JUDICIARY OF
ENGLAND AND WALES

Annual Report of the Office of the Head of International Family Justice for England and Wales

1st January–31st December 2011

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Preface

This is a report on the activities of the Office of the Head of International Family Justice for England and Wales (hereinafter "the Office") from 1st January 2011 to 31st December 2011.

The Office functions as a centre of expertise and a help desk for general enquiries in the field of international family law for the judiciary and practitioners in this jurisdiction and overseas. Its role is to support cross border judicial collaboration and to enhance the expertise necessary for handling the large number of cases relating to aspects of private international law.

Year on year the Office has seen a significant rise in the number of requests for its liaison function, i.e. requests to establish judicial communications between an English court and a foreign court.

It has also seen a rise in the number of general enquiries, i.e. handling of requests for advice from the Family Division judges and enquiries from academics, the Ministry of Justice and foreign Ministries, the Central Authority, Foreign and Commonwealth Office, and charitable organisations.

This may, in part, be as a result of the continuing growth in international family litigation. 65% of children born in London in 2010 had at least one foreign parent[1]. These figures illustrate the potential for significant future growth in international family litigation.

We both attend national and international conferences and meetings and give lectures. The year 2011 was an important one for the Office. In addition to the large number of cases and enquiries referred to the Office, we both attended the Sixth Meeting of the Special Commission to review the practical operation of the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction (hereinafter "the 1980 Convention") and the Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children (hereinafter "the 1996 Convention") which was staged at the Peace Palace in The Hague.

Three and a half weeks[2] were spent debating a wide range of issues, the product of which will go to the General Affairs Committee in April 2012.

The year 2011 has also seen significant development in child abduction case law, for example the Supreme Court decision in E (Children) [2011] UKSC 27 and the judgments of the European Court of Human Rights (hereinafter "the ECtHR") which sparked it.

The co-operation between the Family Courts, the Central Authority and the lawyers working in the area of international child abduction, relocation and cross-border care cases, which all form part of the child protection chain, has proved to be successful again in 2011, thus contributing to the quality and smooth-running of these proceedings.

However, there is still much work to be done; Professor Nigel Lowe's statistical analysis of applications made in 2008 under the 1980 Convention highlight the often unforgivable delays in

1. Office for National Statistics.
2. The Sixth Special Commission took place between the 1st June and 10th June 2011 and 25th January and 31st January 2012.

Hague Convention cases. Where judgment should be issued within 6 weeks[3] it takes on average 165 days between Brussels II bis States and 215 days where neither State was a Brussels II bis State. Only 28% of Brussels II bis applications to England and Wales were resolved in 6 weeks (37 out of 130)[4].

We hope that in the forthcoming year international child protection and international child abduction cases will continue to receive the necessary attention.

The Rt. Hon. Lord Justice Thorpe
Head of International Family Justice for England and Wales
Lord Justice of Appeal
Liaison Judge for England and Wales
Royal Courts of Justice

Miss Victoria Miller
Lawyer to the Head of International Family Justice for England and Wales
Royal Courts of Justice

3. Article 11(3) of the Brussels II bis Regulation states that, in applying Articles 12 and 13 of the 1980 Convention, the courts must use the most expeditious procedures available in national law and that, barring exceptional circumstances, issue judgment within 6 weeks.
4. See "A statistical analysis of Applications made in 2008 under the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction, Part II, Regional Report", Prel. Doc. No 8 B of May 2011, drawn up by Professor Nigel Lowe, Cardiff University Law School (hereinafter "Professor Nigel Lowe's Statistical Analysis"). Available on the Hague Conference website at < www.hcch.net > under "Child Abduction Section" then "Special Commission meetings on the practical operation of the Convention" and "Preliminary Documents / Information Documents".

Introduction

Since its creation in April 2005 the Office has delivered both the objectives of the Head of International Family Justice and a service to judges and practitioners both within the jurisdiction and in other jurisdictions transiently troubled by a pending case with an English dimension.

The recent developments over the period covered by the report will be discussed in Chapter 1. Chapter 2 sets out the legal framework, while Chapter 3 addresses the Office's duties and functions. Chapter 4 provides a statistical analysis of the cases that the Office dealt with, including liaison requests and general enquiries. This chapter also lists the conferences and international meetings attended by the Head of International Family Justice and the Office lawyer during the period covered by the report. Personal data and finances are dealt with in Chapters 5 and 6 and, finally, a bibliography of articles and papers written by the Office is provided in Chapter 7.

1. Developments in 2011

1.1 A brief background

The Office was established in 2005 when Lord Justice Thorpe was appointed Head of International Family Justice jointly by the Lord Chief Justice and Lord Chancellor to deal with the steady and continuing growth of international family litigation and its consequent demands.

Lord Justice Thorpe is also the vice-president of the Family Division, a senior Court of Appeal Judge, nominated network Judge for the purposes of the International Hague Network of Judges (hereinafter "the IHNJ") for the Hague Conventions, nominated network Judge for the purposes of the European Judicial Network (of Family Law Judges) (hereinafter "the EJN") and Chairman of the Association of International Family Law Judges.

The Office serves as a contact point for the courts in England and Wales when they hear a case of international child abduction or a case involving aspects of international child protection and wish to consult with a foreign judge, and vice versa where a foreign judge wishes to consult with a English judge. In addition, the Office has developed into a helpdesk and knowledge centre for English judges who need information on aspects of international child abduction or international child protection.

As a Hague and European Network Judge, Lord Justice Thorpe shares with colleagues what he has learned from international conferences, innovations or developments in international family law. Wherever possible we publicise the existence and the work of the Office. The Office frequently produces written papers both for conferences and published law journals[5]. The development of the awareness of the work of the Office has contributed to the rise in the number of cases with which we deal.

1.2 The Sixth Special Commission

The 6th Special Commission on the practical operation of the 1980 and 1996 Hague Conventions was held in The Hague in June 2011 and January 2012. The UK delegation, led by Stuart Moore (International Private Law Branch of the Ministry of Justice), comprised Emma Burgess (Ministry of Justice Legal Adviser), Lord Justice Thorpe, Lord Woolman (IHNJ for Scotland), Mr Justice Moylan and Victoria Miller. The delegation mounted a strong showing which, as is reflected in the minutes of the Commission, supported the UK's position as a leader in international family law. That leadership has been crucial in developing greater judicial collaboration through Hague and European judicial liaison networks.

The Commissions recommendations were drafted by the Advisory Committee, of which Lord Justice Thorpe was a member, and the text provided by the Committee was swiftly adopted, almost without amendment, by the Commission at the final session[6].

5. See Chapters 4.6 and 7.
6. See "Conclusions and Recommendations adopted by the Special Commission on the practical operation of the 1980 and 1996 Hague Conventions (1-10 June 2011)", and "Conclusions and Recommendations (Part II) adopted by the Special Commission on the practical operation of the 1980 and 1996 Hague Conventions (25 – 31 January 2012)", drawn up by the Permanent Bureau. Available on the website of the Hague Conference at < www.hcch.net > under "Child Abduction Section" then "Special Commission meetings on the practical operation of the Convention" and "Conclusions and Recommendations".

1.2.1 Guide to Good Practice in Cross-border Mediation

A guide to good practice, although not binding on contracting States, has been drawn up by the Permanent Bureau and endorsed by the 6th Special Commission[7]. An expert group will be commissioned to assess the jurisdictional problems that arise from a compromise agreement that extends well beyond the immediate issue of the return application. The expert group will consider the benefits of a new instrument in this area, whether binding or not.

