

Criminal casework

Introduction to children and family cases

Introduction to children and family cases

About this guidance

About this guidance Deportation of foreign national offenders Duty to safeguard and promote child welfare Advice from Office of Children's Champion (OCC) Internal training on managing children and family cases Alternatives to deportation for family members	<p>This guidance tells you how Immigration Enforcement manages foreign national offender (FNO) cases with families, and in particular children under 18, in the UK.</p> <p>The core elements are:</p> <ul style="list-style-type: none">• The purpose and legal basis for deportation of FNOs and their family members.• The Home Office's legal duty to safeguard and promote the welfare of children involved in this process.• For those managing FNO family cases, how and from whom they can seek advice on such issues to support their work. <p>Changes to this guidance – This page tells you what has changed since the previous version of this guidance.</p> <p>Contact – This page tells you who to contact for help if your senior caseworker or line manager can't answer your question.</p> <p>Information owners – This page tells you about this version of the guidance and who owns it.</p> <p>Safeguard and promote child welfare – This page explains your duty to safeguard and promote the welfare of children and tells you where to find out more information.</p>	<p>In this section</p> <p>Changes to this guidance</p> <p>Contact</p> <p>Information owner</p> <p>Links to staff intranet removed</p>
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Changes to this guidance

About this guidance Deportation of foreign national offenders Duty to safeguard and promote child welfare Advice from Office of Children's Champion (OCC) Internal training on managing children and family cases Alternatives to deportation for family members	<p>This page lists the changes to the introduction to criminal casework children and family cases guidance, with the most recent at the top.</p> <table><tr><th>Date of the change</th><th>Details of the change</th></tr><tr><td>11 June 2013</td><td><p>Change request:</p><ul style="list-style-type: none">Concerns about child welfare – foreign national offenders:<ul style="list-style-type: none">○ fifth paragraph, changed reference to ‘the office of the children’s champion’ to ‘police protection unit’Minor housekeeping changes.</td></tr><tr><td>03 June 2013</td><td><p>Change request:</p><ul style="list-style-type: none">How to contact the OCC:<ul style="list-style-type: none">○ new wording added about the OCC MI data table.New page – The OCC management information data table</td></tr><tr><td></td><td><p>For previous changes to this guidance you will find earlier versions in the archive. See related link: Children and family members - Archive.</p></td></tr></table>	Date of the change	Details of the change	11 June 2013	<p>Change request:</p> <ul style="list-style-type: none">Concerns about child welfare – foreign national offenders:<ul style="list-style-type: none">○ fifth paragraph, changed reference to ‘the office of the children’s champion’ to ‘police protection unit’Minor housekeeping changes.	03 June 2013	<p>Change request:</p> <ul style="list-style-type: none">How to contact the OCC:<ul style="list-style-type: none">○ new wording added about the OCC MI data table.New page – The OCC management information data table		<p>For previous changes to this guidance you will find earlier versions in the archive. See related link: Children and family members - Archive.</p>	<p>Related links</p> <p>Concerns about child welfare – foreign national offenders</p> <p>See also</p> <p>Contact</p> <p>Information owner</p> <p>Links to staff intranet removed</p>
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Deportation of foreign national offenders

