

## Travel Abroad Procedure

### Overview of procedure

This procedure is to be applied in exceptional circumstances when it is determined, by the relevant Senior/Service Manager and, where applicable, Head of Practice/Assistant Director, that travelling abroad to carry out overseas enquiries is essential, either in our judgement or that of the court.

This document outlines the procedure to follow when considering travelling abroad for a case. Travel abroad for other reasons, including the 'British Overseas Territories Project' (Foreign and Commonwealth Office programme to improve the standard of child safeguarding in the British Overseas Territories), research or lectures, please refer to HR documents on expense reimbursement and the 'fit for travel' health screening service. A risk assessment should be completed, with advice sought from Estates/Health and Safety.

### 1.0 Introduction

1.1 This procedure applies to both public and private law cases that may require enquiries outside the UK. It does not cover those cases involving enquiries in British military communities abroad which are covered by the [SSAFA protocol](#).

1.2 The procedure sets out:

- a) What practitioners should consider when travel abroad is required, to carry out what has been ordered by the court or what Cafcass deems to be essential to our role in a case;
- b) How Cafcass can support the court in making appropriate directions in cases which could involve practitioners carrying out casework abroad; and
- c) What practical steps should be taken by the practitioner, Senior/Service Manager (SM) and, where applicable, Head of Practice (HoP)/Assistant Director (AD) to help promote the safety of the practitioner during enquiries abroad.

1.3 In addition to the appended documents, when working with foreign authorities, practitioners should also refer to the guidance produced by the Department for Education: '[Working with Foreign Authorities- Child Protection and Care Orders](#)' (2014), which provides:

- A set of principles for social workers working on child protection cases and care orders, where the child has links to a foreign country;
- A summary of the main international legislation;
- Guidance on agencies and organisations that social workers can seek help and advice from, or provide information to when working on these cases; and
- Sign-posts to other relevant guidance.

## **2.0 Determining whether overseas enquiries are necessary**

2.1 The court has the authority at any stage during a case to determine what enquiries are necessary and who should undertake those enquiries. If the court raises the prospect of enquiries being carried out abroad, the following points should be brought to the court's attention by the practitioner before an order is made:

- Is the information to be gathered abroad necessary for the court to make an informed decision in the best interests of the child?
- Is it inevitably the Cafcass practitioner who undertakes these enquiries rather than the social worker or an independent professional?
- Are the proposed enquiries relevant to the issues that the court is deciding and is the extent of the enquiries proportionate?
- Do the proposed enquiries justify the delay that may be caused by undertaking them?
- Is there a way of obtaining the information from abroad without the need to travel and can the evidence be obtained using the taking of evidence regulations (applicable to countries within the EU except Denmark)?

If the court directs that enquiries will be undertaken abroad, or the practitioner is recommending it (with the knowledge and support of the Head of Practice), it is good practice for the parties' lawyers and the practitioner to agree a schedule of questions, and how they can be answered, in advance of the hearing.

2.2 The following (paragraphs 3.2-4.7) should be considered by the practitioner and Service Manager as soon as it becomes apparent that travel abroad may form part of Cafcass' casework.

2.3 The Children and Families Across Borders (CFAB) '[Guidance for UK Social Workers Practicing Overseas](#)' should also be considered, alongside Cafcass' Travel Abroad Procedure.

2.4 If there is an issue requiring travel abroad for the purpose of child placement/assessment/abduction or negotiation with a foreign jurisdiction which is a Hague state or European member state then the central authority should be contacted and asked to assist. The Central Authority in England is based in the Office of the Official Solicitor and Public Trustee. Their contact details can be found [here](#).

## **3.0 Who should undertake the enquiries?**

3.2 In care proceedings the majority of enquiries abroad are likely to fall to the local authority, as the local authority is primarily responsible, as part of its case planning, for carrying out the necessary assessments of the child's needs and how to meet those needs.

