



Home Office

# Adopted children and children coming to the UK for adoption

Version 4.0

# Contents

Contents.....	2
About this guidance.....	4
Contacts .....	4
Publication.....	4
Changes from last version of this guidance .....	4
Purpose.....	5
Use of this guidance .....	5
Other information about this guidance .....	5
Introduction .....	6
Application types.....	6
The best interests of the child .....	6
Background.....	7
Article 8 of the European Convention on Human Rights (ECHR).....	8
Approach.....	8
Categories of leave for adopted or prospective adopted children .....	10
The inter-country adoption process.....	10
In-country applications for adoption involving individuals without entry clearance for that purpose.....	11
Adoptions leading to British citizenship.....	12
Adoption and EEA nationals.....	12
Inter country adoptions under the Hague Convention.....	14
Introduction .....	14
A full order .....	15
Guardianship arrangement.....	15
Applications.....	15
Entry clearance requirements .....	15
Adoptions from a country on The Adoption (Designation of Overseas Adoptions) Order or on The Adoption (Recognition of Overseas Adoptions) Order 2013 .....	17
Introduction .....	17
Applications.....	18
Entry clearance requirements .....	18
Indefinite leave to enter requirements .....	19
Entry clearance and leave to remain requirements .....	19
Limited leave to enter or remain requirements.....	19
Indefinite leave to remain requirements.....	20

Adoptions from a country not on The Adoption (Designation of Overseas Adoptions) Order or The Adoption (Recognition of Overseas Adoptions) Order 2013 – child for adoption in the UK .....	21
Introduction .....	21
Applications .....	21
Limited leave to enter requirements .....	21
Indefinite leave to remain requirements .....	22
De facto adoptions.....	23
Introduction .....	23
Types of circumstances when a de facto adoption may arise .....	23
Applications .....	23
Indefinite leave to enter requirements.....	25
Limited leave to enter or remain requirements .....	25
Indefinite leave to remain requirements .....	25
Consideration of requirements .....	27
Certificate of eligibility .....	27
Summary of the Immigration Rules and the Certificate of Eligibility requirement .....	27
Definition of a parent.....	29
Interpretation of sole responsibility.....	29
Interpretation of serious and compelling family reasons .....	29
Age .....	29
Definition of child not leading an independent life, is unmarried and is not a civil partner, and has not formed an independent family unit.....	30
Accommodation .....	30
Maintenance.....	30
Financial requirements .....	30
Grounds for Refusal.....	31
Exceptional circumstances.....	32
Process to be followed in considering exceptional circumstances .....	32
How to consider exceptional circumstances .....	32
Compassionate factors .....	33
Evidence .....	35
Entry clearance .....	35
Limited leave to remain.....	36
Indefinite leave to remain .....	36
Decision letter wording .....	37

# About this guidance

This guidance tells decision makers how to decide applications for leave to enter or remain in the UK as an adopted child or a prospective adopted child under the age of 18 under paragraphs 309A to 316F of [Part 8](#) of the Immigration Rules.

## Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors, then email Family Policy.

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email the Guidance Rules and Forms team.

## Publication

Below is information on when this version of the guidance was published:

- version **4.0**
- published for Home Office staff on **01 December 2021**

## Changes from last version of this guidance

This guidance has been updated to amend the [Summary of the Immigration Rules and the Certificate of Eligibility requirement section](#).

### Related content

[Contents](#)

# Purpose

This section tells you about use of this guidance in considering a child's right to enter or remain in the UK on the basis of their family life as an adopted child or a prospective adopted child.

## Use of this guidance

This guidance must be used for all decisions following a valid application for entry clearance (or leave to enter) or leave to remain in accordance with paragraphs 309A to 316F of [Part 8](#) of the Immigration Rules.

## Other information about this guidance

Within this guidance there are links to the Migration and Borders section on SharePoint that are shown as an 'internal link' otherwise links are to the same guidance published on [GOV.UK](https://www.gov.uk) for external access.

Suggested refusal paragraphs are contained in this guidance. In explaining which Immigration Rules are not met and why, every refusal notice or letter must explain why a grant of entry clearance or leave to remain outside the Rules on the basis of exceptional circumstances is not appropriate and contain appropriate appeal rights paragraphs.

### Related content

[Contents](#)

# Introduction

This section introduces you to considering applications made to enter or remain in the UK as an adopted child or prospective adopted child.

## Application types

This guidance applies to applications for entry clearance to, or limited or indefinite leave to enter or remain in, the UK as:

- the adopted child of a parent or parents present and settled in the UK or being admitted for settlement in the UK
- the adopted child of a parent or parents given limited leave to enter or remain in the UK
- a child for adoption
- a child for adoption under the Hague Convention

## The best interests of the child

The duty in section 55 of the Borders, Citizenship and Immigration Act 2009 to have regard to the need to safeguard and promote the welfare of a child in the UK, together with Article 3 of the UN Convention on the Rights of the Child, means that consideration of the child's best interests must be a primary consideration in immigration decisions affecting them. This guidance and the Immigration Rules it covers form part of the arrangements for ensuring that we give practical effect to these obligations.