1.2.2 Relocation

In light of the many different approaches that States have taken to the issue of international family relocation, there is increasing interest in finding common principles to apply to international family relocation cases. The International Judicial Conference on Cross-Border Family Relocation, held in Washington in March 2010, (hereinafter "the Washington Conference"), issued a common declaration of 13 principles applicable to family relocation[8]. The future work of the Washington Conference was debated over the course of one day.

In England relocation was first authoritatively considered in Poel v Poel [1970] 1 WLR 1469 when the court decided that an application to relocate by a mother who had custody of the child was not to be refused unless it was demonstrated that her proposal was contrary to the welfare of the child for the reason that, to refuse the reasonable requirements of the custodial parent would impact adversely on the child. If the primary carer was imprisoned where she did not wish to be, she would be inevitably handicapped emotionally in her capacity to give to her child. That has been an approach which has held fast in London for the ensuing 40 years. The approach is not arrived at through the legislative process. This is judicial development. The judges have set the standard and maintained it with small variations over that period. That is all the more relevant because London case law is influential throughout the common law world. But the common law world has not accepted this approach. In Canada, New Zealand and Australia an independent line developed that was not the London line. There is a sense in which we are isolated in the importance that our courts give to the impact of refusal on the primary carer applicant.

The case of Payne v Payne [2001] EWCA Civ 166 is a modern expression of notion that had its origins in Poel. The recent case MK v. CK [2011] EWCA Civ 793 is regarded by practitioners as a significant softening of the traditional line. We have recognized that in modern days where parents share care, it is no longer relevant to attach such weight to the impact of refusal on the applicant. The applicant no longer has the responsibilities of custodial parent.

7. See "Draft Guide to Good Practice under the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction, Part V, Mediation", Prel, Doc. No 5 of May 2011, drawn up by the Permanent Bureau. Available on the Hague Conference website at < www.hcch.net > under "Child Abduction Section" then "Special Commission meetings on the practical operation of the Convention" and "Preliminary Documents / Information Documents".
8. The conference was co-organised by the Hague Conference on Private International Law and the International Centre for Missing and Exploited Children (ICMEC). The contributions made by speakers at the meeting were included in Special Edition No 1 of The Judge's Newsletter on International Child Protection (2010), available on the Hague Conference website at < www.hcch.net > under "Child Abduction Section" then "The Judges' Newsletter on International Child Protection".

It was in 2006 that we came to question whether we could not develop an international approach that would resolve the differences developing in the jurisdictions of the common law world and beyond[9]. We have been very supportive of the pursuit of some international standard by which relocation cases can be decided. The adoption of the Washington Declaration would involve a substantial jurisprudential departure for our jurisdiction. The Office's view is that we should continue the work in progress and see whether anything, not in the form of an instrument, but a guide or a statement of principles, could not be carried forwards.

To the disappointment of the Office the recommendation in paragraph 83 of the preparatory paper on relocation[10] for the creation of an expert group to carry forward the work of the Washington Conference was effectively killed by an alliance of Canada, Australia and the United States. Although strongly supported by the European Union and its Member States the chairman deemed that there was insufficient support to amount to a consensus. However the chairman found sufficient support for further work in the relocation field, including continuing study of the diversities in the domestic law of the State party to the Conventions.

The Office is actively involved with the domestic research into relocation disputes (see Chapter 3, paragraph 3.5).

1.2.3 Direct Judicial Communications

As of 31st December 2011, the IHNJ included the formal nominations of 65 network judges from 47 jurisdictions in all continents[11]. The number of judges that are a part of the Hague Network is steadily growing as the importance of this network is increasingly acknowledged.

The value of the IHNJ is not just to promote good collaboration in specific cases; underlying it is the commitment of the State to the development of international family justice. The growth of the network has been fully supported by the Permanent Bureau which maintains the IHNJ directory. Without a network judge you cannot begin the process of collaboration.

The general principles governing direct judicial collaboration, endorsed at the first stage of the 6th Special Commission, will now go forward to publication. Consideration will also be given to the inclusion of a legal basis for direct judicial communications in the development of any relevant future Hague Convention.

1.2.4 Domestic Violence and Article 13(1)(b)

Following discussions concerning domestic violence as an Article 13(1)(b) defence, it has been decided that an expert group will draft guidance for the judiciary designed to unify the interpretation and application of Article 13(1)(b).

9. See "Conclusions and Recommendations of the Fifth Meeting of the Special Commission to review the operation of the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction and the practical implementation of the Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children (30 October – 9 November 2006)", available on the Hague Conference website.
10. See "Preliminary Document No 11, Preliminary Note on International Family Relocation" drawn up by the Permanent Bureau. Available on the website of the Hague Conference at < www.hcch.net > under "Child Abduction Section" then "Special Commission meetings on the practical operation of the Convention" and "Preliminary Documents / Information Documents".
11. Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Canada, Chile, China (Hong Kong, Special Administrative Region), Costa Rica, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Finland, France, Gabon, Germany, Guatemala, Honduras, Iceland, Ireland, Israel, Kenya, Luxembourg, Malta, Mexico, Netherlands, New Zealand, Nicaragua, Norway, Panama, Paraguay, Peru, Romania, Singapore, South Africa, Spain, Sweden, United Kingdom (England and Wales, Northern Ireland, Scotland and the Cayman Islands), United States of America, Uruguay and Venezuela.

2. The Legal Framework

2.1 The 1980 Hague Convention

The most important treaty in international family law is the 1980 Convention which deals with the civil aspects of international child abduction. There are now 87 contracting states to the 1980 Convention, including all EU Member States. In 2011 Andorra, Gabon, Guinea, Russia and Singapore also acceded to the Convention.

The Convention provides a hot pursuit remedy leading to the summary return of an abducted child. It recognises that the interests of children are of paramount importance in matters relating to their custody and it aims to protect children internationally from the harmful effects of their wrongful removal or retention and to establish procedures to ensure their prompt return to the State of their habitual residence, as well as to secure protection for rights of access.

The application of the 1980 Convention does not involve any investigation of wider welfare issues. Once the abduction has been established then the duty of the court is to return the child to the State of habitual residence to enable any welfare issues to be investigated and dealt with in that State. The court determining the return application is not concerned with the wider issues and to investigate them or to weigh them in balance is to trespass upon the territory and responsibility of the court of the child's habitual residence.

There are two aspects to child abduction:

1) Wrongful Removal

2) Wrongful Retention

Although the duty to order summary return is general, it is not absolute since the 1980 Convention recognises a number of exceptional defences. The essential element of the successful application is the wrongful removal or retention at a time when the applicant was exercising rights of custody. Rights of custody are not specifically defined but may, at a minimum, amount to contact together with a restriction on the other parents right to relocate abroad without consent or order of the court.

The 1980 Convention is the cornerstone of international family law. Those who framed it could not possibly have foreseen its phenomenal strength, endurance and beneficial practicality. More than thirty years after its creation it remains a vital living instrument. Over those thirty years it has brought incalculable benefits to the global community.

The efficacy of the 1980 Convention remedy depends upon the administrative contribution of the Central Authority in support of the judicial proceedings. Over the years of the operation of the 1980 Convention, Central Authorities have built up experience and expertise. Experience has also taught us that the judicial proceedings need to be both expedited and elevated to a high level within the justice system.

2.2 The 1996 Hague Convention

It is anticipated that the 1996 Convention will enter into force on 1st August 2012[12], three full months after ratification at the end of April. This is a hugely important Convention which complements the 1980 Convention and remedies some of the deficits that

12. Update provided by the Ministry of Justice on 28th March 2012.

have emerged after some thirty years of experience in the operation of the 1980 Convention.

