

Mr Klaus Zinser
request-776511-6aa53018@whatdotheyknow.com>

data.access@justice.gov.uk

19 Aug 2021

Dear Mr Zinser,

Freedom of Information Act (FOIA) Request – 210722038

Thank you for your request dated 22 July 2021 in which you asked for the following information from the Ministry of Justice (MoJ):

Dear Official Solicitor and Public Trustee,

when using the phrase: international child abduction I am referring to "The Hague International Child Abductions where Children were taken/abducted to UK but also who have been taken out of UK.

1. is there a list of international child abduction returns from and to UK, investigated? Broken down to year, country from and country to since 2009 up to now?

2. is an international child abduction a criminal offense? Are there criminal investigations?

3. Who is paying for the expenses of child abduction investigations and returns? Are these expenses known and published? If legal aid, is the money taken back from the one who committed the abduction?

4. does a parent who has abducted a child lose parental responsibility and child contact

Your request has been handled under the FOIA.

I can confirm that the MoJ holds some information that you have requested, and I have provided the weblink to published statistics of international child abduction return cases records held by the International Child Abduction and Contact Unit (ICACU). I refer you to tables 4.2 and 4.3. of the weblink.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/889536/2019_RCJ_tables_.xlsx

Please note that the tables show our recorded data from 2014 to 2019 on child abduction returns received by the ICACU only.

Child abductions within England and Wales are considered a criminal offence under 1984 Child Abduction Act. However, the 1980 Hague Convention does not contain a criminal offence as it is a civil matter.

I can confirm the ICACU does not hold records with regards to criminal investigations conducted as a result of alleged child abductions incoming to and outgoing from England and Wales.

The *Legal Aid Sentencing and Punishment of Offenders Act 2012*, (LASPO) defines the scope of civil legal aid and a number of cases, including cases of child abduction and contact under the 1980 Hague Convention, may be eligible for public funding (LASPO, schedule 1 para 18 (1)(c)).

In respect of legal aid funding available for 1980 Hague Convention cases, the left behind parent applying from outside the UK for the return of their child from England and Wales under the Child Abduction and Custody Act 1985, which gives effect to the main provisions of the 1980 Hague Convention, is entitled to non-means non-merits tested legal aid. The taking parent must satisfy both means and merits tests to receive legal aid. The assessment of the means and merits tests is made by the Legal Aid Agency.

Where legal aid has been utilised, there would be no automatic attempt to recoup costs. There is a general power under the [Civil Legal Aid \(Procedure\) Regulations 2012](#) to “revoke” a determination that an individual qualified for legal representation (traditionally described as revoking the legal aid certificate. This power arises in the circumstances described in relation 42(1)(h) to (j). The circumstances likely to be of most relevance here are making a false statement (42(1)(h)(iii)) in applying for legal aid or conducting the proceedings unreasonably (42(1)(j)).

The LAA would not normally seek to revoke a determination simply on the basis that a court had found in the opponent’s favour on a point of fact (which may be only on the balance of probabilities, i.e. that it was at least slightly more likely that the opponent’s allegation was true). There would need to be fairly unambiguous evidence that the client had put forward a statement that was untrue (most likely in relation to their own finances).

In exceptional cases, the court has the power to terminate parental responsibility under section 4(3) of the Children Act 1989. This does not apply to fathers who automatically have parental responsibility by virtue of being married to the child’s mother when the child was born. Parental responsibility in these circumstances cannot be terminated by a court order – but the court may make an order restricting how that parental responsibility is exercised.

Child contact arrangements are decided on in each individual case when a relevant application is made to court. The courts are required in making such decisions to treat the child’s welfare as the paramount consideration. More information on parental responsibility can be found at: www.gov.uk/parental-rights-responsibilities

Appeal Rights

If you are not satisfied with this response you have the right to request an internal review by responding in writing to one of the addresses below within two months of the date of this response.

data.access@justice.gov.uk

Disclosure Team, Ministry of Justice

You do have the right to ask the Information Commissioner's Office (ICO) to investigate any aspect of your complaint. However, please note that the ICO is likely to expect internal complaints procedures to have been exhausted before beginning their investigation.

Yours sincerely,

Samantha Marsh
Office of the Official Solicitor and Public Trustee