

**HANDLING INTER-JURISDICTIONAL  
CHILD CASES**

**GUIDANCE  
FOR  
HEALTH AND SOCIAL CARE TRUSTS  
AND  
THE NORTHERN IRELAND CENTRAL AUTHORITY – THE  
NORTHERN IRELAND COURTS AND TRIBUNAL SERVICE**

**May 2022**



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## 1. Introduction

- 1.1. This Guidance is issued jointly by the Department of Health and the Department of Justice. Child cases which have an inter-jurisdictional element (i.e. across states or cross-border) must be handled in compliance with international and domestic law. This Guidance is specific to the required cooperation between authorities under the 1996 Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children (**the 1996 Hague Convention**<sup>1</sup>) and the European Council Regulation (EC) No. 2201/2003 Concerning Jurisdiction and the Recognition and Enforcement of Judgements in Matrimonial Matters and the Matters of Parental Responsibility (**Brussels IIa**<sup>2</sup>). The legislation aims to bring about better co-operation between states so that children's cases are handled efficiently and, when necessary, protection measures are put in place without delay to deliver better outcomes for the children involved. Relevant international and domestic law requires the establishment of a Central Authority and refers to roles of both a Central Authority and Competent Authorities.
- 1.2. The Northern Ireland Courts and Tribunal Service (NICTS) Operational Policy Branch, within the Department of Justice (DoJ), acts as the Central Authority for Northern Ireland (NICA).
- 1.3. The Health and Social Care Trusts (HSC Trusts), are the Competent Authorities in Northern Ireland.
- 1.4. The purpose of the Guidance is to clarify and increase awareness of the Central Authority and Competent Authorities duties and responsibilities under the 1996 Hague Convention and Brussels IIa Regulation and to ensure a consistent regional approach to handling inter-jurisdictional cases, including collection of information for monitoring purposes.

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<sup>1</sup> The 1996 Hague Convention is available at: <https://www.hcch.net/en/instruments/conventions/full-text/?cid=70>

Following the UK's exit from the European Union the 1996 Hague Convention is enshrined in UK legislation applicable to Northern Ireland. The Private International Law (Implementation of Agreements) Act 2020 c.24 is available at: <https://www.legislation.gov.uk/ukpga/2020/24/contents>

<sup>2</sup> Brussels IIa is available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32003R2201>

**1.5. The United Kingdom left the European Union on 31 January 2020 and the UK Transition Period ended on 31 December 2020. During the UK Transition Period the EU Regulation known as ‘Brussels IIa’ remained in place and cases with an EU member state that were ongoing<sup>3</sup> at the end of the Transition Period must continue to be progressed in compliance with Brussels IIa. From 1 January 2021, new cases must be progressed in compliance with the 1996 Hague Convention.** Your attention is drawn to Section 3 of this Guidance.

1.6. From 1 April 2022, the Department of Health’s Social Care and Children’s Directorate (DoH SCCD) assumed the relevant functions previously carried out by the Health and Social Care Board (HSCB). References in other documents referred to in this guidance to the HSCB should be read as meaning the DoH SCCD from 1 April 2022.

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<sup>3</sup> A case is considered ongoing when a document instituting proceedings or an equivalent document is lodged with the court, provided that the applicant has not subsequently failed to take the steps the applicant was required to take to have service effected on the respondent; or if the document has to be served before being lodged with the court, at the time when it is received by the authority responsible for service, provided that the applicant has not subsequently failed to take the steps the applicant was required to take to have the document lodged with the court.

## 2. Who is the Guidance for?

- 2.1. This Guidance is designed to assist HSC Trust staff, in particular front-line social workers and their team managers, and NICA staff, to deal effectively with inter-jurisdictional child cases involving the 1996 Hague Convention or, where proceedings with an EU member state were instituted prior to 31 December 2020, inter-jurisdictional child cases involving the Brussels IIa Regulation. The careful exercise of professional judgement must be applied on a case by case basis and should take into account all the available evidence, concerns, the impact of harm, degree of risk and other matters relating to the individual and his or her circumstances. The seriousness and the degree of risk of harm are key to determining the most appropriate response.
- 2.2. A social worker from Northern Ireland should not travel to another state to work on a case unless he or she has first received the approval of a Senior Manager and informed DoH SCCD and the relevant authorities in the other jurisdiction. Northern Ireland social workers' qualifications may not be automatically recognised in another state, and it is therefore important that the HSC Trust checks that the social worker has the appropriate registration, or equivalent, and legal cover to undertake this work. (See Section 18 for cases involving the Republic of Ireland).
- 2.3. HSCTs may require the support of DoH SCCD, Police Service of Northern Ireland (PSNI), the Education Authority, the Department for Communities and UK Visas and Immigration to work in partnership under established regional child protection policy and procedures. The Children's Services Co-operation Act (NI) 2015<sup>4</sup>, which requires co-operation among certain public authorities and other persons within Northern Ireland, to contribute to the wellbeing of children and young people, may also be applicable.
- 2.4. It is important that those who use the Guidance are aware that the legislation which underpins it includes **public and private law matters**. For cases which

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<sup>4</sup> The Children's Services Co-operation Act (Northern Ireland) 2015 is available at: [http://www.legislation.gov.uk/nia/2015/10/pdfs/nia\\_20150010\\_en.pdf](http://www.legislation.gov.uk/nia/2015/10/pdfs/nia_20150010_en.pdf)

may be linked to unaccompanied and separated children or human trafficking, *Working Arrangements for the Welfare and Safeguarding of Unaccompanied and Separated Children and Young People*<sup>5</sup> and *Working Arrangements for the Welfare and Safeguarding of Child Victims and Potential Child Victims of Human Trafficking and Modern Slavery*<sup>6 7</sup> are relevant. Practitioners should particularly note the functions of the Independent Guardian<sup>8</sup> which could impact on their work on inter-jurisdictional child cases.

2.5. HSC Trusts must adhere to the Department of Health's policy *Co-operating to Safeguard Children and Young People in Northern Ireland* (2016)<sup>9</sup> and the *Regional Core Child Protection Policies and Procedures*<sup>10</sup> in determining a proportionate response to the level of risk of harm to a child.

2.6. **Nothing in this Guidance prevents a HSC Trust from taking any necessary actions within the HSC Trust area, and/or alerting other agencies outside the HSC Trust area as necessary, to protect a child if there is imminent danger or risk of significant harm. (See Section 6).**

2.7. This Guidance identifies how the NICA, as the NI Central Authority, with the necessary involvement of the HSC Trusts, as Competent Authorities, under the authority of international legislation, will cooperate to:

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<sup>5</sup> Working Arrangements for the Welfare and Safeguarding of Unaccompanied and Separated Children and Young People is available at: <https://www.health-ni.gov.uk/sites/default/files/publications/health/working-arrangements-for-unaccompanied-and-separated-children.pdf>

<sup>6</sup> Working Arrangements for the Welfare and Safeguarding of Child Victims and Potential Child Victims of Human Trafficking and Modern Slavery: <https://www.health-ni.gov.uk/sites/default/files/publications/health/working-arrangements-potential-child-victims-of-human-trafficking-and-modern-slavery.pdf>

<sup>7</sup> The documents referred to at footnote 5. And 6. Above are currently being reviewed with the intention of combining these into a single document.

<sup>8</sup> The functions of the Independent Guardian are set out in Section 21 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 available at: <http://www.legislation.gov.uk/nia/2015/2/section/21>

<sup>9</sup> Cooperating to Safeguard Children and Young People in Northern Ireland is available at: <https://www.health-ni.gov.uk/publications/co-operating-safeguard-children-and-young-people-northern-ireland>

<sup>10</sup> The Regional Core Child Protection Policies and Procedures are available at: <http://www.proceduresonline.com/sbni/>



- (a) request help or essential information via a Central Authority in another state, for example, when dealing with a child from another state who is in Northern Ireland and is in need of support or protection; or when a child from Northern Ireland is in another state and is in need of support or protection;
- (b) respond to requests for help or essential support via a Central Authority in another state relating to children about whom there are child protection concerns; or the placement of children from another state into care in Northern Ireland; or placement of a child from Northern Ireland into care in another state;
- (c) respond to requests via another Central Authority for social reports for child protection and for the placement of children in care in Northern Ireland and in other countries; and
- (d) respond to requests via another Central Authority to prepare reports on behalf of parents on their suitability to have contact with a child living in another state.

### 3. Legislative Context

3.1. The Children (Northern Ireland) Order 1995<sup>11</sup> is the principal domestic statute governing the care, upbringing and protection of children in Northern Ireland. This remains the position for cases where there is an inter-jurisdictional element.

3.2. There are four international law instruments that can apply to inter-jurisdictional child cases depending on the nature of the case, the countries involved and whether the case was ongoing at 31 December 2020 (end of the UK Transition Period). Note: The 1996 Hague Convention and Brussels IIa are the two instruments that require co-operation between NICTS acting as the Central Authority and the Health and Social Care Trusts acting as the Competent Authority.

- The 1963 Vienna Convention on Consular Relations (**the Vienna Convention**<sup>12</sup>) sets out the rules of engagement between consulates or Embassies to enable Convention signatory nations to protect the interests of their own citizens in another country (and also to promote commercial relations between the two countries). Articles 36 and 37 of the Vienna Convention require consideration when handling inter-jurisdictional child cases.
- Under the Vienna Convention, social workers must consider informing the relevant consulate or Embassy<sup>13</sup> of a foreign country when a child with a connection to that country is made the subject of a child protection plan, has required immediate protection or is made subject to care proceedings in Northern Ireland. Articles 36 and 37 of the Convention may be relevant to inter-jurisdictional child cases. Unless the child is taken into care with

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<sup>11</sup> The Children (Northern Ireland) Order 1995 is available at: <http://www.legislation.gov.uk/nisi/1995/755/introduction/made>

<sup>12</sup> The Vienna Convention is available at: [https://legal.un.org/ilc/texts/instruments/english/conventions/9\\_2\\_1963.pdf](https://legal.un.org/ilc/texts/instruments/english/conventions/9_2_1963.pdf)

<sup>13</sup> An Embassy and High Commission Contact List can be found at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/98058/embassy-list.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/98058/embassy-list.pdf)

parental consent, the child is considered detained for the purposes of Article 36. Under Article 37, in circumstances where a child, who is a foreign national, is subject to care proceedings, requiring the appointment of a Guardian ad Litem is appointed, there is a duty on the relevant NI authority [a HSC Trust] to inform the consul of the child's home state.

- The 1980 Hague Convention on the Civil Aspects of International Child Abduction (**the 1980 Hague Convention**<sup>14</sup>) came into force in Northern Ireland on 1 August 1986. Its aim is to ensure the return of children without delay who have been wrongfully removed from their state of habitual residence<sup>15</sup>. It applies to children under 16 years of age. Whilst the Central Authority has obligations under 1980 Hague Convention, they are separate from those under 1996 Hague Convention and Brussels IIa and do not typically involve co-operation between NICA and HSC Trusts.
- The 1996 Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children (**the 1996 Hague Convention**<sup>16</sup>) came into force in Northern Ireland on 1 November 2012. It is broader in scope than the 1980 Hague Convention and applies to children up to the age of 18. It provides an agreed set of legal provisions and co-operation arrangements to cover the handling of inter-jurisdictional cases where children's safety or welfare may be an issue and covers a range of civil measures including those relating to parental responsibility and contact and also public measures of protection or care.