Its utility will be principally in the field of international contact orders. Following an early decision of the Court of Appeal that Article 21 of the 1980 Convention does not confer jurisdiction on the domestic court to make a contact order, the 1980 Convention has been a limping instrument in the field of international contact. The 1996 Convention enables contact orders to be automatically enforceable internationally as though the order had been made as a domestic order in the court which is asked to enforce. Furthermore Article 23 of the 1996 Convention, by providing for advanced recognition, should overcome the absence of jurisdiction to make mirror orders exposed in the case of Re P (A Child: Mirror Orders) [2000] 1FLR 435.

Whilst the judicial proceedings invoking the 1980 Convention are confined to the High Court there will be no such concentration of jurisdiction for the 1996 Convention. Accordingly it will be necessary for a much larger body of practitioners and judges to develop familiarity and expertise. An internal practice guide, which is being produced by the Ministry of Justice, will be available to help practitioners and judges. In the meantime the Hague Conference has produced a Handbook for the 1996 Convention which can be accessed via the Hague Conference website[13].

Lord Justice Thorpe and the Office lawyer attended a Seminar on the 1996 Convention hosted by the Supreme Court of the Kingdom of Morocco in Rabat in collaboration with the European Commission and the Hague Conference. A number of hypothetical case studies raised the following broad issues: international child abduction; access to and relocation of children; parental responsibility; kafala, placement of the child in a foster family or institutional care; emergency and provisional measures; transfer of jurisdiction; and mediation.

2.3 The 2007 Hague Convention

The Hague Convention of 23 November 2007 on the International Recovery of Child Support and other forms of Family Maintenance (hereinafter "the 2007 Convention") ensures the effective international recovery of child support and other forms of family maintenance between all States party to the Convention. It provides similar remedies to the European Maintenance Regulation (see paragraph 2.5 below); between the two instruments synergy is achieved in the process of drafting each.

The EU ratified the 2007 Convention in July 2011.

2.4 The Brussels II (bis) Regulation

Child abductions within the EU, with the exception of Denmark, have been governed by Regulation 2201/2003 on jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, since March 2005. This Regulation refers to the 1980 Convention and lays down further rules on subjects such as the voice of the child, the time frame within which a case must be dealt with, the procedure in court when a return order is refused and the cooperation between the authorities of the Member States.

According to Article 11(6)-(8), the authorities of the Member State where the child was habitually resident must be informed of the order on non-return issued pursuant to Article 13 of the 1980 Convention. The parties then have three months from the date of notification to make submissions concerning the custody of the child.

13. See "Revised Draft Practical Handbook on the Operation of the Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of", Prel. Doc. No 4 of May 2011, drawn up by the Permanent Bureau. Available on the Hague Conference website at < www.hcch.net > under "Child Abduction Section" then "Special Commission meetings on the practical operation of the Convention" and "Preliminary Documents / Information Documents".

Notwithstanding an order not to return the child on the grounds of Article 13 of the 1980 Convention, any subsequent judgment which requires the return of the child issued by the court in the Member State where the child was habitually resident prior to the wrongful removal or retention, shall be enforceable in order to secure the return of the child.

Whilst we offer a global service, the majority of the referrals to the Office originate in proceedings issued under Brussels II bis.

Article 65 provides for Commission review of Brussels II bis in 2012, the process of which is already underway. The Commission aims to amend Brussels II bis and establish common minimum standards on the recognition of decisions on parental responsibility, with a view to abolishing exequatur proceedings for these decisions.

2.5 The Maintenance Regulation

Regulation 4/2009 on jurisdiction, applicable law, recognition and enforcement of decisions and co-operation in matters relating to maintenance obligations entered into force on 18th June 2011 and provides pan European enforcement for orders (with the exception of Denmark).

2.6 The Child Abduction and Custody Act 1985

The UK implemented the 1980 Convention through Part I of the Child Abduction and Custody Act 1985, and Sch. 1 to that Act sets out the Articles of the 1980 Convention as directly incorporated into UK law. Sch. 1 does not reproduce the 1980 Convention in its entirety. Neither the Preamble nor Articles 1 or 2, for example, are included. Other provisions not specifically enacted are Articles 20, 23, 25, 33, 34 and 35.

Domestic rules of practice and procedure under the 1985 Act are provided by Part 12 of the Family Procedure Rules 2010.

2.7 Implementation of the 1996 Convention

The implementation of the 1996 Convention is an obligation under EU law therefore the UK has used powers to make secondary legislation under the European Communities Act 1972 s.2(2). Unusually, these powers allow us to amend primary legislation. The relevant SI is 2010/1898. The Ministry of Justice completed these regulations in June 2010 and they were laid and made at that point. However, they do not come into force until the 1996 Convention is in force for the UK. As such the "in force" date will have to be advertised by the Government in the London Gazette, which is the usual procedure with treaties.

The Senior District Judge has been the major contributor to the drafting of the necessary rules of court for the operation of the 1996 Convention within our jurisdiction; they are to be found in the Family Procedure Rules 2010 at Chapter 6, Section 2, Rules 12.58 – 12.71.

2.8 Implementation of the 2007 Convention

Implementation of the 2007 Convention is also an EU obligation. The Ministry of Justice is in the process of drafting the s.2(2) regulations for application of the Convention by England and Wales and the rules of court will then follow.

3. The role and activities of the Office

3.1 Liaison

The Office was created to support the Head of International Family Justice in the performance of his duties. Lord Justice Thorpe serves as a contact point for English Judges who hear international child protection cases, and who want to contact a foreign judge, as well as for foreign judges who want to contact an English judge in this respect. The role of the network judge is to encourage and facilitate international judicial co-operation on matters of family justice.

Judges can improve the quality of justice delivered in the domestic courts of the world through judicial collaboration. Judicial liaison can reduce delay, reduce financial costs to litigants and to individual States and can reduce the emotional distress that can often be heightened in such cases.

Liaison is not restricted to child abduction cases. For example, there is often a need for collaboration arising out of a lawful movement: relocation cases. The need for collaboration in these cases may arise when the judge has decided or provisionally decided, to permit the removal. The greatest fear of the left behind parent after the move is that the taking parent will not keep to the arrangements for future contact upon which the grant of permission was conditional. Thus the Office has assisted in this respect in many relocation cases. For example, by requesting information on a crucial factual issue from the judge in the other State and by assisting with the making of mirror orders for future contact in the other State.

Both judges and practitioners request assistance via telephone, email or fax or by visiting the Office in person. The request details are noted and acknowledged immediately. If direct judicial communication is required, the Office aims to establish contact within one week and so far it has succeeded in achieving this target. On average a request concerning a specific case is transmitted to the relevant network judge within 48 hours of receipt. It can take up to 2 weeks for us to receive a response, sometimes longer, however with those jurisdictions with which we have the strongest collaboration (Australia, Germany, South Africa, USA and Canada) we usually hear back within 24 hours.

The practicalities involved call for a large amount of administrative and collaborative work by all. The inclusion of a lawyer in the Office allows it to operate expediently and autonomously since most cases require immediate attention.

Chapter 4 gives an overview of the liaison requests the Office dealt with in the period covered by this report.

3.2 General Enquiries

In addition to facilitating direct judicial communications between judges in England and Wales and their foreign counterparts, the Office serves as a help desk for judges, practitioners, Officials and academics. The queries received are wide ranging from questions concerning the problems associated with inter-country surrogacy, to mediation, to guidelines concerning judges meeting with children.

General enquiries are sent in the same way as requests for direct judicial communication; by telephone, email or fax. As with the liaison requests, general enquiries are dealt with immediately. The Office aims to answer questions within the shortest timeframe possible, and usually does so within 48 hours.

