

# UK Social Workers Practising Overseas

## Assessing Family Members Abroad

### Introduction

There are more children on the move than ever before and increasing numbers of multinational and foreign national families in the UK. According to the Migration Observatory, in 2017, there were around 900,000 children of non-Irish EU citizen parents living in the UK. Therefore, the social work profession – in the UK and globally – must be competent to work effectively on cross-border cases.

As child protection systems develop internationally, social work as a profession expands. In the UK, where social workers now have increasing exposure to cross-border cases, there is growing awareness that good practice in this field means respecting professional jurisdiction abroad and working in collaboration with social service counterparts overseas.

Although the challenges in obtaining family assessments from professionals in other countries can lead to challenges in case management, sometimes with a negative effect on the timeline for the child, CFAB believes that local professionals are the best placed to complete social work assessments in their own country. It is risky, unethical and sometimes illegal for UK social workers to practise their profession in countries where they are not registered as social workers and where they may be unfamiliar with the culture and environment.

**This factsheet addresses the practice of UK social workers travelling abroad to complete family assessments, identifying key concerns and proposing solutions.**

### SOCIAL WORKERS PRACTISING OVERSEAS – KEY ISSUES

CFAB believes that best practice is to work in collaboration with the authorities and professionals in other countries, making requests to local social workers abroad for any pieces of work to be completed within their country. This is for a number of reasons, key amongst which are:

- Legal and ethical issues arise when UK social workers travel abroad to complete an assessment or a welfare visit; there are also a number of risks to the social worker, child and family.
- Social work is a registered profession in many countries - in order to practise social work in these countries, one must be registered with the relevant accreditation body (just as in the UK, where social workers must be registered with the national regulatory body).

- It is important to respect professional jurisdiction and recognise that local professionals are, in many ways, best placed to complete assessments in their territory. This is because local professionals are familiar with the relevant legislation and cultural environment. They also have a better understanding of the potential requirements of placing a child in their jurisdiction and can advise on the appropriate support available to sustain the placement.

### Case Examples and DfE Guidance

In *Leicester City Council v S* [2014] EWHC 1575 (Fam) Moylan J (as he then was) emphasised that Local Authorities need to consider (before commencing work) the legality of any assessment they seek to conduct overseas, and in particular whether it would constitute a violation of the law in the relevant state for an English social worker to travel there to undertake an assessment.

In *Re V-K (Children)* [2016] EWCA Civ 475, Black J expressed the view that the Slovak authorities should have been consulted prior to the Local Authority conducting a viability assessment of a grandmother by Skype.

The DfE Guidance on working with Foreign Authorities (July 2014) states as follows:

“A good assessment should systematically draw on all the evidence available so that the social worker can make an informed decision. Social workers should consider working with colleagues abroad when assessing a family with links abroad, unless doing so is likely to place the child or family in danger. This may provide a more holistic picture, and help the social worker understand the unique characteristics of a child within their family, cultural, religious, ethnic and community context.”

**If it is not possible to arrange for a local social worker in the relevant country to complete the assessment and you are therefore considering travelling abroad to complete the assessment yourself or arranging for an independent social worker to practise abroad, it is important to risk assess the plans and consult with the other country. The following questions can be used as a guide.**

## CHECKLIST OF KEY QUESTIONS

### 1. Is it legal?

- Does the social worker have the right to work in the country concerned?
- Is social work a protected title in that country?
- Have you consulted with the authorities of the other country regarding the legality of social workers completing assessments and the requirements to place a child?

A social worker could be working illegally if they do not have the right to work in the country concerned and travels there as part of their employment. It is important to verify if the other country considers entering their country to complete an assessment as working in their country. Thought should be given to the travel documents and visas that the social worker uses to enter the country to ensure that these provide the appropriate permissions to work temporarily in the country concerned, if necessary.

In addition, legal issues may arise if a social worker is seen to be practising social work in a country where social work is a protected title and they are not registered with the regulatory body. For example, in South Africa, under the Social Services Professions Act 1978, it is illegal to practise social work unless registered with the relevant body and it would be a criminal offence for a social worker to travel there to complete an assessment.