About this guidance Deportation of foreign national offenders Duty to safeguard and promote child welfare Advice from Office of Children's Champion (OCC) Internal training on managing children and family cases Alternatives to deportation for family members	<p>This page tells you about the legal foundations for pursuing deportation of foreign national offenders (FNOs) and their family members, and which section within Immigration Enforcement is responsible for managing these cases.</p> <p>Since 1 August 2008, section 36(5) of the UK Borders Act 2007 allows the automatic deportation of a non-European Economic Area (EEA) national from the UK who was convicted of an offence and sentenced to a minimum of 12 months in custody, unless any of six defined exceptions apply.</p> <p>Foreign nationals convicted of offences who do not meet the criteria for automatic deportation under the 2007 Act may be considered under either:</p> <ul style="list-style-type: none">• Section 3(6) of the Immigration Act 1971. This allows the deportation of a foreign national who was convicted by a court who recommended as part of sentencing the person be deported from the UK, or if such a recommendation was not made.• Section 3(5)(a) of the 1971 Act (as amended), allows the deportation of a convicted foreign national on the grounds their presence is not conducive to the public good. Decisions on deportation for these reasons are considered subject to criteria on sentence length and offence type. <p>For more information on the Acts, see related links:</p> <ul style="list-style-type: none">• Immigration Act 1971, section 3• UK Borders Act 2007. <p>All cases meeting the relevant criteria of each category are managed by Immigration Enforcement's criminal casework. For more information on the current criteria for referral of FNO cases to criminal casework, see related link: When to refer a case to Criminal casework directorate (CCD).</p> <p>Section 3(5)(b) of the 1971 Act (as amended) allows the deportation of family members 'if</p>	Links to staff intranet removed
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	<p>another person to whose family he/she belongs is or has been ordered to be deported’.</p> <p>The Immigration Rules (see related link: Immigration Rules - part 13) also state ‘where the Secretary of State decides that it would be appropriate to deport a member of a family as such, the decision, and the right of appeal, will be notified and it will at the same time be explained that it is open to the member of the family to leave the country voluntarily if he/she does not wish to appeal or he/she appeals and his/her appeal is dismissed’. This applies to families of both 1971 and 2007 Act deportees.</p> <p>Where a FNO is a criminal casework case and has a subsisting family unit in the UK, criminal casework will manage the removal of family members as appropriate, working with a relevant immigration compliance and engagement (ICE) team (formerly known as local immigration team).</p>	
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Duty to safeguard children and promote their welfare

About this guidance Deportation of foreign national offenders Duty to safeguard and promote child welfare Advice from Office of Children's Champion (OCC) Internal training on managing children and family cases Alternatives to deportation for family members	<p>This section tells you about the legislation that makes sure Immigration Enforcement manages and considers the safety and welfare of children affected by the caseworking or operational process.</p> <p>When managing the deportation of foreign national offenders (FNOs) you must be aware of your statutory duty in relation to any children involved, directly or indirectly, in the immigration process.</p> <p>Section 55 of the Borders, Citizenship and Immigration Act 2009 requires the Home Secretary to make arrangements for making sure that specific functions are discharged, having regard to the need to safeguard and promote the welfare of children, regardless of nationality, who are in the UK.</p> <p>'Children' means people who are under the age of 18 years, but does not include children yet to be born. 'In the UK' will usually mean physically present within the boundaries of this country.</p> <p>You need to bear in mind the principles of the duty when considering a child's likely circumstances once they are back in their country of origin and the likely impact on their welfare of returning them there. Consequently, any activity undertaken in relation to children must be carried out in a way which shows that ongoing attention is been paid to this duty, and where applicable, these considerations are acted upon appropriately.</p> <p>For more information, see related link: Borders, Citizenship and Immigration Act 2009.</p>	<p>In this section</p> <p>Balancing the duties to safeguard and to deport</p> <p>Overall approach to key partners</p> <p>Concerns about child welfare – Immigration Enforcement staff</p> <p>Concerns about child welfare – foreign national offenders</p> <p>Links to staff intranet removed</p>
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Balancing the duties to safeguard and to deport

About this guidance Deportation of foreign national offenders Duty to safeguard and promote child welfare Advice from Office of Children's Champion (OCC) Internal training on managing children and family cases Alternatives to deportation for family members	<p>This page tells you about the core principle of balancing safeguarding and promoting child welfare issues against Immigration Enforcement's duty to deport foreign national offenders wherever possible.</p> <p>'Safeguarding children and promoting their welfare' can be defined as:</p> <ul style="list-style-type: none">• protecting children from maltreatment• preventing impairment of children's health or development• making sure children are growing up in circumstances consistent with the provision of safe and effective care, and• undertaking that role to allow those children to have optimum life chances to enter adulthood successfully. <p>This does not override existing Immigration Enforcement functions. Consequently, the duty does not supersede criminal casework's duty to protect the public by deporting foreign nationals who commit serious criminal offences.</p> <p>When making the decision to deport a family unit containing a child or children under 18, and carrying out the management of that family's removal (including possible detention), you must take into account the need to safeguard and promote the welfare of children (see related link).</p> <p>On considerations under Article 8 of the European Convention on Human Rights (ECHR), which protects rights to a private and family life, there is no automatic bar to removal simply because arrangements in the country of destination do not mirror the arrangements that may be provided in the UK. Each case must always be carefully considered on its own merits, in the light of relevant legislation, and paragraphs 396 to 400 of the Immigration Rules, introduced on 9 July 2012 to cover consideration of article 8 issues. For details, see related link: Immigration Rules Part 13 - Deportation.</p>	Related links Overall approach to key partners Concerns about child welfare – Immigration Enforcement staff Concerns about child welfare – foreign national offenders Links to staff intranet removed
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Overall approach and key partners