3.3 Association of International Family Judges

Lord Justice Thorpe's proposal for the creation of the Association of International Family Judges was first

published at the Anglophone/Germanophone Family Law Judicial Conference in Vienna in September 2008 where it received an enthusiastic response. Dissemination of information concerning the proposed Association continued at the Judicial Conference in Brussels in January 2009, jointly convened by the Hague Permanent Bureau and the European Commission. It was then strongly presented at the Common-Law/Commonwealth International Family Law Judicial Conference in August 2009 and was thereafter established with Lord Justice Thorpe being appointed co-chairman.

The Association disseminates information on developments in international family law and practice. The membership list constitutes a directory that enables members to communicate individually knowing that the judge in the selected jurisdiction would be ready and willing to reciprocate. The Association is open to specialist common law and civil law judges and, to some extent, has helped the better understanding and better collaboration between common law and civil law jurisdictions.

The administration is managed by a part-time administrator, the cost of which is accounted for by the subscriptions.

The Association was granted observer status at the 6th Special Commission and therefore had the right to lodge a working document. At a meeting of the members of the Association present in the Hague in June 2011, it was decided that the Association should put down a working document to ensure that at the meeting in January 2012 there is a discussion on the creation of legal instruments to strengthen existing Conventions and to provide supra-national guidance on how relocation applications should be decided. Although the Associations working document was simply a matter of record it is important as a platform for future work.

3.4 International Family Law Lecture

The Annual International Family Law Lecture, organised by the Office, is customarily given in July and has taken place in London since 2007. Previous speakers include His Honour Judge Peter Boshier (Principal Family Court Judge, New Zealand), Professor Patrick Parkinson, William Duncan (then First Secretary of the Hague Conference), Judge Vincent de Gaetano (Judge of the ECtHR) and the speaker for 2012 is the Honourable Chief Justice Diana Bryant of the Family Court of Australia.

3.5 Relocation Research

In 2011 a new research project into relocation disputes, funded by the British Academy and run by Dr Robert George of Oxford University (University College), was approved by the President in accordance with rule 12.73 (c) Family Procedure Rules 2010. The Office is helping to facilitate that research.

The aim of this project is to look at relocation cases which are litigated but not subsequently appealed, attempting to find out more about everyday disputes in England and Wales in order to inform the relocation debate.

Dr George will combine three different strands of research. One will be a number of interviews with litigants involved in relocation disputes, which he will organise through solicitors and counsel. The second will involve an analysis of cases which seek leave to appeal to the Court of Appeal, but are refused. The Office has asked all judges who review leave to appeal applications in family cases to assist Dr George with copies of any Bench Memoranda of relocation cases and transcripting any judgment refusing permission.

The third strand involves analysing general trends about litigated relocation cases based on as large a sample of judgments and orders from first instance courts as possible, including both the High Court and

the County Court. Very little is known about the bulk of relocation cases at first instance, other than those few High Court decisions which are reported, which means that discussion is inevitably based on a small number of cases, together with anecdotal evidence which may or may not be representative. The Office has asked the judges who hear these cases to ensure that a copy of any judgment or order made in any relocation case is sent to the Office, via email, to be forwarded on to Dr George. The Office will be collecting information from 1st January 2012 until 31st December 2012.

3.6 Working Group 11

At the European Judicial Network meetings of the Central Authorities on 19th June 2008 and 8th June 2009, there was broad consensus that information on national proceedings on the application for the return of the child should be compiled and disseminated. The meeting in 2008 had resolved on establishing this working group. At the meeting in 2009, this decision was confirmed. As the working group would primarily examine applicable national proceedings under Article 11(3) of Brussels II bis, the meeting decided that the working group be called 'working group 11'. Lord Justice Thorpe is Chairman of working group 11.

The meeting tasked the working group with:

(a) compiling and disseminating information on national proceedings on the application for the return of the child under Article 11(3) of Brussels II bis;

(b) compiling and disseminating information on national experiences with courts specialised in the area of cross-border parental child abduction; and

(c) identifying possible common minimum standards for return proceedings.

The Office, with the assistance of an intern, has drafted a Best Practice Guide for Judicial Proceedings under Article 11. It is anticipated that the final draft will be adopted and, thereafter, published at a meeting of the EJN on 3rd July 2012.

3.7 Mediation Working Group

In 2011 a Working Group was set up by the EJN to investigate and report on international family mediation in cases of international child abduction. The terms of reference of the group are to draw a synthesis of the different related initiatives and works undertaken in this area, notably those of the Hague Conference, with the possibility of appealing to the expertise of the European Parliament Mediator for International Parental Child Abduction, of mediators and organizations specialized in cases of child abduction and of liaison judges for cases of child abduction. The group will report about its work and propose to the Council and the Commission the most appropriate and efficient means to promote and improve the use of international family mediation in cases of international parental child abduction, in compliance with the applicable legal instruments as well as when the abduction occurs with a State which is not a party to a Convention.

The Office lawyer attended the first meeting of the Working Group in Brussels in April where the group settled a questionnaire which was dispatched to all Member States for responses. On the 20th September the Office submitted the UK's response to the questionnaire.

3.8 Judicial visits

The Office arranges family-law study programmes for those judges who are visiting the jurisdiction and would like to learn more about our family justice system.

In 2011 the Office organised three family law study visits for overseas judges – one for a delegation of Russian Judges subsequent to them joining the 1980 Convention and two separate visits for two Judges

from Japan. Every year the Supreme Court of Japan supports a year-long study programme for junior Japanese judges, a programme which has been taking place for many years now. During the 12 month programme they spend, on average, a month observing the work of the family courts.

This induction to our family justice system is organised by the Office. For example, in 2011 Judge Satoshi Watahiki completed 4 weeks work experience encompassing solicitors office, barristers chambers, Family Proceedings Court, County Court, Principal Registry of the Family Division, Family Division and the Court of Appeal.

3.9 Conferences

The Head of International Family Justice and the Office lawyer are regularly invited to attend conferences on international child protection and judicial co-operation. Attending these conferences is not only useful for accumulating knowledge but it can also be helpful to meet the network judges and other experts in the field and stay in touch with them. Lord Justice Thorpe and the Office lawyer have given lectures and conducted workshops at many of these conferences. Chapter 4 paragraph 5 lists the conferences and international meetings attended by the Office during the period covered by the report.

4. Cases and general enquiries handled by the Office

This chapter gives an overview of the cases and general enquiries referred to the Office in the period covered by this report. Paragraph 1 gives an overview of the liaison requests and questions on return orders and other cases involving aspects of international child protection. Paragraph 2 provides a regional statistical summary. Case studies of incoming and outgoing requests and an overview of general enquiries are given in paragraphs 3 to 5 respectively. Finally, paragraph 6 enumerates the conferences and international meetings attended by the Liaison Judge and the Office lawyer.

4.1 International case log

2011 has seen a significant rise in the number of cases referred to the Office. We have dealt with 180 new cases concerning 51 jurisdictions across the world.

Cases are referred to the Office in two instances:

1. When there arises a need for direct communication between judges from England and Wales and another jurisdiction.
2. When a judge, either domestic or international, needs advice and assistance relating to an international family law matter.

The requests come via telephone, email/fax or by a visit to the Office which is situated in the Royal Courts of Justice in London.

The graphs given within this report show the dramatic increase over the years in the number of specific cases that come to the Office through the IHNJ or EJN as well as requests from judicial contacts that Lord Justice Thorpe has developed in countries such as Nigeria, India and Japan.

The graphs also demonstrate three common spikes for every year cycle. Our busiest months for specific case referrals appear to be October, November and December.

