



# Travelling abroad with your child

*There is more to consider than what to pack when it comes to taking your child abroad*

**P**acking your bags for holiday is the easy part. Ensuring you know your legal rights to take your child abroad is not. So, before you pack your bags, where do you stand?

#### **My child lives with me, what's the problem?**

Even if you are the primary carer, the law says that before you take a child abroad, even for a holiday, you must seek the permission of all those with parental responsibility or get a court order. There are some exceptions to this and to be confident of your legal position, you may wish to consult a family solicitor. However, good practice for all families is that you should consult with the other parent to seek permission with reasonable notice and details of your travel plans. Some countries require a formal letter of consent or legal document confirming you have your ex-partner's permission. This can present a serious problem if you have a different surname to your child. It is very important to check the specific country requirements.

#### **What if I don't want to give permission?**

Your separation from your ex-partner may have been acrimonious but do you have a good reason for your child not to go on holiday? In most cases a parent will not begrudge their child a holiday and an opportunity to travel. You may want to ask for details of where your child is going, and a contact number in case of emergencies. This may satisfy you that you know where your child is being taken and when he or she is coming back. If you have reasons for withholding permission, if perhaps you think the destination too dangerous or your child too young, then you can ask the court to decide if the child should go. Ultimately the court's decision will be based on your child's best interests.

#### **I am worried that my child won't come back home.**

If you have concerns that your ex-partner is planning more than just a holiday and is not intending on returning to England, you must act fast and get specialist legal advice. Despite the potential criminal implications of abducting a child, abduction can happen when families separate. If you are worried that your child is at risk of abduction, there are urgent legal steps you can take to prevent him or her from being physically removed from England. Time is of the essence - once a child has left England, a parent must rely on international law such as the Hague Convention. This provides some legal protection, although can be fraught with difficulties and lead to a prolonged period of separation from your child. Prevention is always better than cure.

#### **I want to move abroad with my child/ my ex wants to move abroad with my child – what steps do I need to take?**

If you plan on moving abroad permanently with your child, and the other parent is going to remain in England, you will both need to agree to the move before it can happen, agree child arrangements and record your agreement in writing, ideally with a consent order from the court. If you do not agree, you will need to get permission from the court before you can leave the country with your child. If you do apply to the court, the judge's role is to weigh up whether or not the move would be in the best interests of the child and evaluate the detailed reasons for moving – where you would live, how you would support your child, their education, and crucially, how your child will maintain a relationship and contact with his or her parent in England. Your application needs



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to be realistically founded on practical proposals, well-researched and carefully considered.

If you oppose your child moving abroad, you will need to think carefully about how you will show the judge that the move is not right for them and the judge will take this into consideration. If it is your own application to move abroad permanently, your position is likely to be stronger if you are from the country you plan to move to, if you have existing ties there or if travel to England is straightforward. In some circumstances, the court may wish to hear from your child either directly or indirectly, depending on their age and whether it would be appropriate. However, the judge is highly likely to apply the same principles and child welfare test wherever you plan to move, although each case will be considered on its own specific facts. They are difficult and often finely balanced cases, the stakes could not be higher for the parent wishing to leave and for the parent potentially left behind. Families should consider alternative dispute resolution such as mediation as a way to attempt to find a workable solution.

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