You must carefully consider all of the information and evidence provided in the application concerning the best interests of a relevant child (that is a person who is under the age of 18 years at the date of application and it is evident from the information provided by the applicant will be affected by the decision) when assessing whether an applicant meets the requirements of the Immigration Rules and, where they do not otherwise do so, whether there are exceptional circumstances that warrant a grant of leave outside the Rules.

The decision notice or letter must demonstrate that a consideration has taken place of all the information and evidence provided in the application concerning the best interests of a relevant child. You must carefully assess the quality of any evidence provided. Original, documentary evidence from official or independent sources will be given more weight in the decision-making process than unsubstantiated assertions about a child's best interests.

For further guidance, see the Exceptional Circumstances section of [Family Life \(as a partner or parent\): private life and exceptional circumstances](#) guidance.

## Background

This guidance accompanies and explains the Immigration Rule requirements to be met before an adopted child can be granted entry clearance to come to the UK from overseas, and the requirements to be met when entry clearance is sought for a child to come to the UK for the purpose of adoption or on the basis that the child is a de facto adopted child. Children coming to the UK as adopted children or for the purpose of adoption are expected to meet the requirements set out in the Immigration Rules as explained in this guidance, but you must bear in mind that adoption is a complex area and not every combination of circumstances and overseas law can be adequately reflected in this guidance. On that basis you must be open to making further enquiries as to the substantive nature of the relationships involved. A clearly demonstrated parenting role in a young child's life that is not provided by anyone else, which it is clear will continue, and where it is also clear that the legal status of adoption into that family will be the outcome in the United Kingdom, will always warrant serious consideration. Adoption of a child in mid to late teens in circumstances where this role could have been taken on much earlier in the child's life will always warrant closer examination. The decision maker must be satisfied that the adoption is not one of convenience arranged to facilitate admission to the UK before the child becomes an adult.

This guidance relates to both intercountry adoptions and overseas domestic adoptions. There are some countries whose adoption laws, if followed, will create an adoption which is also recognised as a legal adoption in the UK. (This is a complex area involving domicile at the time of adoption, international conventions and other legal principles and the Immigration Rules are not designed to determine the overall lawfulness of the adoption but only eligibility for entry to the UK in that category). There will also be circumstances where it is not clear if a child's situation can count as lawful adoption. In these circumstances the adoptive parents should seek legal advice as to the status of the child.

You can only decide whether the requirements of the Immigration Rules are met. If they are this does not amount to an official view of the legal status of the adoption for other purposes, only that the child and his or her parents have met the requirements of the Immigration Rules for the purpose of adoption. In those cases, for example where a child does not meet the requirements set out in the Immigration Rules for an adopted child, the Entry Clearance Officer can go on to consider whether the child meets the requirements for entry in order for adoption to take place, or the requirements for entry as a de facto adopted child. These requirements are strict, but they are fair. They serve to protect children's best interests in that it needs to be clear that children are being looked after and will continue to be looked after in a genuinely parental way by those caring for them. They also serve to ensure that the adoption route is not used by those who wish to bring a child to the UK when lawful adoption is not likely to happen for that child, or when they should be seeking entry for the child under another category of the Immigration Rules that is more suitable for that child.

Where an application for entry clearance or limited or indefinite leave to enter or remain made by or on behalf of an adopted child or a child for adoption does not meet the requirements of the Immigration Rules, you must still consider whether

there are exceptional circumstances based on ECHR Article 8 grounds (the right to respect for private and family life) which mean the Home Office should consider granting entry clearance or leave outside the Rules.

From 6 April 2015, under the Immigration (Health Charge) Order 2015, applications for limited leave to enter or remain as an adopted child or prospective adopted child are subject to the immigration health charge, in addition to the application fee.

The practice of adopting a child and bringing him or her up as one's own is a feature of many cultures. UK adoption law requires there to be a full transfer of parental responsibility to the adoptive parents and for the child to be legally the child of the adoptive parents.

In a case where the adopted child retains normal ties with his or her natural parents, the application will not meet the requirements of the Immigration Rules and the Entry Clearance Officer or other decision maker must consider whether there are exceptional circumstances on ECHR Article 8 grounds which mean the Home Office should consider granting entry clearance or leave outside the Rules.

The Immigration Rules, together with the policy on exceptional circumstances, provide a clear basis for considering immigration cases in compliance with ECHR Article 8. The Rules also take into account the need to safeguard and promote the welfare of children in the UK.