As mentioned previously, the work of the Office continues to grow year on year (albeit a small dip in 2010). Here are the figures to illustrate:

Specific case requests

Year	Cases	% increase
2005	3	N/A
2006	6	100% (on 2005)
2007	27	350% (on 2006)
2008	65	141% (on 2007)

Year	Cases	% increase
2009	116	78% (on 2008)
2010	92	21% (on 2009) decrease
2011	180	96% (on 2010)
2012 (projected)	240	33% (on 2011)

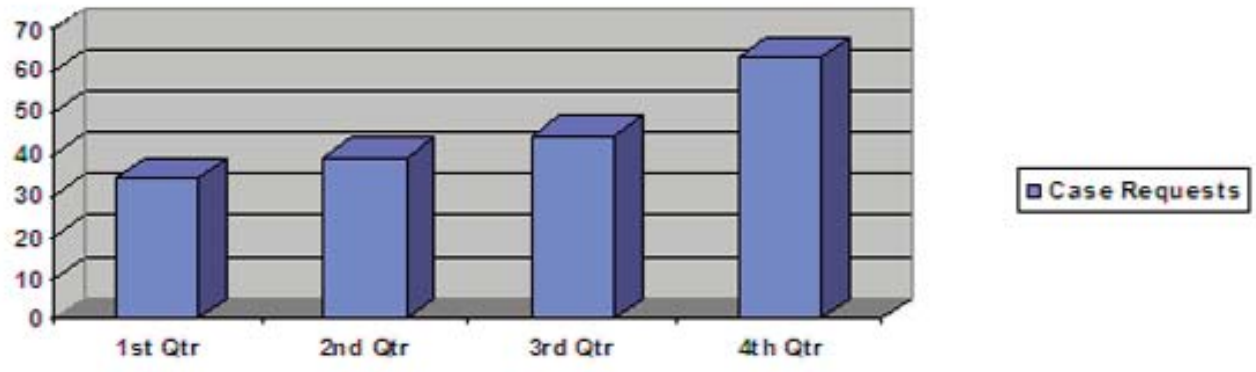
As can be seen from the table above, the total number of cases referred to the Office in 2011 was 180. However, there were 42 unresolved cases from 2009 and 2010 that we were still assisting with in 2011. This meant that we handled a total of 222 cases in 2011.

As at 8th March 2012 the Office has dealt with over 40 separate international cases in 2012. If that pattern continues unabated, it will lead to a total of 240 new cases in 2012 (see table above).

What the number of requests as documented does not show is that with every case comes a considerable amount of administration. Cross-border judicial communications in these cases are often complicated and lengthy. The exchanges are numerous and can take place over a period of days, weeks and even months and years, involving all parties, their legal representatives (barristers and solicitors) and judges. Thus as each case progresses, the intervention of the Office may well be required again. To illustrate, of the 40 initial case referrals, all but 2 remain as "on going concerns".

The busiest period for the Office is the fourth quarter (or start of the new legal year). The figures can be broken down into 63 specific case requests over that period (35% of total case requests for 2011), where 23 (13%) were made in October, 22 (12%) were made in November and 18 (10%) were made in December.

The Number of Case Requests in each Quarter in 2011



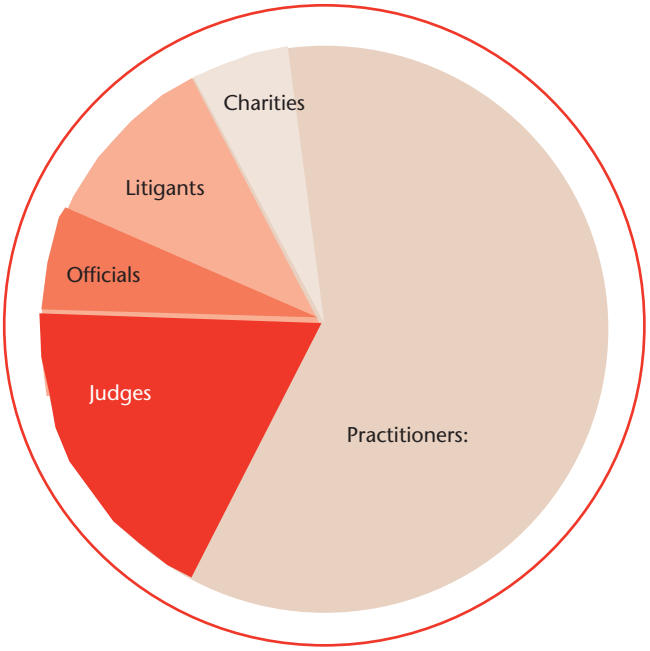
2011 has also seen a rise in the number of jurisdictions with which we do business. Here are the figures to illustrate:

Jurisdictions the Cases Concerned

Year	Jurisdictions	% increase
2005	3	N/A
2006	6	100% (on 2005)
2007	13	117% (on 2006)
2008	28	115% (on 2007)
2009	41	46% (on 2008)
2010	47	15% (on 2009)
2011	51	9% (on 2010)

It is quite common for the lawyers or the judge to contact the Office at the outset of proceedings to discuss whether or not the Office might be able to assist. In 2011, 59% of the requests for assistance concerning specific cases came from practitioners, often directed by the Judge. 26% came from judges and the remaining 15% came from litigants, officials (Central Authority and Embassy staff) and charities (reunite).

Requesting party



Practitioners: 106 (59%)
Judges: 46 (26%)
Litigants: 17 (9%)
Officials: 8 (4%)
Charities: 3 (2%)

Every attempt is made to try to deal with the case as expeditiously as possible. Out of the 180 cases 59% were acknowledged within 24 hours and the remainder were acknowledged within 72 hours or less. On average the Office took 3 days to send a request to the network judge (where judicial liaison was necessary) and the network judge took 12 days to respond from the date it arrived with him[14].

The table below shows the average time taken for the Office to send a request to the network judge from the day in which the matter was first referred to the Office and for the network judge to then respond to that request compared with the overall mean number of days taken to conclude judicial liaison in relation to a case from the date it arrives with the Office to the date it is concluded.

14. The number of days taken to send a request to the network judge varies according to when the relevant documents are received by the Office for onward transmission to the network judge. It is also the case that the Office is often contacted for assistance with a specific case at the outset however judicial liaison is not required until a much later date.

Time Taken to Send the Request to the Network Judge and for the Network Judge to respond to it and for the Liaison to Conclude

N/A = no response received.
* = no dates are available for these requests. See Pakistan Protocol Summary at p21.

Requested State	Mean number of days before sent to network judge	Mean number of days taken for network judge to respond	Mean total time from Office receiving request for assistance to conclusion
Australia	7	6	83
Austria	1	81	Ongoing
Belgium	7	3	306
Brazil	1	1	42
Cambodia	1	N/A	N/A
Canada	6	2	34
Czech Republic	5	1	19
Egypt	5	N/A	N/A
France	1	4	28
Germany	3	2	58

Requested State	Mean number of days before sent to network judge	Mean number of days taken for network judge to respond	Mean total time from Office receiving request for assistance to conclusion
India	4	N/A	N/A
Ireland	6	1	39
Italy	1	N/A	N/A
Kenya	3	11	Ongoing
Latvia	1	12	54
Lithuania	3	1	4
Nigeria	4	107	142
Pakistan	*	*	*
Poland	3	5	92
Portugal	1	4	72
Romania	1	32	153
Scotland	1	4	17

Requested State	Mean number of days before sent to network judge	Mean number of days taken for network judge to respond	Mean total time from Office receiving request for assistance to conclusion
Singapore	4	2	7
Slovakia	1	17	108
South Africa	1	2	128
Spain	6	2	35
Sweden	1	29	33
Trinidad and Tobago	1	1	340
Uruguay	1	20	Ongoing

4.2. Regional statistical summaries

In this section we analyse the 180 cases concerning 51 jurisdictions that were referred to the Office during the period from 1st January 2011 up to and including 31st December 2011. We class requests as 'internal' when they come from the judiciary, practitioners (both solicitors and barristers) and government departments such as the Central Authority and the Foreign and Commonwealth Office and 'external' when they come from overseas jurisdictions.