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<sup>14</sup> The 1980 Hague Convention is available at: <https://www.hcch.net/en/instruments/conventions/full-text/?cid=24>

<sup>15</sup> 'Habitual residence' is open to legal interpretation but a working definition suitable for the purposes of this Guidance is "*the place where a person has established, on a fixed basis, his permanent or habitual centre of interests, with all the relevant facts being taken into account for the purpose of determining such residence*".

<sup>16</sup> The 1996 Hague Convention is available at: <https://www.hcch.net/en/instruments/conventions/full-text/?cid=70>

Following the UK's exit from the European Union the 1996 Hague Convention is enshrined in UK legislation applicable to Northern Ireland. The Private International Law (Implementation of Agreements) Act 2020 c.24 is available at: <https://www.legislation.gov.uk/ukpga/2020/24/contents>

- The European Council Regulation (EC) No. 2201/2003 Concerning Jurisdiction and the Recognition and Enforcement of Judgements in Matrimonial Matters and the Matters of Parental Responsibility (Brussels IIa<sup>17</sup>) came into force in Northern Ireland on 1 August 2004 and applied from 1 March 2005, with the exception of Articles 67, 68, 69 and 70, which applied from 1 August 2004. **The United Kingdom left the European Union on the 31 January 2020. The UK Transition Period ended on 31 December 2020. During the UK Transition Period Brussels IIa remained in place. Cases that were ongoing<sup>18</sup> under Brussels IIa at the end of the UK Transition Period must continue to be progressed in compliance with Brussels IIa.**

The table included at **Appendix 1** is provided for easy reference to legislation which may apply depending on the circumstances of a case.

- 3.3. The Parental Responsibility and Measures for the Protection of Children (International Obligations) (England and Wales and Northern Ireland) Regulations 2010 (**the 2010 Regulations**)<sup>19</sup> came into force on 1 November 2012. They make the necessary changes to domestic law to enable the United Kingdom to ratify the 1996 Hague Convention and also makes additional provision to ensure consistency in the implementation of Brussels IIa.
- 3.4. The Hague Conventions apply to states throughout the world which have ratified them. Such states are referred to as ‘Contracting States’ in the Conventions. There are states which have not ratified one or both Conventions. An up to date list of Contracting States can be found on the relevant Hague Convention Status

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<sup>17</sup> Brussels IIa is available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32003R2201>

<sup>18</sup> A case is considered ‘ongoing’ when a document instituting the proceedings or an equivalent document is lodged with the court, provided that the applicant has not subsequently failed to take the steps the applicant was required to take to have service effected on the respondent; or if the document has to be served before being lodged with the court, at the time when it is received by the authority responsible for service, provided that the applicant has not subsequently failed to take the steps the applicant was required to take to have the document lodged with the court.

<sup>19</sup> The 2010 Regulations are available at: <http://www.legislation.gov.uk/ukxi/2010/1898/made>

Table<sup>2021</sup>. Contracting States may have made stipulations, declarations or reservations which can be accessed on the relevant Hague Convention web pages.

- 3.5. With the sole exception of Denmark, Brussels Ila applies to states within the European Union<sup>22</sup> (EU), referred to as 'Member States' in the Regulation.
- 3.6. The term 'state' in this Guidance is used to refer to both a Contracting State (Hague Conventions) and an EU Member State (Brussels Ila).
- 3.7. The United Kingdom is one Contracting State for the purposes of the Hague Conventions and was one Member State for the purpose of Brussels Ila. This Guidance does not apply to domestic cases within the United Kingdom. In such cases HSC Trusts must apply existing NI and UK legislation, policies and procedures.
- 3.8. Effective handling of inter-jurisdictional cases requires the sharing of personal information between states. NI authorities may exchange personal information in accordance with the UK General Data Protection Regulation (UK GDPR)<sup>23</sup> and the **Data Protection Act 2018 (DPA)**<sup>24</sup>.
- 3.9. The Data Protection regimes in both the UK and the EU provide a framework to ensure that personal information is shared appropriately. Where appropriate, information should be shared with consent and, where appropriate, the wishes of those who do not consent to having their information shared should be respected.

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<sup>20</sup> The Contracting States to the 1980 Hague Convention can be found at: <https://www.hcch.net/en/instruments/conventions/status-table/?cid=24>

<sup>21</sup> The Contracting States to the 1996 Hague Convention can be found at: <https://www.hcch.net/en/instruments/conventions/status-table/?cid=70>

<sup>22</sup> The Member States of the European Union can be found at: [https://europa.eu/european-union/about-eu/countries\\_en](https://europa.eu/european-union/about-eu/countries_en)

<sup>23</sup> Following the UK's exit from the European Union, the EU GDPR was retained in UK domestic law by the EU (Withdrawal) Act 2018 and was renamed the UK General Data Protection Regulation. Powers in the in the EUWA 2018, enabled regulations - [The Data Protection, Privacy and Electronic Communications \(Amendments etc\)\(EU Exit\) Regulations 2020](#) to ensure the UK's legal framework for data protection continues to function after the UK Transition Period.

<sup>24</sup> The Data Protection Act 2018 is available at: <http://www.legislation.gov.uk/ukpga/2018/12/contents/enacted>

However, under the Data Protection regimes information may be shared without consent if, following consideration, there is a lawful basis to do so, for example, where the safety of a child is at risk. **The nature of child protection work means it will be inappropriate to seek consent in many instances where doing so, or the delay incurred from doing so, could put a child at increased risk of harm.** Practitioners should make information sharing decisions on a case by case basis, seeking advice where necessary from their Data Protection Officer. The rationale for such decisions should be formally recorded.

3.10. When non-EU states are involved, HSC Trusts and the NICA must continue to comply with the UK Data Protection regime. Consideration must be given by the HSC Trust to the appropriate legislative provisions applicable to a case that would permit the transfer of personal information. The NICA should satisfy itself that it can transfer the information in compliance with the UK Data Protection regime. Chapter V of the GDPR 'Transfers of personal data to third countries or international organisations' is relevant.<sup>25</sup> The GDPR Article 49 'Derogations for specific situations' warrants consideration, particularly paragraphs 1(d) (*the transfer is necessary for important reasons of public interest*) and 1(f) (*the transfer is necessary in order to protect the vital interests of the data subject or of other persons, where the data subject is physically or legally incapable of giving consent*), which may provide the necessary condition.

3.11. It is imperative that before requesting or providing information HSC Trusts consider **Article 37 of the 1996 Hague Convention**. This states that information should not be requested or provided if to do so could put the child or their property at risk, or would threaten the life or liberty of a member of the child's family. This consideration is particularly relevant in cases involving a Separated/Unaccompanied Asylum Seeking Child (S/UASC).

3.12. It is also imperative that consideration is given to **Regulation 10 of the 2010 Regulations**. In particular, disclosure of information is not required where this would constitute a criminal offence or contempt of court. If this is a matter of

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<sup>25</sup> Chapter V of the GDPR is available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R0679&from=EN>

concern, legal advice should be sought. In potential contempt of court cases, if the HSC Trust considers it is in the child's interests to disclose information, it must seek the Court's leave to do so.

3.13. This Guidance does not apply to the 1993 Hague Convention on Protection of Children and Co-operation in respect of Inter-country Adoption (**The 1993 Hague Convention**<sup>26</sup>). The Department of Health is the Central Authority for the 1993 Hague Convention and relevant guidance is available in Chapter 13 of the *Adoption – Regional Policy and Procedures*<sup>27</sup>.

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<sup>26</sup> The 1993 Hague Convention is available at: <https://www.hcch.net/en/instruments/conventions/full-text/?cid=69>

<sup>27</sup> The Adoption – Regional Policy and Procedures are available at: <https://hscboard.hscni.net/download/PUBLICATIONS/policies-protocols-and-guidelines/Adoption-Regional-Policy-and-Procedures-2017-Amended-Section-10-August-2019.pdf>

#### 4. The Central Authority (NICA)

- 4.1. Both the 1996 Hague Convention and Brussels IIa require each state to establish a Central Authority to help ensure effective communication between states. Brussels IIa only applies to cases where proceedings were instituted prior to 31<sup>st</sup> December 2020.
- 4.2. All communications sent to a Central Authority in another state will normally be sent by the NICA, as the Central Authority for Northern Ireland. Similarly, it is expected that Central Authorities in other states will normally communicate with the NICA.
- 4.3. **A key role of the NICA, for relevant requests which have been made through it, is to ensure that information is exchanged as soon as possible** between it and the HSC Trusts and between it and the Central Authorities of other states. Target times are included at **Appendix 8**. For such requests the NICA must ensure that both the HSC Trust Gateway Service Senior Social Worker and the HSC Trust Principal Social Work Practitioner (for court) receive all requests and all correspondence on cases. **Appendix 3** contains contact details for HSC Trusts' Gateway Services and Principal Social Work Practitioners (for court).
- 4.4. Under the 1996 Hague Convention, certain states, including the United Kingdom, have declared that requests for information in certain circumstances must be communicated through their Central Authorities (See Para 7.4). In other circumstances, HSC Trusts as Competent Authorities, can deal directly with their counterpart Competent Authorities in other states.



## 5. The Competent Authorities (HSC Trusts)

- 5.1. The Competent Authorities in Northern Ireland are the HSC Trusts. Each HSC Trust has designated a Senior Social Worker within its Gateway Service to receive incoming requests from the NICA.
- 5.2. HSC Trusts may communicate directly with their counterpart Competent Authorities in other states and vice-versa. **However, there are circumstances when Central Authorities must be involved** (see Appendix 1). All HSC Trust communication should be copied to the Principal Social Work Practitioner (for court). In cases where there must be NICA involvement, if a HSC Trust receives direct communication from a Central Authority of another state it should forward the communication to the NICA advising who is taking the request forward (see Para 4.2).
- 5.3. It is important that HSC Trusts keep the NICA apprised of significant developments on cases that the NICA is involved in through to their conclusion. Target times are included at **Appendix 8**.
- 5.4. The 2010 Regulations which support the 1996 Hague Convention and Brussels IIa requires Competent Authorities to respond in a timely way to certain types of request. To help ensure this happens, the HSC Trust Principal Social Work Practitioner (for court), or nominated officer in their absence, must have oversight of these requests.

## 6. Taking action to protect a child at immediate risk of harm who habitually resides in another state

6.1. If a child in need of immediate protection is identified to, or by, a HSC Trust and is within the HSC Trust area, the HSC Trust must exercise its duties to safeguard and promote the welfare of that child under the Children (Northern Ireland) Order 1995<sup>28</sup> and in line with the 2018 Regional Core Child Protection Policies and Procedures<sup>29</sup>. **Nothing should delay the HSC Trust in ensuring that the child is safe.**

6.2. The types of situations that can arise are:

- A child from another state is located in a vulnerable/incapacitated state in Northern Ireland.
- A child for whom there are protection concerns has been removed from another state and is located in Northern Ireland.

