



President of the Family Division

President's Guidance

Public law children cases with an international element

This guidance replaces the *President's Guidance of 10 November 2014: The International Child Abduction and Contact Unit (ICACU)*.

A substantial number of public law children cases have an international element and courts often require information from other jurisdictions before being able to proceed. It is not always easy to know how to obtain this information.

While it may not always be possible to obtain the information sufficiently quickly to enable the court to hear these cases within 26 weeks, I am very grateful to the central authority teams - the International Child Abduction and Contact Unit (ICACU) for England and the Welsh Government for Wales - for providing the following details, which will help practitioners to follow the correct route to obtain information to help the court when necessary. It has been approved by Lord Justice Moylan and the Senior Master.

Practitioners will also need to be alive to Chapter VI of Part 12 of the Family Procedure Rules 2010 as amended¹, and to The Parental Responsibility and Measures for the Protection of Children (International Obligations) (England and Wales and Northern Ireland) Regulations 2010² SI 2010/1898.

Sir Andrew McFarlane
President of the Family Division
January 2025

The Central Authorities

The central authorities for the 1996 Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children ('the 1996 Hague Convention') are:

- for England the ICACU³.
- for Wales the Welsh Government.

¹ [The Family Procedure Rules 2010 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uksi/2010/2955/contents/make)

² [The Parental Responsibility and Measures for the Protection of Children \(International Obligations\) \(England and Wales and Northern Ireland\) Regulations 2010 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uksi/2010/1898/contents/make)

³ The ICACU is also the Central Authority team for England *and* Wales for (a) the 1980 Hague Convention on the Civil Aspects of International Child Abduction and (b) the 1980 European (Council of Europe) Convention on Recognition and Enforcement of Decisions Concerning Custody of Children and Restoration of Custody of Children.



Can the Central Authorities help?

Requests for co-operation arising out of proceedings brought by an English local authority are made to the ICACU.

Requests for co-operation arising out of proceedings brought by a Welsh local authority are made to the Welsh Government.

The central authorities are administrative only. Their staff are not lawyers or social workers, and they cannot give legal advice.

The central authorities may be able to help by making a request for co-operation to another country, for the collection and exchange of information if:

- the other country is a State Party to the 1996 Hague Convention; and
- the proceedings are within the scope of the 1996 Hague Convention; and
- the request for co-operation is provided for in Chapter V (Co-operation) of the 1996 Hague Convention.

To decide if the proposed request for co-operation is in scope consider Articles 1, 3, 4, 30-37 of the 1996 Hague Convention⁴.

The central authorities can have a role in relation to transfers of jurisdiction between authorities (including courts) under Articles 8 and 9 of the 1996 Hague Convention; this role is not covered by this guidance. See instead *Guidance for the Judiciary: Transfer of proceedings under Articles 8 and/or 9 of the 1996 Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children ('the 1996 Convention')*.

If you are considering making a request under the 1996 Hague Convention you must first consider Article 37 of the 1996 Hague Convention before deciding to contact the central authority. This is because Article 37 says an authority shall not request or transmit any information under Chapter V if to do so would, in its opinion, be likely to place the child's person or property in danger or constitute a serious threat to the liberty or life of a member of the child's family.

The central authorities may have practical knowledge and experience of the processes and procedures in the other country which they can usefully share in response to an enquiry. However, you should not rely on information formerly provided by either central authority in a different case, as the other country's processes and procedures may have changed since you last contacted the central authority.

⁴ [1996 Hague Convention \(hcch.net\)](https://www.hcch.net)



President of the Family Division

Requests for co-operation involving the collection and exchange of information under the 1996 Hague Convention must be distinguished from requests for evidence.

States have differing views about what is in scope of the 1996 Hague Convention (information) and what is evidence. If you are in doubt this may be where the central authorities' practical knowledge and experience of the other country's processes and procedures can be of assistance. In such cases you should make an early enquiry to avoid delay at the point the formal request needs to be made.

In England and Wales:

The Senior Master is:

- a) the central authority under Article 3 of the 1965 Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters ('the 1965 Hague Convention').
- b) the central authority under Article 2 of the 1970 Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters ('the 1970 Hague Convention').

The administrative unit which supports the Senior Master is the Foreign Process Section based in the Royal Courts of Justice. Information about the Foreign Process Section is published at: <https://www.gov.uk/guidance/service-of-documents-and-taking-of-evidence>

What the Central Authorities do not do

The central authorities for the 1996 Hague Convention have no role to play in the operation of the 1965 Hague Service Convention nor in the operation of the 1970 Hague Evidence Convention:

- they will not serve or arrange service of court documents and nor will their counterpart in the other country.
- they will not assist in acquiring evidence.
- they do not forward requests for co-operation on to other domestic central authorities or bodies if they receive a request which is outside the scope of the 1996 Hague Convention.
- they do not notify consular authorities about proceedings concerning a child who is a foreign national as that is not a central authority duty or function.

Consular authorities, not the central authorities, should be contacted about passports and other travel documents such as visas to enter the other country.



President of the Family Division

A request for an opinion on jurisdiction is not a question for central authorities. They will not offer an opinion and nor should a question about jurisdiction form part of a request for the collection and exchange of information.

In proceedings

- central authorities do not become directly involved in proceedings.
- they are under no obligation to engage in proceedings.
- they do not require a court order to discharge their duties and responsibilities under the 1996 Hague Convention.
- they should not be directed to attend a court hearing.

