

Criminal casework

Concluding family cases

Concluding family cases

About this guidance

About this guidance Legal barriers Granting leave to remain Action post-deportation or removal	<p>This guidance tells you about the various legal barriers which may arise during the pursuit of deportation in foreign national offender (FNO) family cases, and the ways in which Immigration Enforcement may seek to conclude such cases.</p> <p>Types of case conclusion in the criminal casework directorate include:</p> <ul style="list-style-type: none">• Deportation of the FNO and all family members.• Deportation of the FNO without family members, or with only some.• Deportation of the FNO and family not pursued, but referred to a local immigration team for possible alternative removal action.• Deportation of the FNO and family not pursued, removal not pursued, so leave to remain granted. <p>Changes to this guidance – This page tells you what has changed since the previous version of this guidance.</p> <p>Contacts – This page tells you who to contact for more 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>Related links</p> <p>Links to staff intranet removed</p>
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Changes to this guidance

About this guidance Legal barriers Granting leave to remain Action post-deportation or removal	This page lists the changes to the concluding family cases guidance, with the most recent at the top.		Related links See also Contact Information owner Links to staff intranet removed
	Date of the change	Details of the change	
	28 May 2013	Six month review by the modernised guidance team: <ul style="list-style-type: none">• Minor housekeeping changes.	
	12 November 2012	Six month review by the modernised guidance team: <ul style="list-style-type: none">• Minor housekeeping changes.	
	For previous changes to this guidance you will find earlier versions in the archive. See related link: Children and family members - Archive.		

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Legal barriers

About this guidance Legal barriers Granting leave to remain Action post-deportation or removal	<p>This section tells you about various legal barriers which can delay the conclusion of cases of foreign national offenders (FNOs) with family in the UK, and which require additional consideration.</p> <p>At any stage of the deportation and removal consideration process, you can receive further representations from families and their representatives against any decision to deport or remove them from the UK. These representations must be considered on their individual merits.</p> <p>As part of the deportation consideration in family cases, you must check if any children of the family are subject to ongoing court proceedings, or are already subject to an order of a court regarding their care and residency. You can obtain this information from the relevant local authority children's services (LACS) and the Children and Family Court Advisory and Support Service (CAFCASS).</p> <p>Although immigration law takes precedence over the Children Act 1989 proceedings or court orders and their equivalents in the UK's devolved administrations, they must always be taken into account when considering deportation action. See related link: Children Act 1989.</p> <p>Contact or residence orders cannot in themselves prevent the removal of a child from the UK, but such orders, and any outstanding or completed family court proceedings, will be relevant in the overall assessment, and some weight must be given to them. For more information, see related link: Court orders and Article 8.</p> <p>The courts can be cautious about granting residence orders for children who are subject to immigration control. It is important to make sure the court is able to consider this at the earliest possible stage. CAFCASS must be contacted to arrange for this evidence to be made available to the relevant court.</p>	<p>In this section</p> <p>Residence orders</p> <p>Contact orders</p> <p>Court orders and Article 8</p> <p>Links to staff intranet removed</p>
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Residence orders

About this guidance Legal barriers Granting leave to remain Action post-deportation or removal	<p>This page tells you about residence orders which can be made for children who are part of a foreign national offender's (FNO's) family in the UK.</p> <p>A residence order made by a family court for a minor determines where they will live, and with whom. The granting of a child residence order to an adult automatically gives them parental responsibility for that child, if they did not already have it. Parental responsibility obtained through a residence order will continue until the order expires.</p> <p>A residence order usually lasts until the child is 16 years of age, unless the circumstances of the case are exceptional and the court decides the order should continue for longer.</p> <p>A residence order prevents any child, who is the subject of the order, being removed from the UK (for more than one month) without the written agreement of everyone with parental responsibility or an order of the court.</p> <p>If you are considering the removal or deportation of a child who is subject to a residence order you must discuss the case with a senior caseworker and the office of the children's champion (OCC) to find out what action is appropriate on a case by case basis. You cannot remove a child without the conditions of the residency order being satisfied or without a court order.</p> <p>For more information on court orders and their effects, see related link: Children and Family Court Advisory and Support Service - Contact and Residence.</p>	In this section Contact orders Court orders and Article 8 Links to staff intranet removed
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Contact orders