## Article 8 of the European Convention on Human Rights (ECHR)

Everyone has a right under ECHR Article 8 to respect for their private and family life, but it is a qualified right. Article 8 provides that it can be lawful to interfere with the exercise of that right where it is necessary to do so because of public interest considerations, and where the interference is proportionate to the public interest being pursued. In the immigration context, this usually means where it is necessary and proportionate for public safety, to safeguard the economic well-being of the UK or to protect the rights and freedoms of others.

ECHR Article 8 states:

**Article 8(1)** Everyone has the right to respect for his private and family life, his home and his correspondence.

**Article 8 (2)** There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

## Approach

Where an application for entry clearance or leave does not meet the requirements of the Immigration Rules, the Entry Clearance Officer or other decision maker must in every case go on to consider whether there may be exceptional circumstances which warrant a grant of entry clearance or leave outside the Rules on Article 8 grounds because refusal would result in unjustifiably harsh consequences for the applicant or their family.

Where an Entry Clearance Officer is of the view that there may be exceptional circumstances in line with this guidance, they must refer the application to the Referred Casework Unit (RCU), as outlined in [Exceptional circumstances](#). Borderline cases must be referred.

The consideration of exceptional circumstances must include consideration of any factors relevant to the best interests of any relevant child.

The Immigration Rules – now underpinned by primary legislation with regard to the weight to be given to the public interest under Article 8 in immigration cases (see Part 5A of the Nationality, Immigration and Asylum Act 2002, inserted by section 19 of the [Immigration Act 2014](#)) – set out the position of the Secretary of State on proportionality. They state how the balance should be struck between individual rights and the public interest in assessing Article 8. They provide clear instructions for the decision maker on the approach they must normally take and they provide the basis for a clear, consistent and transparent decision-making process. This means that it will be in exceptional circumstances only that a decision made in accordance with the Rules will lead to an outcome which is disproportionate under Article 8. This is likely to occur only rarely.

#### **Related content**

[Contents](#)

# Categories of leave for adopted or prospective adopted children

The categories in which parents who are British citizens or settled in the UK can bring an adopted child or prospective adopted child into the UK under the Immigration Rules are:

- limited leave with a view to settlement as a child for adoption under the Hague Convention (see paragraphs 316D – 316F of [Part 8](#))-this refers to the process whereby parents resident in the UK have approached an adoption agency to be assessed and for help in identifying a child in a particular country for adoption
- indefinite leave as a child who has been adopted according to the laws of the child's country of origin or residence, this being a country whose adoptions are recognised under relevant UK legislation; see: [list of designated countries](#) and paragraphs 310 – 313 of [Part 8](#))
- limited leave as a child adopted according to the laws of the child's country of origin or residence, this being a country whose adoptions are recognised under relevant UK legislation, but only one parent has settled status here and the other has limited leave with a view to settlement or is being granted limited leave with a view to settlement (Paragraph 314 of [Part 8](#))
- a category that allows a child to come to the UK for the purpose of being adopted and with a view to settlement (see paragraphs 316A – 316C of [Part 8](#))
- a category that recognises, in a concessionary way, the situation where parents living overseas will have cared for a child in an adoptive way but without access to a legal system in which formal adoption can take place:
  - these are described as de facto adoptions, but a specific period of caring for the child's needs must have been completed as set out in paragraph 309A before the application can be considered under paragraphs 310 – 316C of [Part 8](#)

## The inter-country adoption process

It is important to note that there are aspects of inter-country adoptions which, by law, must happen before consideration of the Immigration Rules.

For persons resident in England and Wales, inter-country adoptions are subject to the [Adoption and Children Act 2002](#) and The [Adoptions with a Foreign Element Regulations 2005](#). There are also some countries which are subject to further adoption restrictions (see [Intercountry adoption: list of restricted countries](#) on GOV.UK for more information).

There is different legislation in place in Scotland (the [Adoption and Children \(Scotland\) Act 2007](#) and [The Adoptions with a Foreign Element \(Scotland\) Regulations 2009](#) and Northern Ireland (the [Adoption \(Intercountry Aspects\) Act \(Northern Ireland\) 2001](#), [The Adoption \(Northern Ireland\) Order 1987](#), [Adoption \(Intercountry Aspects\) Act \(Northern Ireland\) 2001](#), [Adoption of Children from Overseas Regulations \(Northern Ireland\) 2002](#), [Inter-country Adoption \(Hague](#)

[Convention\) Regulations \(Northern Ireland\) 2003](#) and [Registration of Foreign Adoptions Regulations \(Northern Ireland\) 2003](#).