3.3 Where it does not fall to the Cafcass practitioner to make the enquiries abroad, they may still usefully have input into specifying the scope of those enquiries and how they might be undertaken.

3.4 In international relocation cases, the burden of producing evidence (to demonstrate that suitable arrangements in the proposed destination have been and will be made for the child) falls to the applicant, not the practitioner. It would be very unusual for the court to direct a practitioner to visit a country the applicant proposes to move to in a leave to remove case.

#### **4.0 Enquiries abroad by Cafcass practitioners**

4.1 Where the enquiries abroad are necessary and properly fall to the practitioner this does not necessarily mean that personal travel abroad is required.

4.2 Firstly, the practitioner should check with Children and Families Across Borders (CFAB) to see whether they would be able to assist within the timetable set by the court. Contact with CFAB can be made directly on 0207 735 8941 or through <http://cfab.org.uk/services>. CFAB charges a referral fee; the court will need to identify how this is to be paid. (See also link to CFAB guidance above, section 2.3)

4.3 Where CFAB cannot assist, or cannot assist in an appropriate timescale, the practitioner will consider what other agencies may be able to assist, such as:

- The relevant British Embassies and High Commissions Abroad<sup>1</sup>
- Using local government and/or voluntary agencies/ charities
- Instructing a local lawyer as agent (through the child's solicitor)
- Instructing an Independent Social Worker in the foreign jurisdiction.
- The Central Authority (depending on what country is involved).

4.4 Where the enquiries abroad may need to be relied upon in judicial or administrative proceedings in the foreign country (e.g. in a subsequent adoption or placement) the practitioner will need to check whether any work done on a foreign visit by a practitioner would be accepted in that country.<sup>2</sup> Some countries will not see as valid work done by those who are not locally accredited. This may result in unnecessary delay and/or duplication and would support the use of local agencies/professionals as set out above. This may also be an issue for consideration by the practitioner in considering the appropriateness of a local authority's proposal for assessments in other countries.

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<sup>1</sup> President's Guidance (Liaison between Courts in England and Wales and British Embassies and High Commissions Abroad) (28 November 2003) (See the Legal section of the Cafcass Intranet.)

<sup>2</sup> The CFAB Advice and Information line may be able to advise on the requirements of different countries. This can be reached on 0207 735 8941.

4.5 The practitioner should consider alternative methods of gathering information without the need to instruct an agent or personally travel abroad e.g. through appropriate use of telephone enquiries; e-mail; video conferencing and Skype.

4.6 Having made the enquiries above, the practitioner must discuss with their S/SM and subsequently the HoP/AD whether it may still be necessary for the practitioner to make enquiries abroad personally or by any of the means set out in paragraphs 4.2-4.5. The following matters should be taken into account in this discussion:

- Does the practitioner have the necessary knowledge, understanding and skills to undertake the enquiries/ assessment?
- It may be more suitable for another practitioner who has particular experience/skills relevant to the enquiries being undertaken, or who is better placed to undertake those enquiries for some other exceptional reason (e.g. they are already travelling to that country to undertake enquiries in another case). The court's agreement may have to be sought before another practitioner is asked to conduct enquiries on a case as they will then have to be available to give evidence on the information they obtain.
- Issues of diversity and differences in culture, race and language of the practitioner and the country/people being visited.
- Is it safe for the practitioner to travel to the country?
- Does the method of making enquiries demonstrate the best value for money?
- Can the enquiries be undertaken within the timetable set by the court?

The recommendation to court regarding whether enquiries abroad by the Cafcass practitioner are necessary and how those enquiries should be carried out should have regard to both the above and all the considerations set out in paragraphs 3.3-4.5.

4.7 In all cases where travel abroad is recommended by the practitioner and agreed by the S/SM consultation and approval with the HoP/AD is required before making that recommendation to the court.