There can be serious repercussions for individuals who are seen to be working illegally or practising social work in a country where they are not registered. For example, they can be refused entry at the border or they can be fined. There can also be diplomatic and legal repercussions for the local authority that agreed to the social worker practising under these circumstances. If it is a criminal offence, the social worker could be imprisoned or could be banned from entering the country in the future. The visa and immigration section of the foreign country's embassy in the UK can provide information about the correct visa, travel documents and permissions that might be needed. See the London Diplomatic List for contact details of all embassies and High Commissions in the UK<sup>ii</sup>.

Some countries might have declaration procedures in place to secure permission to practise social work temporarily. See the box below for more information on this within the EEA and in Switzerland. However, please note that this information may no longer apply post-Brexit.

#### The European Union (EU), EEA countries and Switzerland

Social work operates under national legal frameworks and regulations in many EU countries. There are EU Regulations regarding social workers who are qualified in one country and practise in another. The European Communities (Recognition of Professional Qualifications) Regulations 2007 apply, which give effect to Directive 2005/36/EC. The Regulations offer information on how to get a temporary registration to practice social work in another EU country and who to contact in order to be allowed to practise there.

It is important to bear in mind that, even if social work is not a regulated profession in a country, there are still ethical and legal issues to practising the profession abroad and placing a child abroad without involving the competent authority overseas.

More information about the regulation of social work in the EU, EEA and Switzerland can be found by following this link: <http://ec.europa.eu/growth/tools-databases/regprof/>

## 2. What are the risks to the social worker?

- If something goes wrong, what support is available for the social worker?
- Will the social worker be protected by their UK professional title?
- Will the social worker be covered by medical, travel and/or liability insurance once they leave the UK?

When a social worker visits a family home in the UK or shares information with multi-agency professionals, they are protected by their professional title as a registered social worker and they have an understanding of the domestic laws and appropriate practice in the UK. A UK social worker practising abroad will not be protected by their professional title and most likely will not understand the domestic laws that dictate the social worker's rights and responsibilities, including data protection and the types of information that they can rightfully access.

If the family becomes uncooperative or problems arise that could result in accusations against the social worker, the social worker will be subject to the local laws and procedures in that country. Foreign Commonwealth Office (FCO) guidance clearly states that British consulates abroad cannot interfere in another country's processes and must respect their systems<sup>iii</sup>.

A social worker practicing abroad cannot rely on ordinary, tourist travel insurance to cover medical and other emergencies. Insurance which specifically covers work situations must be arranged. If there are any risks associated with the practice, such as possible family conflict and even risk of violence arising from the work to be undertaken, this must be made explicit when taking out insurance.

## 3. What are the risks to the child and family?

- Will the social worker's presence pose a risk to the family?
- Will the social worker's presence create a stigma for the child?

Social work can take different forms in other countries and the role of a social worker might be perceived in very different ways to how it is seen in the UK. In some instances, the presence of a social worker from a different country could pose a risk to the family and create a stigma for the child.

This is particularly relevant in countries with authoritarian governments, where there are different perceptions of government officials. It can also be an issue if the family lives in a small village, remote area or an urban ghetto, where a UK social worker's presence may well be noticed.

In cultures where family life is very private and there is a sense of shame when a family's problems are exposed, the presence of a UK social worker can create a stigma for the family and the child, which could pose a long-term and possibly permanent risk to the placement and the likelihood that the child will be accepted in the community.

#### **4. Is it ethical?**

- Does the social worker understand the local resources and cultural dynamics, including how extended family members interact with and support one another?
- Will the social worker be able to advise the family about resources and support available to them, and how to access it?

A comprehensive social work assessment must be able to assess the family's ability to care for the child while understanding their local environment and identifying resources that will enable the family to meet the child's needs. This is only possible when the assessing social worker has a full understanding of the local community, including cultural aspects such as how families are constructed, how religious practices intersect with family life and how extended family members support one another and share responsibility for child rearing.

The social worker must also understand the support that is available to the family by local non-governmental and statutory services, such as financial stipends, parenting courses, playgroups and mental health support. In addition, if the family need support, they might require a referral from a recognised local professional. When a UK social worker completes an assessment in another country, there is a risk that local support might not be identified or properly understood, or that the family will not qualify for support since they have not been shown to meet thresholds through an assessment by a local professional.

#### **5. Will the placement be recognised by the authorities overseas?**

- If the child is placed, will the receiving country recognise the placement, even if it was assessed by a foreign (UK-based) social worker?
- Has the correct advice been provided to ensure that the family's care of the child is legally recognised in the country where they are residing?