6.3. In urgent cases, Articles 11 and 12 of the 1996 Hague Convention allow the HSC Trust to take any necessary measures, including provisional measures, to protect the child until the Competent Authority in the state where the child is habitually resident has taken any necessary action. Similarly, for cases involving an EU state that were ongoing<sup>30</sup> before the end of the UK Transition Period (31 December 2020), Article 20 of Brussels IIa allows the Northern Ireland Courts to take necessary measures in urgent cases. (See Para 1.5).

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<sup>28</sup> The Children (Northern Ireland) Order 1995 is available at:  
<http://www.legislation.gov.uk/nisi/1995/755/contents/made>

<sup>29</sup> The Regional Core Child Protection Policies and Procedures are available at:  
<http://www.proceduresonline.com/sbni/>

<sup>30</sup> A case is considered ‘ongoing’ when a document instituting the proceedings or an equivalent document is lodged with the court, provided that the applicant has not subsequently failed to take the steps the applicant was required to take to have service effected on the respondent; or if the document has to be served before being lodged with the court, at the time when it is received by the authority responsible for service, provided that the applicant has not subsequently failed to take the steps the applicant was required to take to have the document lodged with the court.

- 6.4. If the child is not habitually resident in Northern Ireland, the child's home state has jurisdiction<sup>31</sup> and the appropriate Competent Authority in the child's home state is responsible for decisions about the child's welfare and protection beyond the immediate measures taken. There may be occasions where a transfer of jurisdiction for the child must be considered (See Para 7.5).
- 6.5. Once steps have been taken to protect the child, when the HSC Trust requires assistance from the state where the child is habitually resident, the HSC Trust should liaise with the relevant Competent Authority (if known) in the child's home state and progress the case in the best interests of the child. The Children and Families Across Borders (CFAB)<sup>32</sup> may be able to assist with providing contact details for the relevant Competent Authority in the child's home state.
- 6.6. If the child needs continuing protection while the HSC Trust and/or NICA are liaising with their counterparts in the child's home state, the 2010 Regulations allow the HSC Trust to seek a court order. However, it is anticipated that the child's home state will take over jurisdiction before a final order would be required<sup>33</sup>.
- 6.7. In line with the requirements of the Vienna Convention, the Social Worker must consider the need to inform the relevant Embassy/Consulate [*see footnote 13*] of the child's home state if the child is made the subject of a child protection plan, has required immediate protection or is made subject to care proceedings. NICA has no role to play under the Vienna Convention, and, consequently, is not involved in this process.

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<sup>31</sup> See Article 12 of the 1996 Hague Convention.

<sup>32</sup> CFAB is the UK's only member of the International Social Services Network. <http://cfab.org.uk/>

<sup>33</sup> See Regulation 6 of the 2010 Regulations.

## 7. Incoming and Outgoing Requests for Information or Action

- 7.1. An incoming request is a request for information or action received by a HSC Trust or the NICA from a Competent Authority or a Central Authority of another state.
- 7.2. An outgoing request is a request for information or action sent by a HSC Trust to a Competent Authority of another state or the NICA to a Central Authority of another state. **Outgoing requests to the Central Authority of another state must be made via the NICA.**
- 7.3. All email communication between the NICA and HSC Trusts or the DoH SCCD containing personal/sensitive information must be sent using Criminal Justice Secure Mail (CJSM). The NICA CJSM email address is:  
[InternationalChildAbduction@courtsni.gov.uk.cjasm.net](mailto:InternationalChildAbduction@courtsni.gov.uk.cjasm.net)
- 7.4. Incoming and outgoing requests should specify the appropriate legislation under which the information or action is being requested. Appendix 1 contains a table listing the legislation which may apply depending on the nature of the case. For outgoing requests under the 1996 Hague Convention, the other state may have made reservations, declarations, notifications or depositary communications that apply. For example, a declaration that liaison must be through the Central Authority. Practitioners will need to check the 1996 Hague Convention Status Table to establish whether conditions apply. This can be done by accessing the Status Table<sup>34</sup>, locating the relevant state and selecting the link (if appropriate) under the last column (Res/D/N/DC) which will show any Reservations, Declarations, Notifications or Depositary Communications.
- 7.5. For incoming and outgoing requests regarding the transfer of jurisdiction for a child to or from Northern Ireland, Rules 4.28 to 4.39 of the Family Proceedings (NI) Rules 1996<sup>35</sup> apply. The Rules set out the appropriate actions for applicants and the Court.

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<sup>34</sup> The 1996 Hague Convention Status Table can be found at:

<https://www.hcch.net/en/instruments/conventions/status-table/?cid=70>

<sup>35</sup> The Family Proceedings Rules (Northern Ireland) 1996 can be found at:

<https://www.justice-ni.gov.uk/sites/default/files/publications/justice/the-family-proceedings-rules-northern-ireland-1996-february-2021.pdf>

**Sections 8 to 11 of this Guidance provide further information on handling Incoming Requests from another state.**

**Sections 12 to 15 of this Guidance provide further information on handling Outgoing Requests to another state.**

**Note: A request may require consideration/action under more than one section of this Guidance.**

## TYPES OF INCOMING REQUEST FROM ANOTHER STATE

### 8. Incoming – Discovering the whereabouts of a child

- 8.1. A request may be received by the NICA from an authority in another state to provide assistance in discovering the whereabouts of a child believed to be in Northern Ireland. Article 31c of the 1996 Hague Convention may apply.
- 8.2. The type of situation that can arise is:
- A child is missing from home (in its country of habitual residence) and is believed to be in Northern Ireland and in need of protection.
- 8.3. Under the 2010 Regulations<sup>36</sup> which support the 1996 Hague Convention and Brussels IIa, HSC Trusts must comply with requests for information except, if to do so could put the child or their property at risk, or would threaten the life or liberty of a member of the child's family, or may be a criminal offence, or may be in contempt of court.
- 8.4. If required a translation should be requested by the NICA and the completed translation will be forwarded upon receipt to the appropriate HSC Trust's Gateway Service and Principal Social Work Practitioner (for court). The HSC Trust should consider the use of the Runaway and Missing from Home and Care - Missing Children Protocol<sup>37</sup> between the PSNI and the HSC Trusts. The NICA should be able to identify the appropriate HSC Trust if an address at which the child is suspected to be present has been provided. If an address has not been provided the NICA should send the request to the DoH SCCD Responsible Officer. (See Appendix 3 for contact details).

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<sup>36</sup> Regulation 10(6) of the 2010 Regulations can be found at:  
<http://www.legislation.gov.uk/ukxi/2010/1898/regulation/10/made>

<sup>37</sup> The Runaway and Missing from Home and Care - Missing Children Protocol can be found at:  
<http://www.hscboard.hscni.net/download/PUBLICATIONS/policies-protocols-and-guidelines/Missing-Children-Protocol-June-2015.pdf>

- 8.5. If a HSC Trust does not locate the child, it must immediately notify DoH SCCD as the lead body for coordinating and disseminating information in relation to key categories of missing persons.
- 8.6. DoH SCCD will take action as set out in the HSC guidance *Notification of Children/Families assessed as being at potential risk and their whereabouts remain unknown*<sup>38</sup>. This will include raising a 'Red Alert' to relevant personnel across HSC Trusts, Great Britain and the ROI as part of the HSC Missing Children/Families Notification System. If the child is not located the DoH SCCD will notify the NICA as soon as possible and within 4 weeks.
- 8.7. If the whereabouts of the child or relevant information is discovered, the HSC Trust that made the discovery will notify the DoH SCCD which will update the HSC Missing Persons Notification System. The HSC Trust, in whose area the child is located must consider whether disclosing his/her location or relevant information is likely to place the child or his/her family at risk of harm (See Article 37 of the 1996 Hague Convention). This consideration is particularly relevant in cases involving a Separated/Unaccompanied Asylum Seeking Child (S/UASC).
- 8.8. The HSC Trust must notify the NICA of actions taken to locate the child. If the child is located, any action taken to protect the child should also be notified. If the HSC Trust decides to withhold information it must inform the NICA.
- 8.9. If the HSC Trust decides it is in the child's interests to disclose information but that doing so may be a criminal offence or may be in contempt of court (See Article 10(6)(b) of the 2010 Regulations), the HSC Trust must inform the NICA of its intention to apply to the Court for leave to release the information and that this may take additional time. The HSC Trust will keep the NICA informed of the progress made in respect of its application.

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<sup>38</sup> The HSC Guidance *Notification of Children/Families assessed as being at potential risk and their whereabouts remain unknown* is available at: [www.proceduresonline.com/sbni/files/notif\\_ch\\_fam\\_risk.doc](http://www.proceduresonline.com/sbni/files/notif_ch_fam_risk.doc)

8.10. Although this process is about locating the child, if child protection concerns exist, appropriate action should be taken in accordance with established Regional Core Child Protection Policies and Procedures<sup>39</sup>.

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<sup>39</sup> The Regional Core Child Protection Policies and Procedures are available at: <http://www.proceduresonline.com/sbni/>



## 9. Incoming – Report on the situation of a child

9.1. A request may be received to provide a report on the situation of a child or to collect and exchange information on the situation of the child on cases specific to parental responsibility. Articles 32a, 34(1) and 37 of the 1996 Hague Convention may apply. Note: Article 32a permits the provision of a report by the HSC Trust via the NICA whilst Article 34(1) permits the request. If the case involves an EU state and it was ongoing<sup>40</sup> before the end of the UK Transition Period (31 December 2020) Article 55 of Brussels IIa may apply. (See Para 1.5).

9.2. The type of situation that can arise is:

- an authority in another state may request a report from a HSC Trust about a child if the authority is considering taking protection measures for that child while the child is in that state.

9.3. The United Kingdom has declared under Article 34(2) of the 1996 Hague Convention that this type of request must be communicated to its authorities only through the Central Authority. If a HSC Trust receives the request directly, it must notify the NICA. The NICA will advise the Central Authority of the other state of its involvement in line with the UK Declaration and will liaise with the HSC Trust to obtain a timely report for sharing with the Central Authority of the other state.

9.4. The NICA will forward the request and information received to the HSC Trust Gateway Service and Principal Social Work Practitioner (for court)..

9.5. The HSC Trust(s) must provide a report as soon as possible and within 8 weeks of receiving the request, unless the HSC Trust considers that the

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<sup>40</sup> A case is considered 'ongoing' when a document instituting the proceedings or an equivalent document is lodged with the court, provided that the applicant has not subsequently failed to take the steps the applicant was required to take to have service effected on the respondent; or if the document has to be served before being lodged with the court, at the time when it is received by the authority responsible for service, provided that the applicant has not subsequently failed to take the steps the applicant was required to take to have the document lodged with the court.

provision of the report is likely to place the child's person or property in danger, or constitute a serious threat to the liberty or life of a member of the child's family. (See Article 37 of the 1996 Hague Convention and Article 12(6) of the 2010 Regulations<sup>41</sup>). This consideration is particularly relevant in cases involving a Separated/Unaccompanied Asylum Seeking Child (S/UASC).