The cases for which a Certificate of Eligibility is required under paragraph 309B of the Immigration Rules are those where an adoptive parent or parents habitually resident in the UK (a) intend to bring a child who is habitually resident outside the UK to the UK for the purpose of adoption, or (b) where the adoption has taken place less than 12 months before the date on which the child will be entering the UK. The following UK legislation refers:

- Section 83 of the Adoption and Children Act 2002 (England & Wales)
- Articles 58ZA and 58ZB of the Adoption (Northern Ireland) order 1987
- Section 58 of Adoption and Children (Scotland) Act 2007

Guidance for prospective adopters resident in England and Wales issued by the Department for Education is available on GOV.UK at: <https://www.gov.uk/child-adoption/adopting-a-child-from-overseas> and [Annex C adoptions with a foreign element](#). Guidance for residents of Scotland is available on the Scottish Government website at: [Intercountry adoption](#) and for residents of Northern Ireland on nidirect at: [Introduction to intercountry adoption | nidirect](#).

During inter-country adoption the authorities in the country of the child's birth may request a non-committal letter (RON 117) for the adoption to proceed. This letter does not guarantee entry clearance. These are currently processed and issued by the Family Policy team in Liverpool.

The inter-country adoption process and the legal requirements to be met before a child can enter the UK exist to safeguard against the trafficking of children and to promote their welfare.

Some applications use terms such as 'adoption' for arrangements which may be recognised abroad but which are not recognised under adoption law in the UK, for example, the culture-based, inter-family gifting of children.

Attention to detail and scrutiny of relevant paperwork is essential when dealing with adoption cases at every stage to guarantee the welfare of the child involved.

Certain overseas adoptions are automatically recognised, and it is not always necessary to follow intercountry procedures.

## **In-country applications for adoption involving individuals without entry clearance for that purpose**

It is a requirement of the Immigration Rules that a child coming to the UK for adoption, or as an adopted child, must have an entry clearance issued for that purpose. However, we have seen cases in which children close to the age of 18, who were granted entry to the UK in another immigration category, e.g. as a student, have been named in applications for adoption made to the Family Court.

The Home Office is not opposed to genuine adoptions, but adoption must not be used as a mechanism for the acquisition of permanent residence and British citizenship by a person close to the age of 18 who would not otherwise qualify for these benefits.

The Family Court may notify the Home Office that an adoption application has been made in the case of a child without entry clearance for that purpose and enquire whether the Home Office wishes to intervene in the proceedings. Advice on how to proceed in such cases should be sought from Family Policy.

## Adoptions leading to British citizenship

Under section 1(5) of the [British Nationality Act 1981](#), a child who has been adopted through the courts in the UK, or a qualifying British overseas territory, automatically acquires British citizenship from the date of the adoption if:

- the adoptive parent is a British citizen
- in the case of a couple, one or both parents are British citizens

If a child is adopted under a Hague Convention adoption under the law of a country or territory outside the UK, the child will be a British citizen from the date of the adoption if both:

- the adoptive parent is a British citizen
- that person or, in the case of a couple, both adoptive parents are habitually resident in the UK or a designated territory

In becoming a British citizen the child acquires a [right of abode in the UK](#).

Further information and guidance is available on GOV.UK at: [inter-country adoption and British citizenship - GOV.UK](#).

## Adoption and EEA nationals

[Regulation 7 of The Immigration \(European Economic Area\) Regulations 2016](#) sets out the definition of children of EEA nationals as direct descendants of the EEA national or their spouse or civil partner who are either:

- under 21
- dependants of the EEA national or their spouse or civil partner

Children or grandchildren of EEA nationals or of their spouse or civil partner, who are under 21 years of age, or who are aged 21 or over but dependent on the EEA national, will qualify as direct family members of that EEA national.

Adopted children of EEA nationals will be considered as direct family members in the same way as biological children, where the adoption is recognised as a valid legal adoption by the UK. You must be satisfied that a certificate provided in this context is for an adoption and not for a non-adoptive legal guardianship order. This does not

alter the requirement for an adoptive parent to be present and settled in the UK before they can bring a child into the UK **for the purpose** of adoption. Thus an EEA national who wishes to bring a non-EEA national to the UK under the Immigration Rules for the purpose of adoption will need to be able to produce evidence of settled status or, residing in the UK while exercising Treaty rights and that they are a qualified person under the Immigration (European Economic Area) Regulations 2016 who can be regarded as qualifying for permanent residence status. (Without this the child would not be able to live permanently in the UK). There may be instances where an EEA national finds permanent residence or entitlement to permanent residence status difficult to establish definitively (for instance, because although based in the UK they have had periods of residence outside the UK). In these cases, advice on whether an individual would qualify for permanent residence status should be sought from European casework.