When a child is placed with family abroad, it is essential to ensure that the carer's guardianship of the child is legally recognised in the country where they are residing with the child. If it is

not recognised, the placement can face numerous challenges, including difficulties registering the child in education or for health services and in applying for financial support for kinship carers. In addition, parents who might pose a risk of harm to the child could potentially interfere with the placement if they still have parental rights because the UK court order is not recognised in the country of the placement.

It is essential to ensure that the family receives proper advice to register their guardianship of the child. This will require legal advice and/or collaboration with local professionals to understand the legal framework abroad. For example, some countries might consider a matter that would be dealt with under private law as a public law matter in their country, or the country may require the carer to be registered as a foster carer while others might have a guardianship system similar to Special Guardianship in the UK. Some countries might require the placement to undergo the inter-country adoption process, and some Arab countries will utilise the Kafalah system<sup>iv</sup>. In some countries, the family might have been required to undergo a specific assessment process to ensure that they meet the threshold for kinship carers in the country where they will be caring for the child. For example, CFAB has experience of cases in the Netherlands where a kinship carer, who would have been granted a Special Guardianship Order in the UK, needed to be assessed as a foster carer to meet the requirements of the system in the Netherlands. Also, in Lithuania, certain relatives, such as aunts and uncles, may be required to undertake “parenting courses” as part of the assessment process.

### Relevant Guidance from the Department for Education:

- **Working with foreign authorities: child protection cases and care orders (July 2014)**
- **Cross-border child protection cases: the 1996 Hague Convention (October 2012)**
- **Placement of looked-after children in EU member states (January 2013)**

The Department for Education guidance is available on GOV.UK

For further information on Placing Children with Family Overseas, see CFAB's factsheet on our resources page at [www.cfab.org.uk](http://www.cfab.org.uk)

## WHAT ARE THE OPTIONS?

- 1. Make a request for a social worker in the other country to complete the assessment**

Cases with an international element require an adapted approach: longer timeframes to allow for information gathering and sharing with authorities overseas; greater financial investment; and the ability to navigate new processes and collaborate with different agencies, such as foreign embassies and Central Authorities. It is increasingly possible to collaborate with child protection authorities overseas, supported by international conventions which have formal mechanisms for collaboration<sup>v</sup>.

However, working with an overseas authority can be a complex process and it is therefore essential to start the collaborative process as soon as possible and consult with the different agencies (including CFAB, the Central Authority and foreign embassies) in the early stages of planning.

Requests for cooperation with local professionals abroad to obtain assessments of family members can be made to:

- **CFAB** accepts requests from UK local authorities and can secure the cooperation of professionals overseas via its International Social Service (ISS) network partners in 120 countries. Depending on the country, the assessment might be completed by a social worker from the local government, from a charity organisation, or an independent social worker or other relevant professional. For more information about referrals to CFAB, call CFAB's Advice Line, Monday to Friday, 9:30am to 4:30pm on 020 7735 8941.

Alternatively, email [info@cfab.org.uk](mailto:info@cfab.org.uk).

- **The International Child Abduction and Contact Unit (ICACU)** is the Central Authority in England and Wales for the Brussels IIa Regulation and, in England only, for the 1996 Hague Convention, and accepts requests that fall within the scope of those international agreements. See the "President's Guidance on the International Child Abduction and Contact Unit and its role" (November 2014)<sup>vi</sup>. Information about referring to ICACU can be found here: <https://www.gov.uk/government/publications/international-child-abduction-unitrequest-for-co-operation-form>

The Central Authorities in Scotland and Northern Ireland for the Brussels IIa Regulation are the same Central Authorities as for child abductions. Scotland, Wales and Northern Ireland have a different Central Authority for the 1996 Hague Convention (see list of Authorities on the Hague website)<sup>vii</sup>.

- **IAC - The Centre for Adoption** has developed the Outbound Permanence Project which offers advice and information to local authorities who are considering placing children overseas. More information can be found here: [www.icacentre.org.uk/la-rra/outbound-permanence-project/](http://www.icacentre.org.uk/la-rra/outbound-permanence-project/)

## **What if the overseas assessment does not meet UK requirements?**

In some cases, adopting a structured collaborative approach can pose challenges to resolving a case. Notably, there can be long timeframes waiting for information from abroad, misunderstandings in communication, and overseas social workers will not necessarily understand the assessment requirements of UK local authorities and courts.