## **5.0 Where Cafcass determines that travel abroad is not necessary**

5.1 If, after taking into account the above considerations, the practitioner and service manager agree that enquiries abroad by a Cafcass practitioner are not necessary, the practitioner should convey to the court the professional assessment that has been undertaken. In cases where Cafcass and the court appointed children's guardian are in dispute as to whether personal enquiries abroad by a Cafcass practitioner are necessary, Cafcass may exceptionally need to apply to be joined as a party to the proceedings, for instance to argue that enquiries are not necessary; that the responsibility for the enquiries properly fall to another party, or that the costs of the

proposed enquiries are prohibitive.<sup>3</sup> An S/SM, HoP/AD or the National Service Director should take advice at any stage from Cafcass Legal on the possible merits of such action.

## **6.0 When personal travel abroad by the practitioner is necessary and approved.**

6.1 Cafcass will work closely with the Courts and parties to the proceedings in making arrangements for enquiries abroad. This is to ensure that arrangements are made for the safety of the Cafcass practitioner, as well as to ensure that all avenues of enquiry are covered. Arrangements should be made before travel to ensure clarity about the responsibility for all outstanding areas of enquiry; there may be scope for the cost of travel to be shared between parties and/or other agencies, and this should be explored in advance of travel.

6.2 Annex 2 contains a checklist of practical advice, for when travel abroad is necessary.

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<sup>3</sup> The procedure in such cases has been clarified by the judgement of the President in the case *A County Council v. K & Ors (By the Child's Guardian HT)[2011] EWHC 1672 (Fam)*: Sir Nicholas Wall said: "I yield to nobody in my view that the guardian's independence needs to be cherished. At the same time Cafcass has to manage.....the proper course, in the event of an irreconcilable difference of view is for Cafcass to apply to intervene and for there to be placed transparently before the court the views of the guardian and the views of the manager, each explaining why the other is not to be preferred ....." see Cafcass legal alert [here](#).

## **Annex 1: Guidance issued by LJ Thorpe on social workers travelling overseas and the use of CFAB**

### **Briefing note on social workers travelling overseas to undertake social work assessments in court proceedings:**

This briefing note on social workers travelling overseas has been produced by Children and Families Across Borders (CFAB – formerly International Social Service).

#### **Introduction:**

There is an increasing number of local authority and Cafcass social workers travelling abroad to undertake assessments. Often these are of extended family members of children in care in the UK with a view to placing the child with them overseas. The aim is laudable as all children have the right to family life and all family options should be fully explored. The social workers are often instructed by the courts to travel overseas.

This practice is problematic. Children and Families Across Borders (CFAB), the UK branch of the International Social Service network, advises that UK social workers are not asked to travel abroad to undertake social work. It is not permitted for an overseas social worker to work in the UK without HCPC registration and many other countries have the same constraints.

#### **Alternative arrangements:**

Increasingly children coming into care in the UK will have extended family options overseas. These options should be explored fully, utilizing the resources within the overseas country and the social services teams overseas. In the majority of countries there are local social services who can undertake work on behalf of UK local authorities and the courts.

It is important that each sovereign jurisdiction is allowed to operate and conduct its own assessments of its citizens, or overseas citizens habitually resident there and, that UK social workers are not sent overseas to conduct assessments in countries where they have no knowledge of legislative frameworks, cultural expectations or resources available to a child placed there.

Assessments required from overseas can be accessed through CFAB ([www.cfab.uk.net](http://www.cfab.uk.net) or 0207 735 8941). Judges who have used this service in the past may have found that the reports received were not in the formats expected by the UK or in the timescales within which UK based assessments are produced. However, CFAB are now able to work more effectively with services overseas and ensure that detailed letters of instruction lead to satisfactory assessments being produced.

#### **Conclusion**

It is suggested that the family courts refer to CFAB when ordering assessments of children and families overseas.

Assessments can be procured via CFAB and, ongoing, the 1996 Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection of Children will provide the mechanism to obtain such reports.