Further information and guidance for decision makers is included in the [European casework published guidance](#)

### **Related content**

[Contents](#)

# Inter country adoptions under the Hague Convention

This section tells you how to consider applications under the Immigration Rules as a child for adoption under the Hague Convention

## Introduction

The 1993 Hague Convention on the Protection of Children and Co-operation in respect of Intercountry Adoption was set up to establish an international system of cooperation that aims to prevent the abduction of, the sale of, and illegal traffic in children. The Convention requires that intercountry adoption happens only when it is in the child's best interests, that all adopters are assessed and approved as suitable to adopt and that no profit is made from the adoption process. A "convention adoption" is where parents from one signatory country adopt a child from another signatory country, following set procedures.

The Hague Convention Articles and list of countries which have implemented the Convention can be viewed at:

- [Hague Convention Articles](#)
- [Convention contracting states \(status table\)](#) (however, please note, this is only applicable to those countries with a live entered into force (EIF) date)

Although a country has implemented the Hague Convention, it does not mean that all adoptions in that country will be under the terms of the Convention.

A Hague Convention adoption order will either:

- be completed in the state of origin of the child and will confer British citizenship if both of the following apply:
  - one of the adopting parents is a British citizen
  - that person or, in the case of a couple, both adopting parents are habitually resident in the UK
- require the adoption to be completed in the UK. The adoptive parents are given responsibility for the child on a guardianship/foster care type arrangement and can then adopt the child in the UK on receipt of satisfactory post-placement reports

For residents in England, the Central Authority for an adoption under the Hague Convention is the Department for Education. The Devolved Administrations in Wales, Scotland and Northern Ireland and the Isle of Man Government are Central Authorities under the Convention and process casework for applicants in their respective countries. Contact details can be found here: [UK Central Authority contacts](#). A Certificate of Eligibility will still be issued in all Hague Convention applications (albeit worded slightly different to the non-Convention certificates of eligibility).

Once the adoption has been finalised, the overseas Central Authority will issue the Article 23 Conformity Certificate, finalising the adoption under the terms of the Convention. However, in Hague Convention adoptions from Thailand or the Philippines, the finalisation of the adoptions will be subject to the completion of satisfactory post-placement reports and the Article 23 Conformity Certificate will be issued by the relevant UK Central Authority at a later date. Hague Convention adoptions from Thailand or the Philippines will therefore not have the Article 23 Certificate at the point of entry to the UK.

## A full order

An adoption order made abroad and certified as valid by the relevant foreign authority under article 23 of the Hague Convention is recognised under UK law. The adoptive parent or parents will be recognised as the parent or parents of the child without needing to obtain an adoption order in a UK court.

If the adoptive parent or, in the case of a joint adoption, one of the adoptive parents is a British citizen and they are both habitually resident in the UK (or a territory designated for the purposes of the [British Nationality Act 1981](#)), the child will automatically acquire British citizenship on the date the Convention adoption takes effect.

For more information and guidance see: [inter-country adoption and British citizenship - GOV.UK](#)

## Guardianship arrangement

Some Hague Convention countries (such as Thailand and the Philippines) will allow the child to live with the adopting parents on a guardianship/foster care type basis. The adoption can be finalised at a later date, normally 6 or 12 months later, but this period can differ depending on the State in which they are adopting.

## Applications

A child who is being brought to the UK for adoption under the Hague Convention must apply for limited leave to enter the UK with a view to settlement and their application will be considered under paragraphs 316D – 316F [Part 8](#) of the Immigration Rules.

## Entry clearance requirements

The requirements to be met by an applicant for entry clearance as a child for adoption under the Hague Convention are set out in paragraph 316D. (i) to (vi) of the Immigration Rules.

When considering paragraph 310D(i) you must be satisfied that the prospective parent or parents are habitually resident in the UK. Habitual Residence means stable, factual residence including settlement. It is a legal concept which is subject to interpretation by the courts. There is no statutory definition of the term. Whether

someone is habitually resident in a particular place will depend upon all the circumstances and facts of an individual case. If the adopter is habitually resident in the UK, the relevant Central Authority in the UK will have been satisfied about the prospective parent's habitual residence before authorising the adoption.

When considering paragraph 316D(ii) and paragraph 316D(iii), you must be satisfied that the adoption is the subject of an agreement made under Article 17(c) of the Hague Convention and the child is coming for adoption in the UK under the Hague Convention. The relevant Central Authority letter confirming that a certificate of eligibility has been provided will confirm this.

When considering the requirements, you:

- should refer to the [Consideration of requirements](#) and [Evidence](#) sections of this guidance
- should contact the inter-country adoption team in the relevant Central Authority in the UK to discuss any issues when considering the application. See [The inter-country adoption process](#) for contacts
- may contact Family Policy for advice

Under paragraph 316E, limited leave will be granted for up to 24 months to allow for the adoption in the UK to be finalised.