About this guidance Legal barriers Granting leave to remain Action post-deportation or removal	<p>This page tells you about contact orders which can be made for children who are part of a foreign national offender's (FNOs) family in the UK.</p> <p>A contact order requires the person with whom a child lives to allow that child to visit, stay or otherwise have contact with a person named in the order. This may be an estranged parent, or other relative.</p> <p>Contact orders usually continue until the child reaches 16. The courts will only make orders beyond that age in the most exceptional cases.</p> <p>Where an existing contact order is in place for a FNO this must be taken into account when deportation decisions are made on a case by case basis. Some contact orders only allow for contact by letter, video link or telephone. In these cases you will need to demonstrate how this can be achieved from abroad before deportation or removal takes place. Cases with ongoing contact proceedings are covered in the section Court orders and Article 8, see related link.</p> <p>For more information on court orders and their effects, see related links: Children and Family Court Advisory and Support Service - Contact and Residence.</p>	<p>In this section</p> <p>Residence orders</p> <p>Court orders and Article 8</p> <p>Links to staff intranet removed</p>
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Court orders and Article 8

About this guidance Legal barriers Granting leave to remain Action post-deportation or removal	<p>This page tells you how to balance the existence of court orders with considerations under Article 8 of the European Convention on Human Rights (ECHR) for deportation.</p> <p>Where a foreign national offender (FNO) is involved in ongoing family proceedings in the UK, for example, about contact with their child, it may, or may not, be appropriate to remove them until the outcome of those proceedings is determined.</p> <p>Each case must be considered on its facts. Whilst involvement in, or orders made in, Children Act 1989 proceedings do not deprive the Secretary of State of powers of deportation and removal, you must take such factors into account when deciding whether to exercise those powers, and whether doing so would be a proportionate response, in light of article 8 or article 6 of the ECHR.</p> <p>You must consider whether the offences committed may be relevant to any contact particularly if the offences were in connection to the children involved in the ongoing proceedings. In some cases Immigration Enforcement can argue in the courts that removal would not be in breach as the proceedings can be pursued from abroad by telephone, through lawyers.</p> <p>In other cases it may be appropriate to grant discretionary leave to remain on article 8 or article 6 grounds for a short period to allow the FNO to remain in the UK for the case to be concluded. For guidance on discretionary leave, see related link.</p> <div><div>Restricted – do not disclose – start of section</div><div>The information in this page has been removed as it is restricted for internal Home Office use only.</div><div>Restricted – do not disclose – end of section</div></div>	<p>In this section</p> <p>Residence orders</p> <p>Contact orders</p> <p>Related links</p> <p>Links to staff intranet removed</p>
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Granting leave to remain

About this guidance Legal barriers Granting leave to remain Action post-deportation or removal	<p>This page tells you how to make sure foreign national offenders (FNOs), whom Immigration Enforcement do not intend to deport or remove or who have won appeals against a decision to deport or remove, have their stay in the UK regularised appropriately.</p> <p>It also explains where to find more information about this.</p> <p>If enforcement action is not being pursued, you must check the immigration status of each family member and assess whether further action is needed. If a served deportation order invalidated previous leave, or where family members are overstayers or illegal entrants, you must consider granting leave.</p> <p>For more guidance on granting leave in FNO cases where deportation is not possible for legal reasons, see related link: Criminal casework: Grants of leave.</p> <p>For more general guidance on discretionary leave see related link: Discretionary Leave.</p>	Related links See also Links to staff intranet removed
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Action post-deportation or removal

About this guidance Legal barriers Granting leave to remain Action post-deportation or removal	<p>This page tells you the action you must take following the successful deportation or removal of a foreign national offender (FNO) and any family members from the UK.</p> <p>It also explains where to find more information about this.</p> <p>When criminal casework has successfully deported a FNO, and any members of their family (who were removed with assistance by an immigration compliance and engagement (ICE) team, formerly known as local immigration team), you must make sure certain actions are completed with regard to closing the criminal casework case and maintaining accurate and complete agency records.</p> <p>For full details on these actions and how to complete a FNO case post-deportation, see related link: Post removal action.</p>	Related links See also Links to staff intranet removed
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Contact

About this guidance Legal barriers Granting leave to remain Action post-deportation or removal	<p>This page explains who to contact for more help with concluding family cases in criminal casework.</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 they cannot answer your question, they or 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>	<p>Related links See also</p> <p>Changes to this guidance</p> <p>Information owner</p> <p>Links to staff intranet removed</p>
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Information owner

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This page tells you about this version of the concluding family cases guidance and who owns it.

Version	5.0
Valid from date	28 May 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	Richard Short
Approver's role	Assistant director, modernised guidance team
Approval date	16 May 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 (see 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
See also

[Changes to this
guidance](#)

[Contact](#)

Links to staff intranet
removed