In these instances, the local authority can adapt their approach by undertaking a portion of the assessment in the UK and requesting that the overseas authority completes the remaining part of the assessment. For example, the overseas social worker can assess the family home and community, identify local support for the family, undertake record checks and make their recommendation about the suitability of the prospective carers. The prospective carers can then travel to the UK to complete further assessment with the UK social worker, including observing them with the child. This may also enable an introductory period with the child to help them settle in the placement.

While there may still be cultural issues to address with this approach, the UK social worker's assessment can serve as a supplement to the overseas social worker's report and ensure that the full assessment is completed to UK requirements, if this is clearly the only way to obtain critical information.

Another option is for the UK social worker to complete the assessment alongside a local social worker abroad, who contributes local knowledge and understanding of resources and culture. CFAB can facilitate this collaboration in some countries<sup>viii</sup>. The UK social worker would have the correct permissions in place (as described above) to travel to the other country and there will be an agreement made between the UK social worker and the relevant authority abroad before the assessment begins. This should take into account the role of each social worker, how the recommendation will be formulated, and how much time will be taken by each professional in completing joint or solo visits with the family. The UK social worker will also have the correct permissions and insurance to travel abroad.

## **2. Local authority or independent social workers travelling abroad**

In some cases, and as a last resort, a local authority may decide that there is no alternative to the UK social worker travelling abroad, for example where it is not possible to connect with a local professional because there is no Central Authority or International Social Service (ISS) partner in that country. In these cases, the UK social worker should ensure that they are covered by international insurance, have the correct permission to travel and to complete the assessment overseas, and notify the British Embassy's consular section about their plans (note - if the social worker is not a British national, they would contact their own country's embassy abroad). The social worker should also contact the authorities of the other country

for information about legal requirements. If it is necessary to send a UK-based social worker abroad, it is preferable to send a social worker who has knowledge of the country's culture and practices, or consider the joint assessment as suggested above.

i [www.migrationobservatory.ox.ac.uk/resources/reports/unsettled-status-which-eu-citizens-are-at-risk-of-failing-to-secure-their-rights-after-brexit/](http://www.migrationobservatory.ox.ac.uk/resources/reports/unsettled-status-which-eu-citizens-are-at-risk-of-failing-to-secure-their-rights-after-brexit/)

ii [www.gov.uk/government/publications/foreign-embassies-in-the-uk](http://www.gov.uk/government/publications/foreign-embassies-in-the-uk)

iii See "Support for British national abroad: a guide" accessible on [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/407661/FCO\\_BritsAbroad\\_DL\\_2014\\_web\\_\\_1\\_.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/407661/FCO_BritsAbroad_DL_2014_web__1_.pdf)

iv Kafalah is usually defined as "the commitment to voluntarily take care of the maintenance, of the education and of the protection of a minor, in the same way as a father would do it for his son" (art. 116 Family Code of Algeria). Kafalah creates the following effects: exercise of the parental authority and the obligation of maintenance of the caregiver on the one hand, and persistence of the family bonds and preservation of the child's family status on the other. Kafalah is a Muslim tradition, which finds its origin in the Sharia. For more information, see *ISS/IRC Factsheet no 51: Specific case: KAFALAH*, available at <http://resourcecentre.savethechildren.se/library/issirc-fact-sheet-no-50-specific-case-kafalah> v The most relevant of these are the Brussels IIA Regulation (see <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:338:0001:0029:EN:PDF> ) and the 1996 Hague Convention (see [www.hcch.net/index\\_en.php?act=conventions.text&cid=70](http://www.hcch.net/index_en.php?act=conventions.text&cid=70))

vi For the "President's Guidance on the International Child Abduction and Contact Unit and its role" (November 2014), see [www.judiciary.gov.uk/publications/presidents-guidance-on-the-international-child-abduction-and-contact-unit-icacu-and-its-role/](http://www.judiciary.gov.uk/publications/presidents-guidance-on-the-international-child-abduction-and-contact-unit-icacu-and-its-role/) vii 1996 Hague Convention Authorities for the UK: [www.hcch.net/index\\_en.php?act=authorities.details&aid=941](http://www.hcch.net/index_en.php?act=authorities.details&aid=941)

viii For more information on which countries this service applies to see here: <http://cfab.org.uk/news/cfab-launches-new-localassistance-service-uk-social-workers-conducting-assessments-abroad>