If the applicant does not meet the requirements of the Immigration Rules, the application should be refused.

## **Related content**

[Contents](#)

# Adoptions from a country on The Adoption (Designation of Overseas Adoptions) Order or on The Adoption (Recognition of Overseas Adoptions) Order 2013

This section tells you how to consider applications under the Immigration Rules as a child who has been adopted overseas in a country whose adoption provisions are accepted by the UK.

## Introduction

On 3 January 2014, The Adoption (Designation of Overseas Adoptions) Order 1973 ('the designated list') was revoked and replaced by:

- The Adoption (Recognition of Overseas Adoptions) Order 2013 (in England, Wales and Northern Ireland)
- The Adoption (Recognition of Overseas Adoptions) (Scotland) Regulations 2013 and the Adoption (Recognition of Overseas Adoptions) (Scotland) Amendment Regulations 2013 (in Scotland)

The countries prescribed in the 1973 Order and the 2013 Orders differ; therefore the recognition of domestic adoptions in some countries changed. An overseas domestic adoption is now only recognised in the UK:

- if the adoption order was effected in a country named in The Adoption (Designation of Overseas Adoptions) Order 1973 ('the designated list') before 3 January 2014
- if the adoption order was effected in a country named in The Adoption (Recognition of Overseas Adoptions) Order 2013, or the Adoption (Recognition of Overseas Adoptions) (Scotland) Regulations 2013 and the Adoption (Recognition of Overseas Adoptions) (Scotland) Amendment Regulations 2013 (in Scotland) on or after 3 January 2014

The lists of the relevant countries are available on GOV.UK at: [List of designated countries](#).

A certificate of eligibility is only required where section 83 of the Adoption and Children Act 2002 (England & Wales), Articles 58ZA and 58ZB of the Adoption (Northern Ireland) Order 1987 or Section 58 of Adoption and Children (Scotland) Act 2007 applies.

In cases where a child was legally adopted in a country named on The Adoption (Designation of Overseas Adoptions) Order 1973 before 3 January 2014, the

prospective adopters would not be caught by this provision and therefore there would be no requirement for them to apply for a Certificate of Eligibility.

In cases where a child was legally adopted in a country named on The Adoption (Recognition of Overseas Adoptions) Order 2013, more than 12 months from the date they are seeking to bring the child into the UK (on or after 3 January 2014), the prospective adopters would not be caught by this provision and therefore there would be no requirement for them to apply for a Certificate of Eligibility.

## Applications

Applications from children in this category are processed under paragraphs 310 – 316 of [Part 8](#) of and (where appropriate) Appendix FM to the Immigration Rules and can result in settlement either on entry or later, once one or both parents have qualified for settled status here.

Applications should be made on the [online settlement visa application](#) for indefinite leave to enter or limited leave to enter with a view to settlement. The applications for leave to remain are:

- [limited leave to remain in the UK on the basis of family life](#)
- [indefinite leave to remain as a child](#) – child applying as main applicant
- [indefinite leave to remain](#) – child applying with a parent

Depending on the immigration status of the adoptive parent or parents, applications are considered as follows:

- if the adoptive parent is, or in the case of a couple both parents are, present and settled in the UK or being admitted for settlement, indefinite leave to enter will be considered under paragraph 310
- if the adoptive parent is, or in the case of a couple one of the parents has limited leave to enter or remain in the UK with a view to settlement, limited leave to enter or remain will be considered under paragraph 314
- indefinite leave to remain following limited leave to enter or remain will be considered under paragraph 311

Where the application falls under paragraph 314(i)(a) and the ‘other parent’ mentioned in that paragraph has or is being granted entry clearance or limited leave to remain as a partner under Appendix FM, the application must also meet the requirements, as appropriate, of [Appendix FM](#) paragraphs:

- **E-ECC.2.1. - E-ECC.2.3.** Financial requirements for entry clearance applications
- **E-LTRC.2.1. - E-LTRC.2.3.** Financial requirements for leave to remain applications

## Entry clearance requirements

Under paragraph 309B a letter from the relevant Central Authority in the UK confirming the issue of a Certificate of Eligibility must be provided with the entry clearance application in some cases. See the table at: [Summary of the Immigration Rules and the Certificate of Eligibility requirement](#).

## Indefinite leave to enter requirements

The requirements to be met by an applicant for indefinite leave to enter as a child adopted in a country whose adoption provisions are accepted by the UK of a parent or parents present and settled in the UK or being admitted for settlement are set out in paragraph 310.(i) to (xiii) of the Immigration Rules.

