate contact between the child and the non-resident parent. Applying for such orders can be helpful in a few ways, such as:

- a) The application process brings these disagreements into the court arena whereupon other orders, such as preventative and protective orders, can be made in respect of preventing an abduction. In addition, going to court may make the other parent think about their future actions and prevent any impulsive decisions. It may open up pathways for you and the other parent to discuss their view of the future for your child by airing all issues.
- b) If there is a Residence Order in place and you are the resident parent, if an abduction occurs you can show that you have PRRs that have been affected by the abduction. Similarly, if you are the non-resident parent, obtaining a Contact Order would show that you have a right to contact with your child at certain times.

How to get it: Make an application to the Sheriff Court local to where your child lives. You may have to pay a fee for such an application if you are not entitled to legal aid.

What it will do: Where a Residence Order is in place:

- a) It is a criminal offence to take a child out of the UK without the consent of everybody with PRRs unless the court has given permission.
- b) The order can be enforced and a party in breach may be sent to prison and/or fined.

PLEASE NOTE that there may be a fee attached to court applications, even if you are representing yourself. The relevant fees for applying to the court can be found at <https://www.scotcourts.gov.uk/rules-and-practice/fees/sheriff-court-fees>. The Sheriff Court application process is not necessarily easy to negotiate, so it is worth speaking with a solicitor before launching an application yourself. Information about specialist lawyers can be found on the **reunite** website at <http://www.reunite.org/lawyers.asp>.

Practical Measures

As well as getting court orders there are other practical measures you can take to minimise the risk of your child being abducted:

- Inform your child's school or nursery of your concerns and share with them any court orders that you have. Clarify with the school or nursery how they can support you and how much information they are able to share with you, especially if your child or the other parent says or does something in school that confirms your concerns of abduction.
- Share your concerns with anyone who looks after your child, such as a childminder, friend or leader of any extra-curricular activities, so that they can act accordingly.
- If you have a good relationship with anyone close to the other parent, such as a neighbour or a friend, ask them to let you know if they see or hear anything that confirms your concerns of abduction. Examples of this could be that they hear that the other parent's house is up for sale, or they see the other parent and your child get into a taxi with lots of luggage.
- If your child is old enough and it is not going to scare them, make sure they know what to do if the potential abductor attempts to take them out of the country. For example, tell them to go to a police officer, airport security officer or a person in authority and ask them to contact you.

Section 5: An abduction is very likely and imminent (within next 48 hours)

- a) Police involvement and Port Alerts
- b) Emergency Court Orders

The Police and 'Port Alerts'

- Do you think that your child may be taken out of the UK without your consent or the consent of the court?
- Do you believe this will happen in the next 48 hours?
- Is there an order in place prohibiting the removal of your child from Scotland or the UK, or a Residence Order?

If you have answered 'yes' to all of these questions then you should consider taking emergency action by contacting your local police force either through telephoning 101 or by visiting your local police station. The police can consider putting emergency prevention measures into place, such as issuing a port alert. This is because, under Section 6 of the Child Abduction Act 1984, the removal of a child under the age of 16 from the UK without the consent of everyone with PRRs or a court order is a criminal offence if there is an order prohibiting the removal of the child from the UK or a Residence Order in place.

Port Alert

What this is: A notification to all points of exit and entry to the UK that will alert the relevant authorities that your child is not to be removed from the country. It is sometimes also referred to as an 'All Ports Warning' or 'Port Stop'.

When it is required: If your child is thought to be in the process of being abducted, and there is an Interdict or Residence Order in place, a port alert may stop your child from being removed from the country by alerting the authorities.

How to get it: The police can start this process of initiating a port alert once they are satisfied that an Interdict or Residence order is in place and that the threat of removal is both "real" and "imminent" (within 48 hours).

To initiate a port alert call your local police force on 101 or visit your local police station. Explain your concern that your child may imminently be abducted and the reasons why you are

concerned. It may be worth keeping a diary of incidents that have caused you concern as discussed in Section 1 so that you can give this information to the police. The police will also ask you for copies of your court orders and factual information about your child and the potential abductor, so do fill out the description forms included in this Guide. Keep a copy of the forms and orders in a safe place along with up-to-date, clear photographs of your child. The more information you can provide to the police, the more effective their actions can be.