Making a request for co-operation

Requests for co-operation must be **relevant, focussed, timely** and **practical**.

A request should be made by completing and emailing the request for co-operation form published at:

England

[International child abduction unit: request for co-operation form](#)

Wales

[Handling cross-border child protection cases | GOV.WALES](#)

You should identify in your request the Article(s) relied on by you for the purpose of the request. Remember the request needs to be in scope of the 1996 Hague Convention.

The 1996 Hague Convention does not require a requested State to respond to a request for co-operation within a specific timescale.

This means the requesting central authority cannot compel the requested central authority or foreign competent authorities to respond by a specified date. Their counterparts are, however, more likely to be able to help if the request is focussed and made on a timely basis.

The central authorities ask:

- that any request for co-operation is made as early as practicable in the proceedings and
- that they are informed about the court timetable including the date of any listed hearing.



President of the Family Division

When fixing the court timetable the timescale for a response from the other jurisdiction needs to be realistic having regard to the number of steps involved in a request for co-operation.

In a public law case those steps may involve:

- the decision to make a request for co-operation by the local authority whether following the court's direction or otherwise.
- request received by the English / Welsh central authority.
- the English / Welsh central authority requesting any necessary translations.
- the request and (if necessary) translation(s) being transmitted by the English / Welsh central authority to the requested central authority.
- the requested central authority making enquiries directly or of their competent authorities before responding.
- the requested central authority or the English / Welsh central authority arranging any necessary translations of the response.
- the English / Welsh central authority transmitting the response to the English / Welsh local authority.

The initial response from the requested central authority may include a request for additional information and documents to enable a more detailed response to be provided.

A sealed copy of any relevant court order should be provided to the central authorities promptly (to assist in avoiding delay).

In formulating the request for co-operation, you should consider what information practically the requested central authority and their competent authorities may require before responding to the request. Include a clear background summary in the request for co-operation form. Additionally, to assist the requested central authority and their competent authorities:

- you should avoid acronyms and, so far as is possible, technical language.
- if technical language is used an explanation should be provided (for example what is meant by 'viability assessment').
- for "connected persons assessments" it may be useful to explain what the local authority or court would find helpful for the assessment to cover but it is unlikely to be appropriate to ask foreign authorities to complete domestic forms.
- if the request is to identify or assess potential alternative carers provide as much information as possible to assist the requested State to trace the individuals concerned; if current contact details are not known, then the last known address in the requested country (or as much information as possible as to where the family is from in that country); social security details or passport / foreign identity document details may also assist.



President of the Family Division

- if you have already had contact with the connected person, explain what contact has taken place, by what form of communication and provide the contact details you used.
- if the court's permission is required to disclose information or documents to the English / Welsh central authority and to the requested central authority the permission application should be made promptly.

The central authorities have a limited budget. The parties to the court proceedings will need to agree who is to prepare translations of any supporting documents sent with the request for co-operation. This should be done promptly.

It may be helpful if the court directs the request for co-operation be sent to the English / Welsh central authority within a specific time frame. The parties may of course consult with each other as to the content of the request for co-operation.

The central authorities prefer that the request for co-operation (or any other request – for example, assistance with a request for transfer of jurisdiction) is made by the local authority (rather than any other party).

The central authorities' experience is that a request for co-operation to the other country may be followed by a request from that country about the same child(ren). If the central authorities do receive a request from the other country, they will transmit it to the local authority. It is administratively more efficient and less likely to give rise to miscommunication / delay if the central authorities are in contact with one party only.

Although the court may request or invite assistance from foreign authorities, orders should not be made against any foreign authority including foreign central authorities, consular authorities, or other public bodies in another country.

Possible placement of a child abroad (Article 33)

If contemplating the placement of a child in another 1996 Hague Convention country, you must consider Article 33 of the Convention as the consent of the other country may be required before the order placing the child can be made.

- whether or not the placement of a child in another 1996 Hague Convention country is a placement in a foster family or institutional care, as referred to in Article 33, is a question for that country not a question for the requesting country.
- a placement which from a domestic perspective is a private law placement may be regarded as a public law placement by the requested country.
- a request for co-operation can be made to establish if, in principle, the consent of the other country would be required for placement even if the care plan for the child is not yet fully formulated.

It is important that whenever a direction is made for a “connected persons assessment” of a person living in another 1996 Hague Convention country,



President of the Family Division

enquiries are made at the same time about the Article 33 process and, if that assessment is positive, that the consultation and consent process is started on a timely basis.

Contacting the Central Authorities

ICACU

The International Child Abduction and Contact Unit (ICACU)
Office of the Official Solicitor & Public Trustee
Post Point 0.53
102 Petty France
London SW1H 9AJ

Parties seeking "in principle" advice based on the ICACU's experience of the other country should email icacu@ospt.gov.uk. The general office telephone number is 0203 681 2756

New applications and requests for co-operation should be sent by email (not post) to icacu@ospt.gov.uk

Email contact allows the ICACU to manage their busy workload and to collate information about the types of requests and countries. If an enquiry is made by telephone the ICACU will usually ask that the enquiry is also put in writing but understands that if a matter is urgent an initial telephone enquiry may be necessary.

Welsh Government

Welsh Government
Social Services and Integration
Cathays Park
Cardiff CF10 3NQ

The general office telephone number is 03000 257095.

Email: WalesCAHague1996@gov.wales