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	aspects. For further advice on how to proceed, see related link: Escalation process .	
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Concerns about child welfare – Immigration Enforcement staff

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Concerns about child welfare – foreign national offenders

About this guidance Deportation of foreign national offenders Duty to safeguard and promote child welfare Advice from Office of Children's Champion (OCC) Internal training on managing children and family cases Alternatives to deportation for family members	<p>This page tells you how Immigration Enforcement staff must escalate any information they receive about a foreign national offender (FNO) who may pose a risk to child welfare.</p> <p>If a FNO reveals they have committed or been accused of committing offences against children either in the UK or abroad (this may emerge during an interview for an asylum claim), under section 55 of the 2009 Act all immigration departments have a duty to report this to the relevant authorities.</p> <p>When you become aware of such information, you must contact the regional intelligence unit (RIU), who will check the validity of the information and pass it to the relevant interested authorities. These may include the:</p> <ul style="list-style-type: none">• Child Exploitation and Online Protection centre (CEOP)• Serious Organised Crime Agency (SOCA)• local police• local authority children's services. <p>It is up to you when to pass this information to the RIU, but in the interests of safeguarding children's welfare make sure the information is passed on for checking at the earliest opportunity. Advice may be sought from senior caseworkers or team leaders if appropriate.</p> <p>Specifically, any cases that come to light where a known sex offender is residing at an address with children aged under 18 (whether or not the children are related the offender), the situation must be brought to the attention of the local authority children's services and the police protection unit. This action must also be clearly recorded on CID notes.</p> <p>For details of how to do this, see related link: Contacting child welfare agencies.</p>	<p>Related links</p> <p>Balancing the duties to safeguard and to deport</p> <p>Overall approach to key partners</p> <p>Concerns about child welfare – Immigration Enforcement staff</p> <p>Links to staff intranet removed</p>
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Advice from the office of the children's champion

About this guidance Deportation of foreign national offenders Duty to safeguard and promote child welfare Advice from Office of Children's Champion (OCC) Internal training on managing children and family cases Alternatives to deportation for family members	<p>This section tells you how to contact the office of the children's champion (OCC) for advice on criminal casework directorate (CCD) children and family cases.</p> <p>For more information, see related links:</p> <ul style="list-style-type: none">• Escalation process• How to contact the OCC• The OCC management information data table• When to contact the OCC.	<p>In this section</p> <p>Escalation process</p> <p>How to contact the OCC</p> <p>When to contact the OCC</p> <p>The OCC management information data table</p>
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Escalation process

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	<p>related link: Ending the detention of children for immigration purposes).</p> <ul style="list-style-type: none"> ○ A child or children in care. ○ Family court proceedings. And/or ○ Any other circumstance that the safeguarding children coordinator deems appropriate. <p>This is an escalation process and in general the OCC should not be consulted directly before advice has been taken from a senior caseworker and safeguarding children coordinator.</p> <p>If coordinators are unavailable then senior caseworkers may consider it appropriate to ignore this step and consult the OCC directly. If at any point you feel the circumstances of a particular case are especially complex, sensitive and/or urgent, and you would benefit from OCC advice, you may go to the OCC directly, following consultation with your senior caseworker.</p> <p>For more information on the role of the OCC in more detail, see related link: Office of children's champion.</p>	
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When to contact the OCC