Always write down the name, collar number and telephone number of any officer you speak with and take a note of any reference or incident numbers given. You may need this information at a later date.

If the police are unsure of what to do or whether to act on your concern, encourage them to look at Section 6 of the Child Abduction Act 1984, which outlines the offence of child abduction, speak with a senior colleague or check their intranet system for advice. If the police are still unsure encourage them to contact **reunite** or the National Crime Agency's Missing Persons Unit.

If the police are not cooperative, arrange for your solicitor or a **reunite** advisor to speak with the officer.

What it will do: The child's details are placed on the Child Abduction Warning List for an initial period of 28 days. As there are no compulsory exit checks when leaving the UK, and the authorities do not maintain a comprehensive list of people leaving the UK, a port alert is not a watertight prevention measure and does not always work. As a result you should only rely on a police port alert in a real emergency situation when no other prevention measures are possible. It should be a last resort and not exclusively relied upon. More robust prevention measures can be put in place by the family court as discussed in other parts of this Guide.

Once the imminent threat has passed, please investigate further, long-term prevention measures such as court orders that could be much more effective than relying on a port alert.

Emergency Orders

You should contact a specialist family lawyer in Scotland without delay if you think you need an emergency order. It is possible to get an Interdict and a Specific Issue Order on an emergency basis if necessary. These applications are made in the same way as discussed in Section 4, at the local Sheriff Court, but with an explanation as to why the case should be heard on an emergency basis.

If a Sheriff does not wish to issue an Interdict, an Interim Interdict can be issued without the other parent having to attend court. An interim interdict can be challenged at a later date but may provide the protection necessary in the short-term to prevent an imminent abduction from happening.

Complete the details below for each child at risk of abduction

Surname:			
Forename(s):			
Other names they may be known by:			
Gender:		Nationality:	
Date of Birth:		Place of Birth:	
Addresses of where child usually lives:			
Who they live with at this address:			
Telephone Number:			
Ethnic Appearance:	White / Mixed (please state) / Asian / Black / Chinese / Other (please state)		
Height:		Build:	
Eye Colour:		Glasses Wearer:	Yes / No (Please circle)
Hair Colour:		Hair Length:	
Birth Marks or Distinguishing features:	If yes, please provide details here:		
Blood Group:		NHS Number:	
Any special medication required:			
Passport Number and Nationality:			
Any relevant court orders:	If yes, please provide details here:		

Complete the details below for each potential abductor

Surname:			
Forename(s):			
Other names they may be known by:			
Relationship to child(ren):			
Gender:		Nationality:	
Date of Birth:		Place of Birth:	
Last Known Address:			
Telephone Number:		Mobile Telephone Number:	
Ethnic Appearance:	White / Mixed (please state) / Asian / Black / Chinese / Other (please state)		
Height:		Build:	
Eye Colour:		Glasses Wearer:	Yes / No (please circle)
Hair Colour:		Hair Length:	
Facial Hair: (if applicable)		Distinctive Accent:	
Birth Marks/Tattoos/ Distinguishing features:	If yes, please provide details here:		
Passport Number and Nationality (If known):			
UK N.I. Number		Vehicle Details: (Registration, Make, Model, Colour)	

**Details of potential abductor's links overseas
including relatives, friends and business associates.**

Name:	
Address:	
Telephone Numbers:	
Relationship to abductor:	

Name:	
Address:	
Telephone Numbers:	
Relationship to abductor:	

Name:	
Address:	
Telephone Numbers:	
Relationship to abductor:	

Your own details

Surname:			
Forename(s):			
Maiden Name: (if applicable)			
Relationship to Child(ren):			
Address:			
Home Telephone Number:		Mobile Telephone Numbers:	
Date of Birth:		Place of Birth:	
Nationality:			
If you are/were married to the abductor, the date of the marriage:			

Details of your solicitor

Name:			
Firm:			
Address:			
Telephone Number:		Mobile Number (if you have it):	