- 9.6. Reports prepared for Court cannot be disclosed without the leave of the Court in accordance with Rule 4.24 of the Family Proceedings Rules (Northern Ireland) 1996<sup>42</sup> and corresponding Magistrate Court Rules<sup>43</sup>. Under Regulation 12(6)(b) of the 2010 Regulations, disclosure is not required where it would constitute a contempt of court or a criminal offence.
- 9.7. The leave of the Court is not required to release HSC Trust Reports not specifically prepared for court, for example, Looked After Children Review of Arrangements Reports or UNOCINI Initial and Pathway Assessment Reports. However, if the HSC Trust proposes to release a report of this kind, the content needs to be assessed by a senior HSC Trust official/Principal Social Work Practitioner for Court and redacted if necessary.
- 9.8. There is no prescribed format for responding to a request for a report on a child. A suggested proforma is attached at Appendix 4.
- 9.9. HSC Trust staff should take care to provide information that is relevant and proportionate to any risk presented to the child. Removal of third party information contained in the report may be necessary. The provision of personal information must be in compliance with data protection legislation. (See Paras 3.8 - 3.12).

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<sup>41</sup> Regulation 12(6) of the 2010 Regulations can be found at:  
<http://www.legislation.gov.uk/uksi/2010/1898/regulation/12/made>

<sup>42</sup> The Family Proceedings Rules (Northern Ireland) 1996 can be found at:  
<https://www.justice-ni.gov.uk/sites/default/files/publications/justice/the-family-proceedings-rules-northern-ireland-1996-february-2021.pdf>

<sup>43</sup> The Magistrates' Courts Rules (Northern Ireland) 1984 can be found at:  
<https://www.justice-ni.gov.uk/sites/default/files/publications/justice/the-magistrates-court-rules-northern-ireland-1984-february-2021.pdf>

## **10. Incoming – Consider the need to take measures or assist with implementing measures for the protection of the child or his/her property**

10.1. A request may be received to consider the need to take measures or assist in implementing measures for the protection of the child or his/her property or to prevent harm to the child or prejudice to interested parties. Articles 32(b), 34(1), 35(1) and 36 of the 1996 Hague Convention may apply.

10.2. A request made under Article 34(1) of the 1996 Hague Convention must be made through the Central Authority (NICA), as declared by the UK under Article 34(2) of the 1996 Hague Convention.

10.3. The type of situation that can arise is:

- A child from another state for whom there are protection concerns in that other state, has been located in Northern Ireland.

10.4. The NICA will forward requests it receives to the relevant HSC Trust. The HSC Trust is not obliged to take any particular action, but must consider if protection measures are needed.

10.5. The HSC Trust may request further supporting information from another state authority under Article 34(1) of the 1996 Hague Convention. If the original request was received from the Central Authority in another state, the HSC Trust request for further information should be made through the NICA.

10.6. If the HSC Trust decides to take protective action it should do so in compliance with the *Regional Core Child Protection Policy and Procedures*<sup>44</sup>.

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<sup>44</sup> The Regional Core Child Protection Policies and Procedures are available at: <http://www.proceduresonline.com/sbni/>

## **11. Incoming – Placement of a child, habitually resident in another state, into care in Northern Ireland**

11.1. A request may be received for placement of a child, habitually resident in another state, into foster care or residential care in Northern Ireland. Article 33 of the 1996 Hague Convention may apply. Article 56 of Brussels IIa may apply if the request involves an EU state and was ongoing<sup>45</sup> before the end of the UK Transition Period (31 December 2020). (See Para 1.5).

11.2. The types of situations that can arise are:

- A Competent Authority in another state considers that it is in the child's best interests to be placed with family or other connected persons, or in a specialist residential unit in Northern Ireland;
- A child's foster carer is moving to Northern Ireland and the Competent Authority in another state considers it is in the child's best interests to stay with that foster carer.

11.3. Under Article 33(2) of the 1996 Hague Convention or, if the request was ongoing<sup>46</sup> before the end of the UK Transition Period (31 December 2020) under Article 56(2) of Brussels IIa, a placement into Northern Ireland can only happen if the HSC Trust has consented to it.

11.4. Where such a request is received by the NICA this should be forwarded to the relevant HSC Trust, (via the Gateway Service and marked for the attention of the Senior Social Worker and copied to the Principal Social Work Practitioner for Court) as the relevant Competent Authority whose consent is required. If the request is received directly by the HSC Trust, the HSC Trust should notify the NICA. The NICA should lead on communication with the Central Authority in the other state. Although communication between the HSC Trust and the

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<sup>45</sup> A case is considered ongoing when a document instituting the proceedings or an equivalent document is lodged with the court, provided that the applicant has not subsequently failed to take the steps the applicant was required to take to have service effected on the respondent; or if the document has to be served before being lodged with the court, at the time when it is received by the authority responsible for service, provided that the applicant has not subsequently failed to take the steps the applicant was required to take to have the document lodged with the court.

<sup>46</sup> See footnote 45.

Competent Authority of the other state is permissible, formal consent may be sought, and responded to, via the respective Central Authorities.

11.5. If the child is the subject of any Court proceedings in Northern Ireland, the Court must make the decision on the placement and a Directions Hearing to consider the request must be arranged (See Para 7.5).

11.6. Where transfer of jurisdiction is not being sought and the child is not the subject of any Court proceedings in Northern Ireland the HSC Trust must consider the request which should include a report about the child and the reasons why the placement is being requested. The Principal Social Work Practitioner (for court) must ensure that the Executive Director of Social Work is notified of such cases. A list of necessary documentation about the child/family, which would help the HSC Trust make an informed decision on consent is set out at Appendix 5. Additional information may be requested as necessary.

11.7. The HSC Trust must assess all of the information received and decide whether it agrees the placement is appropriate and in the best interests of the child. **If the HSC Trust consents to the placement, the HSC Trust and the Competent Authority in the other State must agree responsibility arrangements for monitoring and reviewing the placement.** Such monitoring and review arrangements must be in keeping with the requirements of the law relating to looked after children in Northern Ireland. If the HSC Trust accepts responsibility the requirements under the Arrangements for Placement of Children (General) Regulations (Northern Ireland) 1996<sup>47</sup> apply in full. If the placing state accepts responsibility for monitoring and reviewing the placement this will be done in line with that state's legislation and taking cognizance of the aforementioned Placement of Children Regulations in respect of Northern Ireland. For such cases involving the Republic of Ireland, in line with the Protocol between Northern Ireland and Ireland for Handling Inter-Jurisdictional Child Cases<sup>48</sup>, monitoring and review of placements in Northern Ireland from the

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<sup>47</sup> The Arrangements for Placement of Children (General) Regulations (Northern Ireland) 1996 can be found at: <http://www.legislation.gov.uk/nisr/1996/453/made>

<sup>48</sup> The Protocol Between Northern Ireland and Ireland for Handling Inter-Jurisdictional Child Cases is available at: <https://www.health-ni.gov.uk/publications/protocol-between-northern-ireland-and-ireland-handling-inter-jurisdictional-child-cases>

Republic of Ireland will be the responsibility of the placing ROI authority.

11.8. Where the child is being placed with a foster carer, the HSC Trust must establish the legal structure of the placement and who holds/shares parental responsibility. It is for the placing state to continue to monitor the placement in line with its relevant legislation and procedures and in conjunction with the HSC Trust. Any agreement between the authorities must be akin to monitoring and review arrangements for a looked after child in Northern Ireland, as mandated by the Review of Children's Cases Regulations (Northern Ireland) 1996<sup>49</sup> which will apply in full.

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<sup>49</sup> The Review of Children's Cases Regulations (Northern Ireland) 1996 can be found at: <http://www.legislation.gov.uk/nisr/1996/461/contents/made>

## TYPES OF OUTGOING REQUESTS TO ANOTHER STATE

### 12. Outgoing – Discovering the whereabouts of a child

12.1. A request may be made to authorities in another state for assistance in discovering the whereabouts of a child believed to be in that state. Article 31c of the 1996 Hague Convention may apply.

12.2. The types of situations that can arise are:

- A child is missing from home in Northern Ireland (his/her country of habitual residence) and is believed to be in another state and in need of protection;
- A child who is on the Child Protection Register is missing and is believed to be in another state;
- A child who is subject to a child protection investigation is missing and is believed to be in another state;
- A child who has been assessed as a child in need of support is missing and is believed to be in another state;
- A child who is a looked after child is missing and is believed to be in another state.

Note: In each of the scenarios above the child may be in another state with his/her family or a family member.

12.3. When a child is missing the HSC Trust should consider the use of the *Runaway and Missing from Home and Care - Missing Children Protocol*<sup>50</sup> between the PSNI and the HSC Trusts. The HSC Trust should also have notified DoH SCCD as the lead body for coordinating and disseminating information in relation to key categories of missing persons.

12.4. DoH SCCD will take action as set out in the HSC guidance *Notification of Children/Families assessed as being at potential risk and their whereabouts*

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<sup>50</sup> The Runaway and Missing from Home and Care - Missing Children Protocol can be found at: <http://www.hscboard.hscni.net/download/PUBLICATIONS/policies-protocols-and-guidelines/Missing-Children-Protocol-June-2015.pdf>

*remain unknown*<sup>51</sup>. This will include raising a 'Red Alert' to relevant personnel across HSC Trusts, Great Britain and the ROI as part of the HSC Missing Children/Families Notification System.

12.5. If a HSC Trust has taken steps to safeguard a child's welfare (or plans to do so) and believes that the child has moved or been taken out of the HSC Trust area to another state, the HSC Trust may ask the other state for help to discover the whereabouts of the child.

12.6. Where the HSC Trust requires assistance, it should make the request through the NICA using form H2 (See Appendix 2), providing as much information as possible regarding the child's circumstances which might assist the authorities in the other state to trace the child. The NICA will contact the Central Authority in the other state.

12.7. The HSC Trust should not delay making the request whilst gathering further information which may be relevant.

12.8. If the child is subsequently located in the other state, the HSC Trust may request directly or through the NICA, further action depending on the circumstances of the case. For example, if the child is habitually resident in Northern Ireland and NI Court proceedings are ongoing, the NI Court can request the authorities in the other state to assume jurisdiction of the child. Similarly, if the HSC Trust has serious concerns about a child suffering significant harm, it may inform the relevant authorities in the other state about the danger to the child and details of measures the HSC Trust was taking or considering taking to protect the child.

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<sup>51</sup> The HSC Guidance *Notification of Children/Families assessed as being at potential risk and their whereabouts remain unknown* is available at: [www.proceduresonline.com/sbni/files/notif\\_ch\\_fam\\_risk.doc](http://www.proceduresonline.com/sbni/files/notif_ch_fam_risk.doc)



### 13. **Outgoing – Report on the situation of a child**

13.1. A HSC Trust may request information from authorities in another state regarding a child who is present in the HSC Trust area, regardless of where the child is habitually resident, for whom it is considering taking measures of protection or for whom it requires information specific to parental responsibility. Articles 32a, 34(1) and 37 of the 1996 Hague Convention may apply. Note: Article 32a permits the provision of the report by the other state whilst article 34(1) permits the request. If the case involves an EU state and it was ongoing<sup>52</sup> before the end of the UK Transition Period (31 December 2020) Article 55 of Brussels IIa may apply. (See Para 1.5).