About this guidance Deportation of foreign national offenders Duty to safeguard and promote child welfare Advice from Office of Children's Champion (OCC) Internal training on managing children and family cases Alternatives to deportation for family members	<p>This page tells you about when staff in criminal casework must contact the office of the children's champion (OCC).</p> <p>One of the functions of the OCC is to provide advice to decision makers in Immigration Enforcement on the implications for the welfare of a child or children of a proposed course of action.</p> <p>If you are the decision maker you must take into account the advice offered by the OCC, but must also consider it along with all the other factors and criteria relevant to that individual case. Advice offered by the OCC is therefore not final. It is not the role of the OCC to make decisions in respect of individual cases, or to approve or support the decisions made by others.</p> <p>Recent guidance has been issued by the OCC which provides further clarification on specific case scenarios where you must get OCC advice.</p> <p>Frequent case scenarios where you must get OCC advice</p> <p>You may get advice from OCC at any time in cases where you, as the decision maker, have real concerns relating to children. However, if you work in criminal casework you must get advice in the following circumstances which will occur regularly in the management of foreign national offenders (FNO) cases:</p> <ul style="list-style-type: none">• Before making a removal or deportation decision where you know a child or children will be separated from a parent (or someone else acting as principle carer). This includes decisions about deportation made under section 32 of the UK Borders Act 2007, and any situation involving the removal or deportation of an unaccompanied child.• In the event of any fresh submissions that include evidence of a significant change in circumstance which may affect the original advice given by OCC. <p>You must note that cases involving the 'ensured' return of a family with children will be seen</p>	<p>Related links</p> <p>Escalation process</p> <p>How to contact the OCC</p> <p>The OCC management information data table</p> <p>Links to staff intranet removed</p>
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	<p>by the family returns panel, so there is no need for these cases to be referred to the OCC. For more information, see related link: Managing the return of families with children.</p> <p>The first requirement listed above does include cases where a child will be remaining in the UK with one parent, but will be separated from the departing parent who has until then been the main carer for the child.</p> <p>Infrequent case scenarios where you must get OCC advice</p> <p>There are some additional scenarios, which do not occur very often in FNO cases managed by criminal casework, where you must still get advice. These are:</p> <ul style="list-style-type: none"> • When it is proposed to use immigration powers to detain a minor at the end of a custodial sentence for a criminal offence so they can proceed to deportation. • When a child is in the UK and in (or faced with the prospect of being placed in) local authority case and there is a parent outside the UK seeking entry because the local authority or the family court wish to carry out a formal assessment of that parent. • A child or children from overseas are in the UK and family court proceedings have been initiated involving placement or adoption orders. <p>Number of referrals to the OCC</p> <p>Wherever possible you should only make one referral to the OCC on each case. This should be submitted at the decision stage of the process, after contact has been made with the local authority children's services (LACS) to establish details of any past, present or future care arrangements. For more information, see related link. If possible the referral should take account of the various stages of the caseworking process, for example the deportation order, arrangements to detain, or to remove. This minimises the number of individual referrals to the OCC in each cases.</p> <p>Further referrals should only be made if there are significant changes in a case, such as:</p> <ul style="list-style-type: none"> • where the existence of additional children has come to light • where family circumstances have changed , or • where the LACS have become involved. 	
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	<p>There may be other significant changes and it is up to you to decide if the circumstances in a case involving children warrant a new referral to the OCC.</p> <p>If there is any doubt whether it is appropriate to make a new referral to the OCC, you must seek advice from your senior caseworker and safeguarding children coordinators in line with the escalation process. For more information, see related link.</p>	
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How to contact the OCC