4.2.1 Europe

As found in previous years, more cases concerned Europe than any other part of the world with 75 cases. This amounts to 42% of the total number of cases referred to the Office in 2011, a figure which has grown significantly from the 26% and 25% recorded in 2008 and 2010, respectively. Looking at Europe a little more closely, in 7 of the 75 cases direct judicial communications took place whereby the requesting judge communicated directly with the requested judge, by telephone or email.

33% of the cases were with Poland and Germany. Whilst we have excellent collaboration with Germany, Poland has not been able to appoint a

sitting judge to the IHNJ or the EJN; the contact point is a magistrate who in reality is the Head of the Central Authority in Warsaw. Likewise Italy has not been able to appoint a sitting judge. The contact point is an Official in the Ministry in Rome. Slovakia has not been able to nominate a replacement Judge to either the INNJ or EJN.

It should be noted that these European figures are not necessarily indicative of successful judicial collaboration.

The Requests Received Concerning Specific Cases in Europe 2011

Country	External requests	Internal requests	Total number of requests
Poland	0	14	**14**
Germany	6	5	**11**
Ireland	2	5	**7**
Italy	0	5	**5**
Slovakia	0	5	**5**
Belgium	0	4	**4**
France	1	3	**4**
Sweden	1	3	**4**
Czech Republic	1	2	**3**
Lithuania	0	3	**3**

Country	External requests	Internal requests	Total number of requests
Spain	0	3	**3**
Latvia	0	2	**2**
Northern Cyprus	0	2	**2**
Albania	0	1	**1**
Austria	0	1	**1**
Bulgaria	0	1	**1**
Gibraltar	1	0	**1**
Greece	0	1	**1**
Portugal	0	1	**1**
Romania	0	1	**1**
Scotland	0	1	**1**
Total	**12**	**63**	**75**

4.2.2 Asia

In 2011 we had 35 cases with 14 Asian countries, 54% of which were with India and Pakistan. In 2008 India drafted the legislation to implement the 1980 Convention. Ever since that time we have been hopeful that they would take the next step towards accession. Unfortunately that has not yet happened.

We have endeavoured to promote bilateral agreements for the return of children with both Pakistan and Egypt. The judicial agreement with Pakistan was launched as the Pakistan Protocol in January 2003[15]. The Office communicates regularly with the Pakistani Liaison Judge, Mr Justice Jillani, in relation to protocol cases for which a separate log is kept.

Pakistan Protocol Statistical Summary

	Strict	Spirit	Holiday
Total number of cases brought under the Protocol since 2003	17	81	85
Total number returned/resolved since 2003	15	61	80
Total number of ongoing cases	2	20	5
In how many cases did parents commence legal proceedings in Pakistan? *	7	18	N/A
Where legal proceedings took place in Pakistan, how many cases resulted in returns?	5	13	N/A
How many returns resulted from a Pakistani court issuing an order for return? **	1	1	N/A

* In a number of cases left-behind parents initiate proceedings in Pakistan, but, for a number of reasons, the proceedings are not concluded - e.g. the child is returned to the UK before the court process is completed, the left-behind parent cannot afford to continue with the case, and the child cannot be located.

** These cases are examples of the Protocol process running in full – from a UK court ordering the return of the child to the UK to the Pakistani court ordering the same. We are not always made aware if proceedings resulted in return.

Strict cases: where the child was removed from the UK in breach of an existing UK court order.
Spirit cases: where there was not a UK court order in place at the time of the removal, but the principles of the Protocol are applied 'in spirit'.
Holiday prevention cases: where the Protocol has been cited in a court order that gives one parent permission to take a child to Pakistan on holiday.

15. See the Pakistan Protocol, [2003] Fam Law 199 (Part V, Practice Guidance, page 2791-2792 of The Family Court Practice 2011).

The agreement with Egypt was launched as the Cairo Declaration in January 2004[16]. These two agreements are based on the same premise, namely that the state of the child's habitual residence has primary jurisdiction to decide matters of welfare and accordingly the child abducted from that jurisdiction should be returned there expeditiously.

The Requests Received Concerning Specific Cases in Asia 2011

Country	External requests	Internal requests	Total number of requests
Pakistan	0	14	**14**
India	0	5	**5**
Japan	0	3	**3**
Saudi Arabia	0	2	**2**
Turkey	0	2	**2**
Bahrain	0	1	**1**
Cambodia	0	1	**1**
Jordan	0	1	**1**
People's Republic of China	0	1	**1**
Qatar	0	1	1

16. See the Cairo Declaration, March [2004] IFL.

Country	External requests	Internal requests	Total number of requests
Russia	0	1	**1**
Singapore	0	1	**1**
Sri Lanka	0	1	**1**
Thailand	0	1	**1**
Total	**0**	**35**	**35**

4.2.3 Africa

In 2011 we had 20 cases from 9 different African states, 65% of which were with Kenya, Egypt, Ghana and Nigeria.

Kenya, although not itself operating the 1980 Convention, has nominated a sitting judge to the IHNJ. The judge has provided the Office with invaluable assistance throughout 2011 (see case study on page 27).

We also have excellent collaboration with South Africa. Whilst we had only two new Anglo-South African cases in 2011 it should be noted that we continued to liaise throughout the year with regards to three ongoing cases that were first referred to the office in 2010. Therefore we had 5 'live' cases throughout 2011. Our requests for information or assistance were always answered by the IHNJ, Mrs Justice Belinda van Heerden, within 48 hours.

Although there is no official network judge for us to communicate with in Nigeria, Lord Justice Thorpe has built effective relationships with two judges in Nigeria who are always willing to assist and therefore we have been able to resolve a number of difficult Anglo-Nigerian family law cases. Throughout 2011 we were assisting with two cases concerning Nigeria that were first referred to the Office in 2010 thus the figures below do not accurately reflect the total number of Anglo-Nigerian cases that we assisted with in 2011.

The Cairo Declaration has not born the fruit that the Pakistan Protocol has. It is with regret that the three requests for assistance that we sent to the liaison judge in Egypt were ignored.

The Requests Received Concerning Specific Cases in Africa 2011

Country	External requests	Internal requests	Total number of requests
Kenya	0	4	**4**
Egypt	0	3	**3**
Ghana	0	3	**3**
Nigeria	0	3	**3**
South Africa	0	2	**2**
Sudan	0	2	**2**
Algeria	0	1	**1**
Gambia	0	1	**1**
Tunisia	0	1	**1**
Total	**0**	**20**	**20**

4.2.4 Central and South America and the Caribbean Islands

Although there were was only two new Anglo-Mexican matters referred to the Office in 2011, it should be noted that the Office has been continually liaising with Mexico throughout 2011 concerning a Hague case that was first referred to the Office in 2009. Despite strong judicial collaboration, Mexico is a poor performer of the 1980 Convention. Most of the problems we experience concern delay, location and the Appeals that are made in the Constitutional Court.

2011 also saw four cases with the Caribbean being referred to the Office, all of which resulted in a satisfactory outcome.