13.2. The type of situation that can arise is:

- a HSC Trust requests a report from an authority in another state about a child, or a family member of a child, if it is considering taking protection measures for that child while the child is in the HSC Trust area.

13.3. The HSC Trust must determine the relevant legislation under which it is making the request. In conjunction with Article 34(1) of the 1996 Hague Convention and depending on the circumstances of the case, this can include:

- 1996 Hague Convention Article 35(1) – assist in the implementation of measures of protection
- 1996 Hague Convention Article 35(2) – suitability of a parent to access a child

13.4. The HSC Trust can ask a Competent Authority in another state to communicate information it holds that is relevant to the case. The Competent Authority in the other state is not formally obliged to provide the information.

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<sup>52</sup> A case is considered ‘ongoing’ when a document instituting the proceedings or an equivalent document is lodged with the court, provided that the applicant has not subsequently failed to take the steps the applicant was required to take to have service effected on the respondent; or if the document has to be served before being lodged with the court, at the time when it is received by the authority responsible for service, provided that the applicant has not subsequently failed to take the steps the applicant was required to take to have the document lodged with the court.

13.5. For outgoing requests made under the 1996 Hague Convention, the other state may have made reservations, declarations, notifications or depositary communications that apply, for example a declaration that liaison must be through the Central Authority and, if so, the HSC Trust should request the information through the NICA. Practitioners will need to check the 1996 Hague Convention Status Table<sup>53</sup> to establish whether conditions apply (See Para 7.4).

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<sup>53</sup> The 1996 Hague Convention Status Table can be found at:  
<https://www.hcch.net/en/instruments/conventions/status-table/?cid=70>

#### **14. Outgoing – Consider the need to take measures or assist with implementing measures for the protection of the child or his/her property**

14.1. A HSC Trust may request an authority in another state to consider the need to take measures for the protection of a child or his/her property or to assist with implementing measures to prevent harm to the child or prejudice to interested parties. Articles 32(b), 34(1), 35(1) and 36 of the 1996 Hague Convention may apply.

- The type of situation that can arise is a child for whom there are protection concerns in Northern Ireland has been located in another state.

14.2. Requests to the Central Authority of another state under Article 34(1) must be made via the NICA, whilst requests under Articles 32 or 35 or notifications under Article 36 may be made by a HSC Trust or the NICA. The HSC Trust should provide sufficient information and supporting reasons using form H2 (See Appendix 2) to the NICA for onward transmission and consideration by the Central and Competent Authorities in the other state.

14.3. The Competent Authorities in the other state are not obliged to take any particular action, but should consider if protection measures are needed. The authorities in the other state may, under Article 34(1) of the 1996 Hague Convention, request further supporting information from the HSC Trust which the HSC Trust can then provide under Article 32a of the 1996 Hague Convention subject to compliance with the UK Data Protection regime (See Paras 3.8 - 3.12).

## **15. Outgoing – Placement of a child, habitually resident in Northern Ireland, into care in another state**

15.1. A HSC Trust may request placement of a child, habitually resident in Northern Ireland, into foster care or residential care in another state. Article 33 of the 1996 Hague Convention may apply. Article 56 of Brussels IIa may apply if the case involves an EU state and it was ongoing<sup>54</sup> before the end of the UK Transition Period (31 December 2020).

15.2. The types of situations that can arise are:

- A HSC Trust considers that it is in the child's best interests to be placed with family or other connected persons, or in a specialist residential unit in another state;
- A child's foster carer is moving to another state and the HSC Trust considers it is in the child's best interests to stay with that foster carer.

**15.3. Under Article 33 of the Children (Northern Ireland) Order 1995<sup>55</sup>, the HSC Trust must make an application to a Northern Ireland Court for approval to place a child currently in its care and subject to a care plan, outside of the jurisdiction of Northern Ireland.**

15.4. For placement of a child accommodated under Article 21(1) of the Children (Northern Ireland) Order 1995<sup>56</sup> (voluntarily accommodated with agreement of the parents, with no care order in place), the HSC Trust must obtain the consent of every person with parental responsibility before placing a child in another state and this should be recorded in the child's file held by the HSC Trust.

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<sup>54</sup> A case is considered ongoing when a document instituting proceedings or an equivalent document is lodged with the court, provided that the applicant has not subsequently failed to take the steps the applicant was required to take to have service effected on the respondent; or if the document has to be served before being lodged with the court, at the time when it is received by the authority responsible for service, provided that the applicant has not subsequently failed to take the steps the applicant was required to take to have the document lodged with the court.

<sup>55</sup> Article 33 of the Children (NI) Order 1995 can be found at: <http://www.legislation.gov.uk/nisi/1995/755/article/33/made>

<sup>56</sup> Article 21 of the Children (NI) Order 1995 can be found at: <http://www.legislation.gov.uk/nisi/1995/755/article/21/made>

- 15.5. The placement should be made under Article 33 of the 1996 Hague Convention and the consent of the Central or Competent Authority in the other state is required. HSC Trusts should be mindful that it may take some time to obtain the consent of the other state. HSC Trusts will not have contact details for all Competent Authorities in other states and, where necessary, the NICA should assist the HSC Trust by contacting the Central Authority in the other state to identify the appropriate Competent Authority in that state.
- 15.6. If the intended placement is to a state within the EU and the request was ongoing<sup>57</sup> before the end of the UK Transition Period (31 December 2020), the placement should be made under Article 56 of Brussels IIa and the consent of the Competent Authority in the other state to the placement is required. **If the intended placement is being made to the ROI, its Competent Authority, TUSLA, requests that the ROI Central Authority, the Department of Justice, is contacted in writing in the first instance. The request should be made via the NICA.**
- 15.7. Where a placement is being considered to a state which has not ratified the 1996 Hague Convention, Children and Families Across Borders (CFAB)<sup>58</sup> may be able to assist with providing contact details for the relevant authorities in the other state.
- 15.8. Under Article 33 of the 1996 Hague Convention, the HSC Trust must consult the relevant Authority (this may be a Competent or Central Authority) in the other state. The HSC Trust must provide a report on the child with reasons for the proposed placement or provision of care. Clarification should be sought from the Competent or Central Authority in the other state as to what information it requires. Note: It may be helpful to use as a guide the list of documentation

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<sup>57</sup> A case is considered 'ongoing' when a document instituting the proceedings or an equivalent document is lodged with the court, provided that the applicant has not subsequently failed to take the steps the applicant was required to take to have service effected on the respondent; or if the document has to be served before being lodged with the court, at the time when it is received by the authority responsible for service, provided that the applicant has not subsequently failed to take the steps the applicant was required to take to have the document lodged with the court.

<sup>58</sup> CFAB is the UK's only member of the International Social Services Network. <http://cfab.org.uk/>

which a HSC Trust would require if the placement was for a child to be placed into Northern Ireland (See Appendix 5).

15.9. If the child is the subject of ongoing Court proceedings in Northern Ireland, the HSC Trust must make the Court aware of the HSC Trust's intention to place the child under Article 33 of the Children (Northern Ireland) Order 1995.

15.10. In addition to the requirements of Article 33 of the Children (Northern Ireland) Order 1995, the HSC Trust must also satisfy the requirements, so far as is reasonably practicable, of the Arrangements for Placement of Children (General) Regulations 1996<sup>59</sup> for placing a child in care outside Northern Ireland; ensuring that adequate arrangements are in place for supervising and reviewing the placement. In relation to placements in ROI, this is in line with the Protocol between Northern Ireland and Ireland for Handling Inter-Jurisdictional Child Cases<sup>60</sup>.

15.11. This Guidance does not apply to adoptive placements and placements which are private family arrangements. Adoptive placements are governed by the 1993 Hague Convention on Protection of the Children and Co-operation in Respect of Intercountry Adoption<sup>61</sup>.

15.12. If it is proposed to place the child for assessment in a possible adoption placement in another state, it may be necessary to establish the proposed placement as a foster placement initially (See A (A Child) [2009] EWCA Civ 41)<sup>62</sup>. Legal advice should be sought so that the factual circumstances can be properly considered.

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<sup>59</sup> The Arrangements for Placement of Children (General) Regulations (Northern Ireland) 1996 can be found at: <http://www.legislation.gov.uk/nisr/1996/453/contents/made>

<sup>60</sup> The Protocol Between Northern Ireland and Ireland for Handling Inter-Jurisdictional Child Cases is available at: <https://www.health-ni.gov.uk/publications/protocol-between-northern-ireland-and-ireland-handling-inter-jurisdictional-child-cases>

<sup>61</sup> The 1993 Hague Convention can be found at: <https://www.hcch.net/en/instruments/conventions/full-text/?cid=69>

<sup>62</sup> Details of the judgement are available at: [http://www.bailii.org/cgi-bin/format.cgi?doc=/ew/cases/EWCA/Civ/2009/41.html&query=\(A\)+AND+\(\(A\)+AND+\(Child\)\)+AND+\(\[2009\]\)+AND+\(EWCA\)+AND+\(Civ\)+AND+\(41\)](http://www.bailii.org/cgi-bin/format.cgi?doc=/ew/cases/EWCA/Civ/2009/41.html&query=(A)+AND+((A)+AND+(Child))+AND+([2009])+AND+(EWCA)+AND+(Civ)+AND+(41))

## **16. Providing a report to support a parent's case for contact with a child who habitually resides in another state**

16.1. If a parent in Northern Ireland is seeking to obtain or maintain access with his/her child who habitually resides in another state, the parent can ask the HSC Trust to carry out an assessment of their suitability for access. Article 35(2) of the 1996 Hague Convention may apply.

16.2. The parent may use the HSC Trust assessment in their case for access with the authorities of the other state.

16.3. All requests for assessments must be made to the relevant HSC Trust's Gateway Service copied to the HSC Trust Principal Social Work Practitioner (for court) (See Appendix 3 for HSC Trusts contact details).

16.4. There is no duty on the HSC Trust to undertake or provide such an assessment. It may subcontract the work to another appropriate agency or independent practitioner. However, in line with the HSC Trust Policy and Procedure for undertaking assessments in relation to Inter-country Adoption Applications, the HSC Trust may carry out such an assessment:

- using the regionally agreed HSC Report Proforma - *Assessment Report for a parent's case for contact with a child in another state* (for Hague Convention 1996 Article 35(2)) (See Appendix 6); and
- using the regionally agreed HSC Trusts Charging Scheme (See Appendix 7).

16.5. In the process of completing these assessments, the HSC Trust will gather information about the parent's suitability to have contact with the child. It should consider other adults at the parent's home address and make recommendations about any conditions that would be appropriate for the other state's Court to impose. The Court or authority in the other state dealing with the application for contact must consider the HSC Trust's assessment before making its decision.

## **17. Data Collection on Inter-jurisdictional Cases**

17.1. It is the responsibility of the NICA and the HSC Trusts to collect data on inter-jurisdictional cases in which they are involved. It is important to maintain records to demonstrate that all necessary actions have been taken.

17.2. Reliable data collection will assist the HSC Trusts, DoH SCCD and NICA to monitor international child cases and respond to requests for information.