When considering the requirements, you:

- should refer to the [Consideration of requirements](#) and [Evidence](#) sections of this guidance
- should contact the inter-country adoption team in the relevant Central Authority in the UK to discuss any issues when considering the application. See [inter-country adoption process](#) for contact details
- may contact Family Policy for advice

If the applicant does not meet the requirements of the Immigration Rules, the application should be refused unless there are exceptional circumstances.

## Entry clearance and leave to remain requirements

### Limited leave to enter or remain requirements

Under paragraph 309B a letter from the relevant Central Authority in the UK confirming the issue of a Certificate of Eligibility must be provided with the entry clearance application in some cases. See the table at: [Summary of the Immigration Rules and the Certificate of Eligibility requirement](#).

The requirements to be met by an applicant for limited leave to enter or remain as a child adopted in a country whose adoption provisions are accepted by the UK of a parent given limited leave to enter or remain with a view to settlement are set out in paragraph 314 (i) to (xii) of the Immigration Rules.

Where the applicant's parent has or is being granted entry clearance or limited leave to remain as a partner under Appendix FM, the application must also meet the financial requirements of paragraphs E-ECC.2.1.- 2.3. (entry clearance applications) or E-LTRC.2.1.- 2.3. (leave to remain applications) of [Appendix FM](#) and where appropriate be considered under paragraph GEN.3.1.(2) of that Appendix.

When considering the requirements, you:

- should refer to the [Consideration of requirements](#) and [Evidence](#) sections of this guidance
- should contact the inter-country adoption team in the relevant Central

Authority in the UK to discuss any issues when considering an entry clearance application. See [inter-country adoption process](#) for contact details

- may contact Family Policy for advice

Under paragraph 315, limited leave to enter will be granted for up to 12 months. Limited leave to remain will then be granted in periods of up to 12 months until the adoptive parent has settled status in the UK.

## Indefinite leave to remain requirements

The requirements to be met by an applicant for indefinite leave to remain as a child adopted in a country whose adoption provisions are accepted by the UK of a parent or parents present and settled in the UK are set out in paragraph 311. (i) to (xii) of the Immigration Rules.

Under paragraph 313., if an applicant aged 18 or over cannot meet the requirements in accordance with Appendix KoLL, they can be granted limited leave to remain for a period not exceeding 30 months, provided they meet all the other requirements.

When considering the requirements, you:

- should refer to the [Consideration of requirements](#) and [Evidence](#) sections of this guidance
- may contact Family Policy for advice

If the applicant does not meet the requirements of the Immigration Rules, the application should be refused unless there are exceptional circumstances.

### Related content

[Contents](#)

# Adoptions from a country not on The Adoption (Designation of Overseas Adoptions) Order or The Adoption (Recognition of Overseas Adoptions) Order 2013 – child for adoption in the UK

This section tells you how to consider applications under the Immigration Rules as a child who has been adopted overseas in a country whose adoption provisions are not recognised by the UK.

## Introduction

To comply with UK law, an adopted child from a country whose adoptions are not recognised by the UK will have to enter the UK for adoption here and may qualify for limited leave with a view to settlement whilst the adoption is being finalised.

The adoptive parents may still have to go through the inter-country process prior to the adoption, in the same way as those adopting from a recognised country. See [The inter-country adoption process](#) for links to further information about the inter-country adoption process.

## Applications

A child who is being brought to the UK for adoption from a country whose adoptions are not recognised by UK law must apply on the [online settlement visa application](#) for limited leave to enter the UK with a view to settlement. Their application will be considered under paragraphs 316A – 316C of [Part 8](#) of the Immigration Rules. Once the adoption is complete and the parents have settled status in the UK, the child can apply for settlement under paragraph 311 of the Rules.

## Limited leave to enter requirements

Under paragraph 309B a letter from the relevant Central Authority in the UK confirming the issue of a Certificate of Eligibility must be provided with the entry clearance application on behalf of a child **coming to the UK for the purpose of adoption** where appropriate.

The requirements to be met by an applicant for leave to enter as a child seeking limited leave to enter the UK for the purpose of being adopted (which does not

include de facto adoption) in the UK are set out in paragraph 316A. (i) to (viii) of the Immigration Rules.

Where the application falls under paragraph 316A(i)(d) or (e) and their parent has or is being granted entry clearance as a partner under Appendix FM, the application must also meet the financial requirements of [Appendix FM](#) paragraphs E-ECC.2.1. – E-ECC.2.3 and where appropriate be considered under paragraph GEN.3.1.(2) of that Appendix.

When considering the requirements, you:

- should refer to the [Consideration of requirements](#) and [Evidence](#) sections of this guidance
- should contact the Intercountry Adoption Team in the relevant Central Authority in the UK, where applicable, to discuss any issues around whether a certificate of eligibility has been issued when considering an entry clearance application. See [inter-country adoption process](#) for contact details
- may contact Family Policy for advice

Under paragraph 316B, limited leave will be granted for a period not exceeding 24 months to enable the adoption to be completed.