The Requests Received Concerning Specific Cases in Central and South America and the Caribbean Islands 2011

Country	External requests	Internal requests	Total number of requests
Trinidad & Tobago	1	2	**3**
Brazil	0	2	**2**
Mexico	0	2	**2**
Uruguay	0	1	**1**
Martinique	1	0	**1**
Total	**2**	**7**	**9**

4.2.5 Australasia

The Office has excellent collaboration with Australia. Almost every request sent in 2011 was answered within 24 hours. The time difference does assist: we send a request during the working day and over night it is answered by the Network Judge.

Country	External requests	Internal requests	Total number of requests
Australasia	6	9	**15**

4.2.6 North America

The Office assisted with 14 cases concerning North America. Most of these cases concerned East Coast States. Direct judicial communications between an English Judge and American Judge are perhaps the most straightforward to arrange. That is because; firstly, there is no language barrier and; secondly, the American judges are quite used to communicating with their brother judge involved in proceedings concerning the same child.

A uniform law was created in the States, Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) 1997, which essentially promotes cooperation between the courts of different States so that a decision on the issues of custody and contact rights is made in the State that can best decide the case in the interest of the child. This was proposed to every State allowing each to vary the language accordingly and it was adopted by most. Therefore Anglo-American cases can be far easier to resolve given the greater understanding of direct judicial communications.

The Requests Received Concerning Specific Cases in North America 2011

State	External requests	Internal requests	Total number of requests
Rhode Island	1	1	**2**
Florida	0	1	**1**
Idaho	0	1	**1**
Michigan	0	1	**1**
Nevada	0	1	**1**
New York	0	3	**3**
North Carolina	0	1	**1**
Texas	0	1	**1**
Virginia	0	1	**1**
Washington	0	1	1

State	External requests	Internal requests	Total number of requests
Alberta	0	1	**1**
British Colombia	0	1	**1**
Quebec	0	1	**1**
Total	**0**	**15**	**16**

4.3 Internal requests

In 2011 83% of cases referred to the Office were from an internal source. 85% of those requests came from judges and practitioners (see chart on page 14). Those cases concerned a variety of matters including child abduction, relocation and care proceedings.

4.3.1 Case studies

Anglo-German child abduction

The case concerned two children who had been removed from Germany to England by their mother without their father's consent. The Office received a request from the English High Court Judge hearing the matter to contact the IHNJ in Germany regarding the meaning of a custody order that the German court had made prior to the mother removing the children. Essentially the question we asked the IHNJ in Germany was whether it was unlawful under German law, having regard to provisions of the German custody order, to change the place of residence of the child from a place in Germany to a place in England without the permission of the father or appropriate German court.

Within thirty minutes we received a response and an answer to our query; which was essentially that the mother needed the consent of the father or the court before relocating. The English court then requested an Article 15 declaration from the German court. The Office sent a further request to the IHNJ in Germany and in less than two weeks we had an Article 15 declaration. The speed in which we were able to resolve this is exceptional and no doubt down to the excellent collaboration between our two jurisdictions.

Anglo-Polish care case

This case concerned two children who were previously habitually resident in Poland but were removed from Poland by their father and uncle and brought to England. They had travelled by road and rail through Europe, including Italy and France before arriving in England. Within four days of their arrival they were taken into police protection having been found in a make-shift shelter near live train tracks. It soon became clear that there were ongoing care proceedings concerning the children in Poland and, although the father and uncle had the consent of the mother to take the children out of Poland, they did not have the consent of the Polish social services department who had a care order for the children.

Unfortunately communication between the English and Polish social services had broken down and it was proving difficult to establish who had jurisdiction in the matter; whether the children should be returned to Poland and under what conditions. The uncertainty surrounding their legal status was, consequently, delaying making any meaningful plans for their future. Therefore the Office was contacted

for assistance. We were able to reach our judicial contact point in Poland to find out information as to the present position under Polish law and set the wheels in motion for collaboration between our two agencies.

The tendency of dangerous parents to bolt when social services are exercising legitimate protective powers is all too common and much to be disregarded by demonstrating that there is no gain in flight. Judicial collaboration is required for the protection of children at significant risk of harm. We are seeing a rising number of these types of cases being referred to the Office, mostly involving Eastern-European countries.

Anglo-Kenyan child abduction

The case concerned two children who were wrongfully retained in Kenya by their maternal grandparents following the funeral of their mother (who died in England and was buried in Kenya). On the application of the father the children were made Wards of the English court and various orders were made for their return, all of which had been thwarted. It was hoped that with the agreement of the maternal grandparents the children would be returned. However the grandparents obtained a Guardianship order in the Children's Court in Nairobi.

The Office contacted the IHNJ in Kenya for her assistance with the recognition and enforcement of the English court orders. The IHNJ held a meeting with the Director of Children's Services in Kenya and requested the implementation of the English court orders. Soon after the Director obtained an order from the Children's Court for the return of the children and the children have now been returned.

4.4 External requests

Only 17% of cases referred to the Office were from an external source. Almost all of those requests came from the IHNJ, albeit two; one of which was from a lawyer in Spain and the other came from the German Embassy in London.

4.4.1 Case studies

Anglo-Australian child abduction

One of the IHNJ in Australia (there being two) requested the assistance of the Office in providing information about any criminal proceedings taken against the mother in England for removing her child to Australia without the consent of the father, the mother's lawyers having indicated to the judge that if any criminal or like proceedings have been instituted against the mother, they will seek that any return of the child (with the mother) be conditional on those proceedings being abandoned or criminal sanctions being nullified.

Within 24 hours the Office provided the judge with the information. A further request was then made for assistance in listing a hearing in the English court to consider whether consent orders can be made to facilitate the return of the child to England. The undertakings which were sought were given by the father and were threefold. First, that he will not abuse or assault the mother. Second that he not be an informant or complainant in any criminal or like proceedings against the mother arising out of her wrongful removal of the child from the UK or seek that she be prosecuted in that respect. Third, that the father not cause any proceedings to be taken ex parte the mother or to be allocated a first or preliminary hearing date which is earlier than 16 days after the day upon which the child departs Australia. The Office liaised with the applications judge and the father's lawyers in the UK and a Consent Order was made by the English Court within 24 hours of the request being made.

The mother is now applying to relocate to Australia.

Anglo-German custody case

The case concerned a child born in Germany to unmarried parents who subsequently came to live in the UK and married. The mother appointed her mother as guardian of the child in her will. Soon after the mother died and the grandmother started proceedings concerning the child in the English court, fearing that the father may relocate with the child to Germany. The father then removed the child to Germany without the grandmother's knowledge or consent and without the courts permission and applied to the German court for sole custody. The Judge hearing the matter in Germany did not know whether she had jurisdiction under Article 8 of Brussels II bis and therefore requested the assistance of the Office for information in relation to a number of questions concerning English law on parental responsibility: What was the effect of the mothers will; who had rights of custody when the child was removed; did the father have the right to decide to move to Germany on his own or did he have to ask the grandmother or the court; what is the effect of the Wardship order made by the English court; is there a case pending in the English court; is the child still a Ward of court; and is it a case of Article 19 (2) of Brussels II bis?

The Office, having had sight of the papers in the case, was able to provide the German judge with answers to her queries which resulted in a swift conclusion to the case.

Anglo-Irish Court of Protection case

The IHNJ in Ireland contacted the Office for assistance in facilitating an early hearing concerning a troubled youth who was to be transferred from Ireland to England for treatment and in respect of whom an urgent application to the Court of Protection was required.

A rising number of cases are being referred to the Office concerning young people in Ireland with mental health problems who need to be sent to England for treatment, under an Irish High Court Order, as they do not have the treatment facilities in Ireland.

In this case the Health Service Executive of Ireland, which is the statutory body responsible for the provision of health and welfare services in Ireland, was seeking recognition and enforcement of an order of the Irish High Court, under the provisions of schedule 3 to the Mental Capacity Act 2005, for the boy to be treated in a hospital in England. The Office made the necessary arrangements and the Court of Protection heard the case within a matter of days of the request being made.