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	<p>any family members with illnesses, disabilities or other needs.</p> <ul style="list-style-type: none"> • Evidence that you have contacted the families' local authority social services department (there may be more than one to contact when children live in different areas), and their response as to whether they have had, or still have, any contact with any members of the family and if so, why. • Where you have asked for more information, add this to your submission and send OCC the updated version. This will maintain effective records for both you and OCC. • Your submission would be more efficiently dealt with if you title your covering emails to the OCC inbox as follows: <ul style="list-style-type: none"> ○ Surname, (or Home Office (HO) registration name, that is the name which directs the initial letter of the HO file reference). ○ Given name(s). ○ HO file reference (optional). ○ Any deadline (for example 'RDs set for 1-1-12' or 'to be detained on 1-1-12'). ○ Protective marking, for example 'PROTECT PERSONAL' (this is essential, although OCC advise that about 90 per cent of referrals currently do not have the required marking. Every email sent externally by Immigration Enforcement staff that contains personal information must have this marking. For more information, see related link: Quick reference guide to handling protectively marked material (UK Border Agency). <p>Examples of a good title for an OCC request would be:</p> <ul style="list-style-type: none"> • 'KHALED, Leila, K1234567, RDs set for 1-1-12. PROTECT PERSONAL, or • 'BAADER, Andreas. B7654321. To be detained 1-1-12. PROTECT PERSONAL. <p>Much of the impact of a proposed deportation on a child will depend on the circumstances in which the child is living. Include any information you have about these circumstances in your referral to the OCC to help make sure the advice given is timely and based on the best information available.</p> <p>Requests for family separation advice</p> <p>For family separation requests, in addition to the email detailed above, you must complete a referral template (ICD.4361) available on the case information database's document generator. This form was recently revised to make sure it includes all the possible</p>	
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	<p>information which the OCC's professional advisers will need to provide criminal casework with a fully informed opinion about the case. You must complete it as fully as possible before making a referral about a family separation.</p> <p>Also, you must be aware it is not a substitute for the mandatory management information data table, which must still be inserted at the top of the referral email (for more details see related link: The OCC management information data table).</p> <p>Requests must be planned in advance. Emergency or urgent requests at the last minute must be avoided if possible. The OCC cannot guarantee to respond to such requests on time.</p> <p>The introduction on 9 July 2012 of new Immigration Rules about consideration of a foreign national offender (FNO) and their family's article 8 rights does not in any way mean you no longer have to make a detailed consideration of the individual facts of a case. Referral to the OCC remains just as necessary given the duty under section 55 of the 2009 Act which all immigration departments are subject to. You must make sure referrals, and subsequent consideration of the proportionality of deportation, are closely-argued, even where it may appear initially likely that the FNO and their family will not meet the criteria of the article 8 rules.</p>	
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Introduction to CCD children and family cases

The OCC management information data table

About this guidance Deportation of foreign national offenders Duty to safeguard and promote child welfare Advice from Office of Children's Champion (OCC) Internal training on managing children and family cases Alternatives to deportation for family members	<p>This page tells you about the mandatory management information (MI) data table.</p> <p>This table must be inserted at the top of every email referral made by criminal casework (CC) caseworkers to the office of the children's champion (OCC) from 1 June 2013.</p> <p>If you need to make a referral to the OCC for advice (having followed the instructions at related links: Escalation process and When to contact the OCC) you must make sure the email you send to the OCC's inbox (see related link: Email office of the children's champion) is headed by the standard MI data table, which was introduced on 1 June 2013 as a tool for capturing all the relevant core information needed about a case. This provides two benefits:</p> <ul style="list-style-type: none">• an enhanced ability to consider all the facts of a case to provide better welfare advice to caseworkers, and• a means of compiling useful MI about OCC referrals, this may be useful when addressing queries such as parliamentary questions, and request for information under the Freedom of Information Act 2000. <p>Most entries simply require a 'yes' or 'no' response. To access the blank version of the table, see related link: OCC MI data table.</p> <p>You must paste the blank table in to the top of your email message, and complete the information as required in each of the 14 boxes. The download also provides a detailed explanation of exactly what information is expected in each box.</p> <p>To give you an idea of how a completed MI data table should look, you may refer to the 'worked example' which can also be accessed using the related download.</p> <p>On completion of the data table, you must then make sure all the additional information needed for a complete OCC referral is included in your email message. For more details about this, see related link: How to contact the OCC.</p>	<p>Related links</p> <p>Escalation process</p> <p>When to contact the OCC</p> <p>How to contact the OCC</p> <p>Links to staff intranet removed</p>
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Internal training on managing children and family cases

About this guidance Deportation of foreign national offenders Duty to safeguard and promote child welfare Advice from Office of Children's Champion (OCC) Internal training on managing children and family cases Alternatives to deportation for family members	<p>This page tells you about the training Immigration Enforcement staff must undertake if their work involves working with children directly or indirectly.</p> <p>All staff whose work involves children either directly or indirectly must complete an e-learning course on child safeguarding awareness. Staff who give advice to caseworkers on complex children and family issues must complete advanced levels of training about their needs in the immigration context. In the criminal casework this will mean senior caseworkers and safeguarding children coordinators.</p> <p>All operational staff (such as those in criminal casework's prison operations and removals team) who conduct interviews with children and/or have contact with children in their regular work must complete further e-learning courses and any relevant class-based training must be made available.</p> <p>As the new procedures relating to managing family returns without the use of detention settle in, appropriate training courses are being developed to make sure staff engaging in these activities are properly equipped to make sure child welfare is safeguarded and promoted whilst managing the immigration aspect of the case effectively.</p>	Links to staff intranet removed
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Alternatives to deportation for family members