There will continue to be countries where the local social services cannot undertake the work required. In these instances we advise that UK social workers seek permission from that country to undertake social work before travelling and take advice from CFAB and the Foreign and Commonwealth Office as to the cultural and legal arrangements in the country they are planning to visit.

If it is determined that a UK social worker must travel overseas to conduct an assessment then they must ensure they have a working visa (not a tourist visa), that the relevant authorities in the country concerned are aware of the social workers presence and have agreed to this and that, where possible, the UK social worker works alongside their colleagues from overseas. CFAB can assist with this.

## **Annex 2: Practical advice for overseas travel**

### **Checklist for practitioner:**

- Check the Foreign and Commonwealth Office (FCO) website ([www.fco.gov.uk](http://www.fco.gov.uk)) or obtain FCO advice by phone (0845 850 2829) for the country being travelled to and follow advice accordingly.
- Ensure that next of kin details are up to date on iTrent. Provide your SM with a photocopy of the front and back of your passport and visa pages, driving licence and travel tickets.
- Obtain medical advice from your doctor (re necessary vaccinations) where appropriate.
- Ensure you familiarize yourself with the requirements of the [IT policy](#) in respect of working overseas with Cafcass IT equipment.
- Contain the costs of personal travel abroad, (including costs of travel and subsistence/translators/escorts/insurance/communication etc) as far as practicable and seek approval from your SM regarding spending limits whilst overseas<sup>4</sup>. Further guidance on this can be found within the Cafcass Expense Reimbursement Policy at paragraph 6.2 by following [this link](#). Reasonable expense support can be arranged in advance with sufficient prior notice. Service Managers should contact National Office finance colleagues for further information.
- Have pre and post travel debriefing with your SM.
- Complete an [incident form](#) if an emergency occurs.
- Carry details of your name, passport number and who you work for in case of emergency. Also carry a current European Health Insurance Card if travelling in Europe.
- Ensure you have adequate business travel insurance for your journey and inform the SM of the details of the policy. This may mean either ensuring your existing policy gives an adequate level of cover for business travel to the country you will be visiting or taking out insurance specifically for the trip. In the latter case you should claim the cost of the insurance through expenses.

### **Checklist for Service Manager:**

- Ensure practitioner has checked the FCO website or obtained FCO advice by phone and confirmed the advice to you in writing (email); carry out a full risk assessment in all cases where travel abroad of a practitioner is necessary.
- Assist the HoP/AD to manage any security/emergency incidents and in identifying next of kin.
- Confirm and file practitioner's itinerary in case file.
- Carry out pre and post travel debriefing in Performance and Learning Review (PLR) or specifically arranged meeting if necessary.
- Discuss and approve business related spending limits with the practitioner, seeking guidance from National Office Finance colleagues as necessary and authorisation from AD/HoP.
- Ensure the practitioner's caseload is managed in their absence.

### **Checklist for HoP/AD:**

- Advise (or seek expert advice) on any proposed travel in "high risk" countries

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<sup>4</sup> World Subsistence Rate guidance available from: <http://www.hmrc.gov.uk/employers/emp-income-scale-rates.htm> may be used in determining spending limits.



- Support the SM if emergency actions, as below, need to be implemented.
- Supervise investigations into any reported accidents / incidents.
- Ensure SM carries out necessary pre and post travel debriefs.
- Authorise business related spending limits with SM as necessary.

**Emergency action:**

- In the case of an emergency or significant incident the HoP/AD will have responsibility for overseeing the actions required to assist the practitioner as necessary. The HoP/AD should ensure that the practitioner's line manager, the National Service Director, Communications Team and Human Resources are all advised as necessary and appropriate regarding the nature of the emergency/incident and the steps required and/or taken as a result.
- Steps to be taken may include: keeping a log of all events, completing an incident report form, notifying the police or the relevant Embassy and notifying/updating the practitioners' next of kin.