4.5 General enquiries

The figures given in the table on page 11 and 12 of this report do not include the general enquiries the Office received. In addition to the requests for assistance that the Office receives in relation to specific cases, a number of enquiries are made concerning international family law in general. By way of example, we receive enquiries concerning proposed Regulations and Conventions such as the implementation of the 1996 Hague Convention. We also receive enquires regarding newly acceding States to the 1980 Hague Convention and the process for recognition.

The Office also receives receives requests for articles, interviews, conference attendance and other general matters. In 2011 the Office received over 300 general enquiries[17]. That is a total of over 480 referrals to the Office in 2011.

17. A precise figure is unknown as not all telephone enquiries are logged.

4.6 Conferences and international meetings

During the period covered by this report Lord Justice Thorpe and the Office lawyer attended various conferences which are listed in the table below.

Date	Location	Organisation	Subject	Participant(s)
20th – 21st January	Brussels	European Judicial Network meeting	Annual meeting	Lord Justice Thorpe
2nd February	Conventry	National Policing Improvement Agency	Special interest seminar on child abduction	Victoria Miller
2nd-9th February	Hyderabad	Commonwealth Lawyers Association	17th Commonwealth Common Law Conference	Lord Justice Thorpe
7th February	London	7 Bedford Row	International Nuptial Agreements	Victoria Miller
9th March	Bordeaux	Ecole Nationale de la Magistrature	International Family Justice	Lord Justice Thorpe
17th – 19th March	Nassau	ISFL Caribbean Regional Conference. The Council of Legal Education and the Eugene Dupuch Law School	The Legal and Social Consequences of the Disintegration and Reconstitution of Families	Lord Justice Thorpe
7th April	Brussels	European Commission	EJN Mediation Working Group	Victoria Miller

Date	Location	Organisation	Subject	Participant(s)
28th April	London	Institute of Advanced Legal Studies	The Introduction of Cultural Expertise in English Courts	Victoria Miller
5th May	London	The Centre for Family Law and Practice, London Metropolitan University	Relocation Seminar	Lord Justice Thorpe
13th May	Dublin	Franco-British-Irish Colloque	Judicial Activism	Lord Justice Thorpe
21st May	London	1 Garden Court	Child Abduction Seminar	Victoria Miller
16th-17th May	Northampton	Presidents Conference	Update on International Family Law	Lord Justice Thorpe and Victoria Miller
23rd-26th May	The Hague	6th Special Commission	On the Practical Operation of the 1980 and 1996 Hague Convention	Lord Justice Thorpe and Victoria Miller
20th-21st June	Budapest	EJN	Revision of Brussels II bis	Lord Justice Thorpe

Date	Location	Organisation	Subject	Participant(s)
8th July	London	The Office's Annual Lecture – sponsored by Resolution and the FLBA	Annual International Family Law Lecture	Lord Justice Thorpe and Victoria Miller
11th-14th July	Sydney	Meeting of the Commonwealth Law Ministers and Senior Officials	Extending the 1980 Hague Convention throughout the commonwealth	Lord Justice Thorpe
July	Kuala Lumpur	Commonwealth Magistrates and Judges Association	The development of international family law in the Commonwealth	Lord Justice Thorpe
August	Poland	The Association of Polish Family Judges	Judicial Activism	Lord Justice Thorpe
7th October	Jersey	The Association of Lawyers for Children	International Child Law Conference	Lord Justice Thorpe
8th October	London	Young Bar Conference	International Family Seminar	Lord Justice Thorpe and Victoria Miller
13th October	London	Foreign and Commonwealth Office	Domestic Violence and Forced Marriage	Victoria Miller

Date	Location	Organisation	Subject	Participant(s)
14th October	Leeds	FLBA/Resolution/ Reunite	International Family Justice	Victoria Miller
October	Edinburgh	Scottish Judicial College	Relocation	Lord Justice Thorpe
24th November	London	4 Paper Buildings	Relocation - 'Should I stay or should I go'	Lord Justice Thorpe and Victoria Miller
28th-29th November	Brussels	European Judicial Network	Maintenance Regulation	Lord Justice Thorpe
29th November	London	Bar Council	Law Reform Committees Annual Lecture - Changing the Culture – The Role of the Bar and Bench in the management of cases involving children	Victoria Miller
30th November	London	Foreign and Commonwealth Office	A lecture on the Family Law Act 1996	Victoria Miller

Date	Location	Organisation	Subject	Participant(s)
30th November	London	Dawson Cornwell – Argentine Embassy	International Child Abduction and Family Law	Lord Justice Thorpe and Victoria Miller
8th–9th December	Lausanne	University of Lausanne	Family Justice and the ? Law	Lord Justice Thorpe
13th December	London	Russell Jones & Walker	Islamic Law Seminar – 'The way forward for Islam and English law'	Victoria Miller

5. Staff

Head of International Family Justice	The Rt. Hon. Lord Justice Thorpe
Legal Secretary	Victoria Miller
Administrative Secretary	Karen Wheller

6. Finances

The Judicial Office pays the salary of the barrister acting as legal secretary as well as the salary of the administrative secretary. The Judicial Office sets aside both the fund for general judicial international travel and a separate fund dedicated to international travel in pursuit of the Office's objectives.

Sometimes the expenses are met from the general fund, where for instance Lord Justice Thorpe attends a general event such as the Commonwealth Lawyers Conference. More often they are met from the international family travel fund, which is also available to meet the expenses of other judges whose attendance at an overseas event Lord Justice Thorpe has endorsed. Fortunately the majority of Lord Justice Thorpe's journeys are funded by either the event organiser or by European funds.

7. Reports, papers and articles

February

'Extending the 1980 Abduction Convention throughout the Commonwealth' by Lord Justice Thorpe

Foreword written by Lord Justice Thorpe for a Good Practice Guide for Pakistani trial judges

March

'The Influence of London Judgments in Ancillary Relief Regimes Elsewhere' by Lord Justice Thorpe

'Recent Developments in International Family Law – The Contribution of Judges on and off the Bench' by Lord Justice Thorpe

'International Parental Child Abduction' by Victoria Miller

May

'Judicial Activism' by Lord Justice Thorpe

'Judicial Activism in the International Movement of Children: A Prime Building Site for Development' by Lord Justice Thorpe

'Working with Conventions' by Lord Justice Thorpe

'The Office of the Head of International Family Justice for England and Wales' by Victoria Miller

'The Office of the liaison judge' by Victoria Miller

June

'The Operation and Development of Regulation Brussels IIA' by Lord Justice Thorpe

'Apparent Tensions in the Interaction of International Conventions' by Victoria Miller

July

'The 1996 Child Protection Convention' by Lord Justice Thorpe

'Extending the 1980 Abduction Convention throughout the Commonwealth' by Lord Justice Thorpe

'The Commonwealth's Contribution to the Development of International Family Law' by Lord Justice Thorpe

August

'Judicial Activism: has it reached Poland?' by Lord Justice Thorpe

September

'International Family Law' by Lord Justice Thorpe

'Tracing the emergence of judicial activism in the operation of the Hague Family Conventions - William Duncan and the Judges' by Lord Justice Thorpe

October

Foreword written by Lord Justice Thorpe for a book concerning Indians, NRI's and the Law by the Malhotra's

'Relocation - Case Law - London Made' by Lord Justice Thorpe

'Domestic Violence and Forced Marriage' by Victoria Miller

'The Head of International Family Justice and the workings of the Office' by Victoria Miller

November

'The Family Law Act 1996' by Victoria Miller