## **18. Specific Arrangements for Inter-jurisdictional Child Cases between Northern Ireland and the Republic of Ireland**

18.1. In view of the land border between Northern Ireland and the Republic of Ireland, a cross-border Protocol, developed under the auspices of the North/South Ministerial Council<sup>63</sup>, has been in place since 2011. An updated version of the Protocol was agreed and published in July 2021<sup>64</sup>.

18.2. The Protocol provides a framework for the relevant social work authorities in both jurisdictions to manage and fulfil their respective responsibilities. Its purpose is to assist them to implement procedures in the best interests of children, young people and families who are assessed as vulnerable and have, or may have, moved across the border, or who are to be placed in the other jurisdiction. This includes children and young people known to social services who are:

- in need;
- the subject of child protection investigations or included on the Child Protection Register or Child Protection Notification System;
- subject to public law orders, voluntary accommodation arrangements, or placements for therapeutic or assessment purposes; or
- missing.

18.3. The Protocol covers the five HSC Trust areas and all Tusla regions in the ROI. It provides detail on how cases should be progressed at a local level.

18.4. Practitioners dealing with a cross-border case should read and apply the Protocol in conjunction with this Guidance which sets out the relevant legislation that permits the inter-jurisdictional working arrangements. The Protocol has the force of law in Northern Ireland in the sense that a failure to abide by it could be

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<sup>63</sup> North South Ministerial Council - <https://www.northsouthministerialcouncil.org/>

<sup>64</sup> The Protocol Between Northern Ireland and Ireland for Handling Inter-Jurisdictional Child Cases is available at: <https://www.health-ni.gov.uk/publications/protocol-between-northern-ireland-and-ireland-handling-inter-jurisdictional-child-cases>

challenged by way of judicial review. **It is therefore to be viewed as obligatory.**

18.5. Social workers in either Northern Ireland or the Republic of Ireland that provide face to face social work services to families and children in the other jurisdiction (NI or ROI) are required to be registered with professional bodies in both jurisdictions (dual registration). Dual registration is not required for Social Workers working remotely.

18.6. This Guidance will help practitioners decide when they need to involve the NICA which will communicate with the Irish Central Authority<sup>65</sup> as necessary, or alternatively, when to communicate directly with the Irish Competent Authority<sup>66</sup>.

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<sup>65</sup> The Department of Justice (Ireland) is the Irish Central Authority for International Child Abduction. <http://www.justice.ie/>

<sup>66</sup> TUSLA Child and Family Agency. <http://www.tusla.ie/>

## **19. Review of this Guidance**

19.1. The Department of Health and the Department of Justice will jointly review this Guidance after one year from the date of its publication. The Guidance may be updated in advance of the review in the event that changes are necessary. Contact details for the Department of Health Child Protection Policy Unit and the Department of Justice Northern Ireland Courts Service Operational Policy Branch are available at Appendix 3.

TABLE SHOWING LEGISLATION THAT MAY APPLY DEPENDING ON THE NATURE OF THE CASE

| NATURE OF THE CASE                     | LEGISLATION REFERENCE   | IS CENTRAL AUTHORITY (NICA) INVOLVEMENT REQUIRED? | LEGISLATION EXTRACT (AND RATIONALE FOR NICA INVOLVEMENT)   |
|--|---|---|--|
| Discovering the whereabouts of a child | <a href="#">1996 Hague Convention</a><br><br>Article 31 ( <i>facilitation and assistance</i> )  | YES   | Article 31 The Central Authority of a Contracting State, either directly or through public authorities or other bodies, shall take all appropriate steps to <ol style="list-style-type: none"> <li>a) facilitate the communications and offer the assistance provided for in Articles 8 and 9 and in this Chapter;</li> <li>b) facilitate, by mediation, conciliation or similar means, agreed solutions for the protection of the person or property of the child in situations to which the Convention applies;</li> <li>c) provide, on the request of a competent authority of another Contracting State, assistance in discovering the whereabouts of a child where it appears that the child may be present and in need of protection within the territory of the requested State.</li> </ol> |
|  | <a href="#">2010 Regulations</a><br><br>Regulation 10 ( <i>“Requests for information by Central Authority where request received under Article 31(c)”</i> ) | YES   | <b>10.</b> —(1) Paragraphs (2), (3) and (4) apply if a Central Authority receives a request for assistance under Article 31(c) of the Convention (either directly or via another Central Authority in the United Kingdom).<br>(4) (“The Department of Justice may request information about the whereabouts of a child from a public authority in Northern Ireland...”)<br>(5) A person (other than a court in Northern Ireland) who receives a request for information under this regulation must comply with the request as soon as reasonably practicable (but this is subject to paragraph (6)).<br>(6) Nothing in this regulation requires a person to disclose information if—   |

|   |  |     |   |
|---|--|-----|---|
|   |  |     | <p>(a) Article 37 of the Convention applies, or</p> <p>(b) the disclosure would constitute contempt of court or a criminal offence.</p> <p>(7) If a person who receives a request under this regulation thinks that it is desirable, in responding to the request, to refer to information the disclosure of which would constitute contempt of court, the person must notify the court.</p> <p>(8) If a person who receives a request under this regulation thinks that it is desirable, in responding to the request, to refer to information the disclosure of which would constitute a criminal offence unless the disclosure were authorised by a court, the person must notify the court.</p> |
| <b>Report on the situation of a child</b> | <a href="#">1996 Hague Convention</a><br>Article 32(a) ( <i>provide a report</i> ) | YES | Article 32 On a request made with supporting reasons by the Central Authority or other competent authority of any Contracting State with which the child has a substantial connection, the Central Authority of the Contracting State in which the child is habitually resident and present may, directly or through public authorities or other bodies,<br>a) provide a report on the situation of the child;<br>b) request the competent authority of its State to consider the need to take measures for the protection of the person or property of the child.  |
|   | Article 34(1) ( <i>"information relevant to the protection of a child"</i> )       | YES | Article 34(1) Where a measure of protection is contemplated, the competent authorities under the Convention, if the situation of the child so requires, may request any authority of another Contracting State which has information relevant to the protection of the child to communicate such information.<br><br>The UK has declared, using Article 34(2), that requests under Article 34(1) shall be communicated to its authorities only through its Central Authority.   |
|   | Article 37 (likely to place the child's person or property in danger)              | YES | Article 37 An authority shall not request or transmit any information under this Chapter if to do so would, in its opinion, be likely to place the child's person or property in danger, or constitute a serious threat to the liberty or life of a member of the child's family.   |

|  |   |     |   |
|--|---|-----|---|
|  | <p><a href="#">2010 Regulations</a></p> <p>Regulation 12 (<i>Power to request report on child's situation</i>)</p>  | YES | <p><b>12.—</b>(1) This regulation applies where a Central Authority thinks it appropriate to provide a report on the situation of a child under Article 32(a) of the Convention.</p> <p>(4) The Department of Justice may request a written report on the situation of the child from a public authority or other person in Northern Ireland, but may do so only in circumstances where a requirement to provide information could be imposed on the public authority or other person by an Act of the Northern Ireland Assembly without the consent of the Secretary of State (see sections 6 to 8 of the Northern Ireland Act 1998).</p> <p>(6) Nothing in this regulation requires a person to disclose information if—</p> <ul style="list-style-type: none"> <li>(a) Article 37 of the Convention applies, or</li> <li>(b) the disclosure would constitute contempt of court or a criminal offence.</li> </ul>   |
|  | <p><a href="#">Brussels IIa</a></p> <p>Article 55 (cooperation on cases specific to parental responsibility)</p> <p><i>(If the case involves an EU state and it was ongoing<sup>67</sup> before the end of the UK Transition Period (31 December 2020) Article 55 of Brussels IIa may apply.)</i></p> | YES | <p>Article 55 The Central Authorities shall, upon request from a central authority of another Member State or from a holder of parental responsibility, cooperate on specific cases to achieve the purposes of this Regulation. To this end, they shall, acting directly or through public authorities or other bodies, take all appropriate steps in accordance with the law of that Member State in matters of personal data protection to:</p> <ul style="list-style-type: none"> <li>(a) collect and exchange information: <ul style="list-style-type: none"> <li>(i) on the situation of the child;</li> <li>(ii) on any procedures under way; or</li> <li>(iii) on decisions taken concerning the child;</li> </ul> </li> <li>(b) provide information and assistance to holders of parental responsibility seeking the recognition and enforcement of decisions on their territory, in particular concerning rights of access and the return of the child;</li> </ul> |

<sup>67</sup> A case is considered ongoing when a document instituting proceedings or an equivalent document is lodged with the court, provided that the applicant has not subsequently failed to take the steps the applicant was required to take to have service effected on the respondent; or if the document has to be served before being lodged with the court, at the time when it is received by the authority responsible for service, provided that the applicant has not subsequently failed to take the steps the applicant was required to take to have the document lodged with the court.

|   |   |            |   |
|---|---|------------|---|
|   | <p><a href="#">The Family Proceedings Rules (NI) 1996</a></p> <p><i>Rule 4.24 (Confidentiality of documents)</i></p>                      |            | <p>(c) facilitate communications between courts, in particular for the application of Article 11(6) and (7) and Article 15;</p> <p>(d) provide such information and assistance as is needed by courts to apply Article 56; and</p> <p>(e) facilitate agreement between holders of parental responsibility through mediation or other means, and facilitate cross-border cooperation to this end.</p> <p>Rule 4.24. - (1) Notwithstanding any rule of court to the contrary, no document, other than a record of an order, held by the court and relating to proceedings to which this Part applies shall be disclosed, other than to-</p> <p>(a) a party,</p> <p>(b) the legal representative of a party,</p> <p>(c) the guardian ad litem,</p> <p>(d) the Legal Aid Department, or</p> <p>(e) a welfare officer without leave of the judge.</p> <p>(2) An application for leave shall be made in Form C2 setting out the reasons for the request.</p> <p>(3) Nothing in this rule shall prevent the notification by the court or the proper officer or chief clerk of a direction under Article 56(1) [Children (NI) Order 1995] to the authority concerned.</p> |
| <p><b>Consider the need to take measures or assist with implementing measures for the protection of the child or his/her property</b></p> | <p><a href="#">1996 Hague Convention</a></p> <p>Article 32(b) (request consideration of the need to take measures for the protection)</p> | <p>YES</p> | <p>Article 32 On a request made with supporting reasons by the Central Authority or other competent authority of any Contracting State with which the child has a substantial connection, the Central Authority of the Contracting State in which the child is habitually resident and present may, directly or through public authorities or other bodies,</p> <p>a) provide a report on the situation of the child;</p> <p>b) request the competent authority of its State to consider the need to take measures for the protection of the person or property of the child.</p>   |

|  |  |  |  |
|--|--|--|--|
|  | <p>Article 34(1) (<i>“information relevant to the protection of a child”</i>)</p> <p>Article 35(1) (<i>assist in implementation of measures of protection</i>)</p> <p>Article 36 (<i>inform authorities of the other state about the dangers involved</i>)</p> | <p>YES</p> <p>YES (where the NICA is involved in the case)</p> <p>YES (where the NICA is involved in the case)</p> | <p>Article 34 (1) Where a measure of protection is contemplated, the competent authorities under the Convention, if the situation of the child so requires, may request any authority of another Contracting State which has information relevant to the protection of the child to communicate such information.<br/>The UK has declared, using Article 34(2), that requests under Article 34(1) shall be communicated to its authorities only through its Central Authority.</p> <p>Article 35 (1) The competent authorities of a Contracting State may request the authorities of another Contracting State to assist in the implementation of measures of protection taken under this Convention, especially in securing the effective exercise of rights of access as well as of the right to maintain direct contacts on a regular basis.</p> <p>Article 36 In any case where the child is exposed to a serious danger, the competent authorities of the Contracting State where measures for the protection of the child have been taken or are under consideration, if they are informed that the child's residence has changed to, or that the child is present in another State, shall inform the authorities of that other State about the danger involved and the measures taken or under consideration.</p> |
|--|--|--|--|