About this guidance Deportation of foreign national offenders Duty to safeguard and promote child welfare Advice from Office of Children's Champion (OCC) Internal training on managing children and family cases Alternatives to deportation for family members	<p>This page tells you the alternatives to deporting family members who have no lawful basis to remain in the UK and who are liable to removal.</p> <p>If a foreign national offender (FNO) is liable to deportation, and their family members are not British citizens, you will usually try to remove the family unit together if possible. In all cases, especially those involving children, Immigration Enforcement prefer to encourage voluntary departure, if not through the subject's own means then with assistance from the facilitated returns scheme (FRS) in respect of FNOs, and the assisted voluntary return (AVR) process for their family members. For more information, see related links:</p> <ul style="list-style-type: none">• The facilitated returns scheme (FRS)• Assisted voluntary returns. <p>The FNO may be removed under the early removal scheme (ERS), if within the relevant time period. Arrangements then need to be made to facilitate removal of any family members in line with that, if possible. For more information on ERS, see related link: The early removal scheme (ERS).</p> <p>Otherwise, family members may either be deported with the FNO as their dependants, or alternatively removed according to their own immigration status. If they are immigration offenders in their own right then removal may be under whichever category is appropriate:</p> <ul style="list-style-type: none">• Administrative removal under section 10(1) of the Immigration and Asylum Act 1999 (overstayers, work in breach of conditions, leave to remain by deception).• Removal under section 24(1) of the Immigration Act 1971 (all types of illegal entrant as defined by section 33(1) of the Act).• Removal as a port case (following refusal of leave to enter under the Immigration Rules). <p>For more information about the various types of immigration offences, see related link: Enforcement: Immigration offences and breaches. For more information on the removal of</p>	Links to staff intranet removed
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	FNO deportees' family members from the UK, see related link: Deportation of family members of foreign national offenders.	
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Contact

About this guidance Deportation of foreign national offenders Duty to safeguard and promote child welfare Advice from Office of Children's Champion (OCC) Internal training on managing children and family cases Alternatives to deportation for family members	<p>This page explains who to contact for more help with the introduction to criminal casework children and family cases guidance.</p> <p>If you have read this guidance and still need more help with this category, you must first ask your senior caseworker or line manager.</p> <p>If the question cannot be answered at that level, you may email the criminal casework operational process and policy team (CCOPPT) using related link: Email CCD process team.</p> <p>Changes to this guidance can only be made by the modernised guidance team (MGT). If you think the policy content needs amending you must contact CCOPPT, who will ask the MGT to update the guidance, if appropriate.</p> <p>The MGT will accept direct feedback on broken links, missing information or the format, style and navigability of this guidance. You can send these using the link: Email Modernised guidance team.</p>	Related links Changes to this guidance Information owner Links to staff intranet removed
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Information owner

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This page tells you about this version of the introduction to criminal casework children and family cases guidance and who owns it.

Version	7.0
Valid from date	11 June 2013
Policy owner	Criminal casework operational process and policy team (CCOPPT)
Cleared by director	Angela Kyle
Director's role	CCD Director
Clearance date	19 October 2011
This version approved for publication by	Eldon Ward
Approver's role	Acting Deputy Director of the Enforcement, Crime and Detention section of the Operational Policy and Rules unit
Approval date	5 June 2013

Changes to this guidance can only be made by the modernised guidance team (MGT). If you think the policy content needs amending you must contact CCOPPT using related link: Email CCD process team who will ask the MGT to update the guidance, if appropriate.

The MGT will accept direct feedback on broken links, missing information or the format, style and navigability of this guidance. You can send these using the link: Email Modernised guidance team.

Related links

[Changes to this guidance](#)

[Contact](#)

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