

## Family holidays after separation – do I need the other parent’s permission?



The Summer school break is nearly upon us and if, like me, you are looking to escape the dreary English climate to seek some real summer sun, you may be considering a trip abroad. For parents who have separated or divorced, there are additional considerations they need to take into account prior to travelling.

### What do you need to consider from a family law perspective when taking your children on holiday abroad?

First, there is a broad rule that a parent is not permitted to remove their child from the UK, even for a holiday, if they do not have the ‘relevant consents’ or permission from the court to do so – taking a child abroad without permission is considered child abduction and you may face criminal charges. This means that you must get permission from everyone with parent responsibility for the child (or from a court before taking your child abroad).

Parental responsibility is a legal term that means that a person holds the legal rights and duties required for the upbringing of a child. A mother will automatically have parental responsibility of her child, whereas a father has to acquire parental responsibility. This can be as a result of his marriage to his child’s mother or if he is named on his child’s birth certificate. Just because parents are separated or divorced, this does not end parental responsibility.

Your first step would be to confirm who has parental responsibility for your child. Then you should ask them for their consent. To help them in their decision making, you should provide them with the dates of the holiday, any



travel details e.g. flight number and flight times and the details of the accommodation. It may also be helpful for you to consider how your children will contact that person whilst on holiday and make arrangements for this.

When you have consent, it is advisable to get this in writing. Our government's guidance is that you take a letter with you from the other person confirming their consent. This letter should also include the other person's contact details and details about the trip. They also suggest that you also take with you evidence of your relationship with the child (e.g. the birth certificate) and the divorce order or marriage certificate (if your family name is different to the child's). This should help resolve any questions that UK or foreign border staff may have.

In the event that permission is not given, you will need to apply to the court to take your child abroad. Ultimately the court will consider whether the proposed holiday is in the child's best interest or not. The court will also consider why the other party has refused permission, for example, are there concerns that the holiday is a ruse for a permanent move abroad. In most cases, it would be considered in a child's best interest to travel on holiday abroad, save if there are any risks to the child's safety or return to the UK. If you are concerned that permission may be withheld from the other parent, you should consider having discussions about holidays as soon as possible, so that there is enough time between any application to the court being considered and the travel dates.

Finally, there is one key exception to the broad rule above – if you have an order from the court providing that the child is to live with you. In that case, you may take the child abroad for up to one month without permission (unless there is another court order saying that you cannot). You should still provide the details of the trip and make arrangements for continued contact with the other parent. You should also take a copy of the order of the court with you on holiday.

Although this blog focuses on mothers and fathers, you should also think about whether anyone else has parental responsibility for your child – this may be a guardian or special guardian, or a person named in a child arrangements order as the person the child is to live with.

Read the guidance on GOV.UK – [Get permission to take a child abroad](#).

## How we can help

If you have any questions about taking your child on holiday, or if the other parent is not willing to give consent, please contact our expert [family team](#).



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