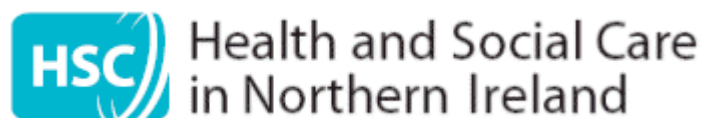


|                                    |  |  |  |
|------------------------------------|--|--|--|
| <p><b>Placement of a child</b></p> | <p><a href="#">1996 Hague Convention</a></p> <p>Article 33 (<i>contemplates placement in a foster family or institutional care in another state</i>)</p><br><p><a href="#">Brussels IIa</a></p> <p>Article 56 (<i>institutional care or with a foster family</i>)</p> <p><u>(If the case involves an EU state and it was ongoing<sup>68</sup> before the end of the UK Transition Period (31 December 2020) Article 56 of Brussels IIa may apply.)</u></p> | <p>YES (where the NICA is involved in the case)</p><br><p>YES (where the NICA is involved in the case)</p> | <p>Article 33 (1) If an authority having jurisdiction under Articles 5 to 10 contemplates the placement of the child in a foster family or institutional care, or the provision of care by <i>kafala</i> or an analogous institution, and if such placement or such provision of care is to take place in another Contracting State, it shall first consult with the Central Authority or other competent authority of the latter State. To that effect it shall transmit a report on the child together with the reasons for the proposed placement or provision of care.</p> <p>(2) The decision on the placement or provision of care may be made in the requesting State only if the Central Authority or other competent authority of the requested State has consented to the placement or provision of care, taking into account the child's best interests.</p><br><p>Article 56</p> <p>1. Where a court having jurisdiction under Articles 8 to 15 contemplates the placement of a child in institutional care or with a foster family and where such placement is to take place in another Member State, it shall first consult the central authority or other authority having jurisdiction in the latter State where public authority intervention in that Member State is required for domestic cases of child placement.</p> <p>2. The judgment on placement referred to in paragraph 1 may be made in the requesting State only if the competent authority of the requested State has consented to the placement.</p> |
|------------------------------------|--|--|--|

<sup>68</sup> A case is considered ongoing when a document instituting proceedings or an equivalent document is lodged with the court, provided that the applicant has not subsequently failed to take the steps the applicant was required to take to have service effected on the respondent; or if the document has to be served before being lodged with the court, at the time when it is received by the authority responsible for service, provided that the applicant has not subsequently failed to take the steps the applicant was required to take to have the document lodged with the court.



**PROTECT- PERSONAL INFORMATION**  
Version 2 – 250917



**H2 – Request for Information to NICA**

**This request is made under:-**

**Convention of 19 October 1996 in Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children**

Request from **SELECT ONE**

Full name and address of the individual making the request: \_\_\_\_\_

Date request sent: \_\_\_\_\_

| <b>PART 1</b><br><b>Child[ren]'s details - Reference Number _____</b>  |
|--|
| <p>a) Surname: _____</p> <p>b) Name(s): _____</p> <p>c) Date (dd/mm/yyyy) and place of birth: _____</p> <p>d) Child's last known address: _____</p> <p>e) Identity number or social security number: _____</p> <p>f) Parent/Guardian's name, address &amp; DOB: _____</p> <p>g) Any other information which may be of assistance, brief background of case etc. : _____</p> <p>h) What information is requested: _____</p> |

| <b>PART 2</b><br><b>The Request</b>   |
|---|
| <p>The afore mentioned <b>Health &amp; Social Services Trust</b> hereby requests that the Northern Ireland Central Authority:-</p> <p><input type="checkbox"/> in accordance with <b>Article 31(c)</b> of the above convention, seeks assistance from the Central Authority in _____ in discovering the whereabouts of the said <b>child[ren]</b> as it appears to the trust that the <b>child[ren]</b> may be present there and in need of protection.</p> <p><input type="checkbox"/> in accordance with <b>Article 32(a)</b> of the above convention, seeks assistance from the Central Authority in _____ with the provision of a report on the situation of the <b>child[ren]</b>.</p> |

## Form H2

**PROTECT- PERSONAL INFORMATION**  
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in accordance with **Article 32(b)** of the above convention, asks the Central Authority in \_\_\_\_\_ to request that the competent authority of its state consider the need to take measures for the protection of the person or property of the said child.

in accordance with **Article 33** of the above convention, the Trust is contemplating the placement/care of the **said child[ren]** in a foster family or institutional care, or the provision of care by *kafala* or an analogous institution. The placement or such provision of care is to take place in \_\_\_\_\_. The Trust wishes to first consult with the Central Authority or other competent authority the said Country, and may thereafter seek their consent to the placement. A report on the said **child[ren]** together with the reasons for the proposed placement or care is attached.

In accordance with **Article 34(1)** a measure of protection being contemplated for the said child, provide any information which may be relevant to the protection of the child.

The completed request form should be emailed via **cjsm** to:-

[internationalChildAbduction@courtsni.gov.uk.cjsm.net](mailto:internationalChildAbduction@courtsni.gov.uk.cjsm.net)

Only "PlainText" emails should be sent via cjsm.

If you have any enquiries in relation to this request please contact:-

The Northern Ireland Central Authority  
Northern Ireland Courts & Tribunals Service  
Operational Policy Branch  
2nd Floor  
Laganside House  
23-27 Oxford Street  
Belfast  
BT1 3LA  
Tel: (028) 9072 8808

### Instructions to NICTS for complying with this request

Please complete "**PART 3**" of this form electronically by:-

- i) Completing the relevant sections (a to e).
- ii) Additional pages may be attached to this document if insufficient space is available.

The completed form should then be emailed **by secure email** to whomever completed **Parts 1 & 2** above.

Only "PlainText" emails should be sent via cjsm.

*Emails may only be sent from one CJSM email address to another. Failure to comply with this requirement will result in protectively marked information being sent by unsecure means.*

**PROTECT- PERSONAL INFORMATION**  
**Version 2 – 250917**

**PART 3**

To be completed by the Northern Ireland Courts & Tribunals Service as follows:-

- Paragraphs (a) & (b) - when the request has been forward to the appropriate Central Authority outside NI for action; and
- Paragraph (c), (d) & (e) when information has been received from the Central Authority outside NI and issued to the Trust.

a) This request was received by the Northern Ireland Courts & Tribunals Service on the Enter the date.

b) The request was transmitted to Enter the name of the Central Authority it was issued to on the Enter the date.

c)  Please see the attached information which was received from the above Central Authority on the Enter the date.

d) The information in paragraphs (c) was completed and issued on the Enter the date by email to:-

**Select the appropriate trusts email address**

e) Full name of the individual who completed paragraphs (c) & (d) \_\_\_\_\_.

## HSC TRUSTS CONTACT DETAILS

| TRUST                          | GATEWAY SERVICE  | PRINCIPAL SW PRACTITIONER   |
|--------------------------------|--|---|
| <b>Belfast HSC Trust</b>       | Senior Social Worker<br>BHSC Gateway Service<br>110 Saintfield Road<br>Belfast<br>BT8 6GR<br>Tel: 028 90507000<br><a href="mailto:Gateway.Services@BelfastTrust.hscni.net">Gateway.Services@BelfastTrust.hscni.net</a>                         | Carol Lamb<br><a href="mailto:Carol.Lamb@BelfastTrust.hscni.net">Carol.Lamb@BelfastTrust.hscni.net</a>                |
| <b>Northern HSC Trust</b>      | Senior Social Worker<br>Referral Gateway Team<br>Oriell House<br>2-8 Castle Street<br>Antrim<br>BT41 4JE<br>Tel: 028 94424459<br><a href="mailto:Spoe.Referrals@NorthernTrust.hscni.net">Spoe.Referrals@NorthernTrust.hscni.net</a>            | Catrina Brown<br><a href="mailto:Catrina.Brown@NorthernTrust.hscni.net">Catrina.Brown@NorthernTrust.hscni.net</a>     |
| <b>South Eastern HSC Trust</b> | Senior Social Worker<br>Gateway Team<br>Stewartstown Road<br>Health Centre<br>212 Stewartstown Road<br>Dunmurry<br>BT17 0FG<br>Tel: 028 90602705<br><a href="mailto:Gateway.Services@SETrust.hscni.net">Gateway.Services@SETrust.hscni.net</a> | Gillian Forrest<br><a href="mailto:Gillian.Forrest@SETrust.hscni.net">Gillian.Forrest@SETrust.hscni.net</a>           |
| <b>Western HSC Trust</b>       | Senior Social Worker<br>Gateway Team<br>Whitehill<br>106 Irish Street<br>Derry<br>BT47 2ND<br>Tel: <b>028 71314090</b><br><a href="mailto:Duty.Team@WesternTrust.hscni.net">Duty.Team@WesternTrust.hscni.net</a>                               | Gemma Wilson<br><a href="mailto:Gemma.Wilson@WesternTrust.hscni.net">Gemma.Wilson@WesternTrust.hscni.net</a>          |
| <b>Southern HSC Trust</b>      | Senior Social Worker<br>Gateway Team<br>Lisanally House<br>87 Lisanally Lane<br>Armagh<br>BT61 7HW<br>Tel: 028 37567100<br><a href="mailto:Duty.Service@SouthernTrust.hscni.net">Duty.Service@SouthernTrust.hscni.net</a>                      | Anne Miller<br><a href="mailto:Court.Directions@southerntrust.hscni.net">Court.Directions@southerntrust.hscni.net</a> |

**Additional Contacts**

|  |   |  |
|--|---|--|
| <b>Dept of Health</b><br><b>Social Care and Children's Directorate</b>   | Tommy Doherty -<br>Responsible Officer for<br>Missing Children        | <a href="mailto:Tommy.Doherty@hscni.net">Tommy.Doherty@hscni.net</a>   |
| <b>Dept of Health</b><br><b>Family and Children's Policy Directorate</b> | Child Protection Policy Unit<br>Castle Buildings<br>Tel: 028 90522828 | <a href="mailto:fcpd-admin@health-ni.gov.uk">fcpd-admin@health-ni.gov.uk</a>   |
| <b>Dept of Justice</b>   | NI Courts Service<br>Operational Policy Branch<br>Tel: 028 90728819   | <a href="mailto:Internationalchildabduction@courtsni.gov.uk.cjsm.net">Internationalchildabduction@courtsni.gov.uk.cjsm.net</a> |

**REPORT PROFORMA – REPORT ON THE SITUATION OF A CHILD.**



*(Delete all Guidance Notes in Red Italics)*

**REPORT ON THE SITUATION OF A CHILD**

**THIS REPORT IS CONFIDENTIAL AND ONLY DISCLOSED TO  
NAMED PERSONS**

**Case Reference Number:**

**Date Request received from the NICA:**

**In the Matter of the Child/ren:**

Name/s & DOB

**Author of Report:**

**Job Title:**

**Address:**

**Date of Report:**

**Date Sent to the NICA:**



## 1. Purpose of Report:

Brief summary of why report has been requested and the issues that report is to focus on, as per request from the NICA.

