My child has not returned home from their holiday abroad. What should I do?

With summer holidays in full swing, most families are enjoying spending time abroad, but when it comes to separated parents, it can be an anxious time whilst they try and navigate the arrangements relating to the school holidays.

Before removing a child from the jurisdiction of England and Wales, separated parents may need to consider the following:

1. Obtaining consent from the other parent in order to take their child abroad for holiday purposes; or

2. Where there is a child arrangements order in place for the child to "live with" the primary carer, then the primary carer may be able to take the child outside of the jurisdiction for a period of up to 28 days without needing to seek permission from the non-residing parent;

3. If there is a Special Guardianship Order in place, the child can be removed from the jurisdiction for a maximum period of three months.

What happens if your child is not returned home at the end of the holiday?

This is a criminal offence. The Child Abduction Act 1984 says that "a person connected with a child under the age of sixteen commits an offence if he takes or sends the child out of the United Kingdom without the appropriate consent." In short, this means that if a child under the age of 16 is not returned home after a trip outside the United Kingdom, it is a criminal offence and also seen as "*wrongful retention*," which is a form of child abduction, and what happens next will be dictated by the country in which your child is retained.

If the child has been retained in a country bound by the Hague Convention, this sets out the agreement between various countries which helps to return an abducted child to the country their home is in. Under the Convention there are established proceedings for the immediate return of abducted children subject to certain defences. This does not apply to a country which is not a signatory of the Hague Convention. In these circumstances, proceedings will often need to take place in the country that the child has been taken to. In any case, action should be taken immediately as time is of the essence in seeking a successful return of the child home.

If your child has not been returned to the UK and/or has been abducted then our team of specialist child abduction lawyers can assist you. Please contact us via email FamilyPrivate@hmbsolicitors.co.uk or on 020 7272 1234 and ask to speak to Director, Serena Sandhu, Founding Partner, Sarah Beskine, or Senior Solicitor Christina Theodorou.

Serena Kaur Sandhu, Director and Specialist Family Solicitor

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