## 2. Basis of Report:

Who, what and how information was gathered for the purposes of completing the report.

## 3. Background to this Report:

An overview of the issues leading to this report being requested.

## 4. Specific Issues:

The issues being addressed in the report and the relevant views that the Central Authority should be aware of. Careful attention to be given to GDPR requirements and third party information.

## 5. Welfare Checklist

Consideration to be given to the welfare of the child by completing the following sections for each child

|     |   |
|-----|---|
| 5.1 | The ascertainable wishes and feelings of the child considered in the light of age and understanding |
|     |   |
| 5.2 | His / Her physical, emotional and educational needs   |
|     |   |

|            |  |
|------------|--|
| <b>5.3</b> | <b>The likely effect on him / her of any change of circumstances</b> |
|            |  |

|            |  |
|------------|--|
| <b>5.4</b> | <b>His / her age, sex, background and any characteristics which the court considers relevant</b> |
|            |  |

|            |  |
|------------|--|
| <b>5.5</b> | <b>Any harm which he/she has suffered or is at risk of suffering</b>   |
|            |  |
| <b>5.6</b> | <b>How capable are each of his / her parent(s) and any other person in relation to whom the court considers the question to be relevant is of meeting his or her needs</b> |
|            |  |

**6. Assessment & Evaluation:**

Social Work Assessment (including Risk Assessment) and Evaluation

**7. Conclusion:**

**Signed:**

Social Worker

**Date:**

**Signed:**

Senior Social Worker/Team Manager

**Date:**

**LIST OF DOCUMENTATION REQUIRED BY A HSC TRUST FROM ANOTHER STATE WANTING TO PLACE A CHILD IN NORTHERN IRELAND IN ORDER TO OBTAIN HSC TRUST CONSENT TO THE PLACEMENT.**

- Information pertaining to the legal status of the child/young person and a copy of any court orders.
- A Care Plan that has taken the wishes and feelings of the child into account and allows for the child to have access for support services and specialists as required and proposed funding by the requesting state and also outlines arrangements for family contact (if appropriate) or reasons as to why this is not considered appropriate in light of Article 8 of the HR Act. Details about its review should be included in the Care Plan.
- Arrangements must be outlined in the care plan on what supports are put in place in the event of a placement disruption.
- Consent from the parents or legal guardian, where possible, must accompany all documentation.
- The planned duration and supervision of placement, and aftercare arrangements.
- In the case of a foster care placement, the completed assessment of the proposed carers in line with the Schedule 1 of the Foster Placement (Children) Regulations (Northern Ireland) 1996<sup>69</sup>.
- All relevant supporting documentation should accompany the assessment.
- The assessment must be undertaken by a social worker registered by the Northern Ireland Social Care Council.
- The HSC Trust will facilitate the processing of Access NI clearance, however the placing state is responsible for international police checks where relevant.
- The HSC Trust will facilitate the processing of child protection checks, however the placing state must provide child protection checks from the country of origin.
- In the case of a foster care placement, arrangements for the review of the carers must also be included in the assessment. Review of foster carers must be undertaken by a registered social worker in Northern Ireland.

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<sup>69</sup> The Foster Placement (Children) Regulations (Northern Ireland) 1996 are available at: <http://www.legislation.gov.uk/nisr/1996/467/contents/made>

- In the case of a residential placement, the inspection and registration details of the residential centre, including the address of the proposed residential placement, must be provided. Copies of the most recent inspection and monitoring reports must be included.
- Information pertaining to the organisation placing the child/young person and details of a contact person for the placement in Northern Ireland.
- **All documentation must be translated to English by the placing state, including birth certificates, medicals, assessments, police checks.**

**Any cost incurred in accessing supporting documents is a cost accrued by the placing state.**

**Appendix 6 – HSC REPORT PROFORMA**



**THIS REPORT IS CONFIDENTIAL AND ONLY DISCLOSED TO NAMED PERSONS  
ASSESSMENT REPORT FOR A PARENT'S CASE FOR CONTACT WITH A CHILD  
IN ANOTHER STATE (for 1996 Hague Convention Article 35 (2))**

**Name of Non Resident Parent:  
Address:**

**Name of Resident Parent:  
Address:**

**Child/ren's Names**

**Child/ren's DOB**

**Author of Report:**

**Job Title:**

**Date of Report:**

**Date Request received:**

**Date Sent to the Parent:**

### 1. Purpose of Report

(Brief summary of why report has been requested and the issues that report is to focus on)

### 2. Family Composition

| Name | D.O.B | Relationship to child | PR | Address | Nationality |
|------|-------|-----------------------|----|---------|-------------|
|      |       |                       |    |         |             |
|      |       |                       |    |         |             |
|      |       |                       |    |         |             |
|      |       |                       |    |         |             |

### 3. Basis of Report

(Who, what and how information was gathered for the purposes of completing the report)

### 4. Background to Report

(To include history of any Social Services involvement, Multi-disciplinary checks etc.)

### 5. Tool for Review of Family and Environmental Factors

|   |
|---|
| 1. Household members: (consider non-party adults and children and the need for safeguarding checks) |
| <b>Answer Here:</b>   |

|  |
|--|
| 2. Housing; (home conditions, stability of housing, bedrooms, hazards, suitability for contact/care of children) |
| <b>Answer Here:</b>  |

3. Location (consider practical implications for care/contact arrangements)

**Answer Here:**

4. Access to Community Resources (facilities and services in the neighbourhood including health care services, and leisure activities)

**Answer Here:**

5. Employment (consider practical implications for care/contact arrangements)

**Answer Here:**

6. Income (impact of this on care/contact arrangements)

**Answer Here:**

7. Current contact arrangements

**Answer Here:**

8. Support Network (Ecomap)

**Answer Here:**



## Home Conditions Assessment



|     |  |   |   |
|-----|--|---|---|
| 1.  | Smell (e.g. stale cigarette smoke, rotting food)   | 0 | 1 |
| 2.  | Kitchen floor soiled, covered in bits, crumbs, etc.  | 0 | 1 |
| 3.  | Floor covering in any other room soiled as above.  | 0 | 1 |
| 4.  | General decorative order poor – obviously in need of attention (e.g. badly stained wall paper, broken windows)                 | 0 | 1 |
| 5.  | Kitchen sink, draining board, work surfaces or cupboard door have not been washed for a considerable period of time.           | 0 | 1 |
| 6.  | Other surfaces in the house have not been dusted for a considerable period of time.  | 0 | 1 |
| 7.  | Cooking implements, cutlery or crockery showing ingrained dirt and/or these items remain unwashed until they are needed again. | 0 | 1 |
| 8.  | Lavatory, bath or basin showing ingrained dirt.  | 0 | 1 |
| 9.  | Furnishings or furniture soiled.   | 0 | 1 |
| 10. | Informant's or children's clothing clearly unwashed, or hair matted and unbrushed.   | 0 | 1 |
| 11. | Garden or yard uncared for and strewn with rubbish.  | 0 | 1 |
|     | <b>Total Score</b>   |   |   |

## 6. Assessment & Evaluation

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

**HSC TRUSTS' CHARGING SCHEME (FOR COMPLETION OF HSC ASSESSMENT REPORT AT APPENDIX 6).**



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A parent in Northern Ireland requesting an assessment report under Article 35(2) of the 1996 Hague Convention can do so by contacting the HSC Trust Gateway Service where they live.

HSC Trusts will charge the parent for each Assessment Report. Costs will be determined at the time of application.

Article 35(2) Assessments involves home based interviews, checks with relevant professionals and obtaining relevant checks from AccessNI and/or PSNI of the Applicant and a Medical Assessment by the Applicant's General Practitioner. Access NI checks and Medical Assessment costs will also be incurred by the applicant.

All persons over 10 years, residing in the Applicant's home are also required to undergo an AccessNI/PSNI check. An additional charge will be incurred for each person.

Where a Medical Examination of a household member is deemed necessary, an additional charge will apply. This is at the discretion of the Trust Assessor.

HSC Trusts should record details of all Article 35(2) of the 1996 Hague Convention Assessments completed.

## Target Times

## Health and Social Care Trusts

|  |  |
|--|--|
| <p><u>Discovering the whereabouts of a child</u></p> <p>Provision of a report in response to a request received under Article 31(c) of the 1996 Hague Convention.</p>  | <p>As soon as possible and within 8 weeks.</p> |
| <p><u>Report on the situation of a child</u></p> <p>Provision of a report in response to a request received under Article 32a of the 1996 Hague Convention or under Article 55 of Brussels IIa where the case involves an EU state and it was ongoing<sup>70</sup> before the end of the UK Transition Period (31 December 2020).</p>  | <p>As soon as possible and within 8 weeks.</p> |
| <p><u>Consider the need to take measures or assist with implementing measures for the protection of the child or his/her property</u></p> <p>Provision of a report in response to a request received under Article 32(b) of the 1996 Hague Convention.</p>   | <p>As soon as possible and within 8 weeks.</p> |
| <p><u>Placement of a child, habitually resident in another state, into care in Northern Ireland</u></p> <p>Provision of a report in response to a request received under Article 33 of the 1996 Hague Convention or under Article 56 of Brussels IIa where the case involves an EU state and it was ongoing<sup>71</sup> before the end of the UK Transition Period (31 December 2020)</p> | <p>As soon as possible and within 8 weeks.</p> |

<sup>70</sup> A case is considered 'ongoing' when a document instituting the proceedings or an equivalent document is lodged with the court, provided that the applicant has not subsequently failed to take the steps the applicant was required to take to have service effected on the respondent; or if the document has to be served before being lodged with the court, at the time when it is received by the authority responsible for service, provided that the applicant has not subsequently failed to take the steps the applicant was required to take to have the document lodged with the court.

<sup>71</sup> As per footnote 71 above.

|   |  |
|---|--|
| Provision of any information which may be relevant to the protection of the child as under Article 34 of the 1996 Hague Convention. | As soon as possible and within 4 weeks.        |
| Acknowledgment receipt email  | As soon as possible and within 3 working days. |
| Contact details of allocated social worker/team to be provided  | As soon as possible and within 3 working days. |

### **NI Central Authority**

|   |  |
|---|--|
| Action a request received from a HSC Trust with a completed H2 form.                    | As soon as possible and within 2 working days.                   |
| Action a request received from another state.   | As soon as possible and within 2 working days.                   |
| Action a report/information received from a HSC Trust or an authority in another state. | As soon as possible and within 2 working days.                   |
| If required, action translation of requests, reports, information.                      | 5 working days ( <i>dependent on the size of the documents</i> ) |
| Action translated requests, reports, information to a HSC Trust or another state.       | As soon as possible and within 2 working days.                   |