If the applicant does not meet the requirements of the Immigration Rules the application should be refused unless there are exceptional circumstances.

## Indefinite leave to remain requirements

The requirements to be met by an applicant for indefinite leave to remain as the adopted child of a parent or parents present and settled in the UK are set out in paragraph 311. (i) to (xii). See: [Indefinite leave to remain requirements](#) above.

Under paragraph 313, if an applicant aged 18 or over cannot meet the requirements in accordance with Appendix KoLL, they can be granted limited leave to remain for a period not exceeding 30 months, provided they meet all the other requirements.

When considering the requirements, you:

- should refer to the [Consideration of requirements](#) and [Evidence](#) sections of this guidance
- may contact Family Policy for advice

If the applicant does not meet the requirements of the Immigration Rules, the application should be refused unless there are exceptional circumstances.

### Related content

[Contents](#)

# De facto adoptions

This section tells you how to consider applications under the Immigration Rules as a de facto adopted child.

## Introduction

There is provision in the Immigration Rules to allow the entry to the UK of a child who has been fully integrated into a family whilst they were residing abroad for a long period of time but where the relationship is not recognised legally. These are defined in the Immigration Rules only as de facto adoptions.

A de facto adoption allows the admission of de facto adopted children from countries where no legal adoption procedure exists, or where the system operating is not recognised by the UK. The definition for de facto adoptions is in paragraph 309A of the Immigration Rules. The de facto adoption will be regarded as having taken place where the adoptive parent(s) can show they **have**:

- lived abroad for a period of at least 18 months (for applications involving two parents both must have lived abroad together)
- lived with and cared for the child for at least the period of 12 months immediately before the application for entry clearance; and
- assumed the role of the child's parent for the full 18-month period mentioned above, and there has been a genuine transfer of parental responsibility

The child may be granted entry clearance as a de facto dependant on the same basis as their adoptive parent.

## Types of circumstances when a de facto adoption may arise

A de facto adoption may arise where:

- adoption orders in the country where the child was adopted are not recognised as valid in the UK
- the parents are caring for a child in a country which does not recognise adoption.
- despite the country in which they are living being a Hague Convention or designated country, the parents are unable to adopt there because, for example, they are not able to satisfy that country's particular requirements

The most common use of this provision is likely to involve British citizens working abroad for a period in a country whose adoption laws are not recognised by the UK and who have adopted a child from that country during that period, but it may occasionally apply in other circumstances.

## Applications

If the criteria in paragraph 309A of the Immigration Rules are met, the child may apply for:

- indefinite leave to enter the UK as the adopted child of a parent or parents present and settled in the UK if the requirements of paragraph 310 are met
- limited leave to enter the UK with a view to settlement as the adopted child of a parent or parents given limited leave to enter or remain in the UK with a view to settlement if the requirements of paragraph 314 are met

Applications from children in this category are processed under paragraphs 310 – 316 of [Part 8](#) of and (where appropriate) Appendix FM to the Immigration Rules and can result in settlement either on entry or later, once one or both parents have qualified for settled status here.

Applications should be made on the [online settlement visa application](#) for indefinite leave to enter or limited leave to enter with a view to settlement. The applications for leave to remain are:

- [limited leave to remain in the UK on the basis of family life](#)
- [indefinite leave to remain as a child](#) – child applying as main applicant
- [indefinite leave to remain](#) – child applying with a parent

Depending on the immigration status of the adoptive parent or parents applications are considered as follows:

- if the adoptive parent is, or in the case of a couple both parents are, present and settled in the UK or being admitted for settlement, indefinite leave to enter will be considered under paragraph 310
- if the adoptive parent is, or in the case of a couple one of the parents has limited leave to enter or remain in the UK with a view to settlement, limited leave to enter or remain will be considered under paragraph 314
- indefinite leave to remain following limited leave to enter or remain will be considered under paragraph 311

Where the application falls under paragraph 314(i)(d) and the ‘other parent’ mentioned in that paragraph has or is being granted entry clearance or limited leave to remain as a partner under Appendix FM, the application must also meet the requirements, as appropriate, of [Appendix FM](#) paragraphs:

- **E-ECC.2.1. - E-ECC.2.3.** Financial requirements for entry clearance applications
- **E-LTRC.2.1.- E-LTRC.2.3.** Financial requirements for leave to remain applications
- **E-ECC.2.1. - E-ECC.2.3.** Financial requirements for entry clearance applications
- **E-LTRC.2.1.- E-LTRC.2.3.** Financial requirements for leave to remain applications

and, where appropriate be considered under paragraph GEN.3.1.(2) of that Appendix.

In cases where the parent or parents are seeking to adopt the child in accordance with UK adoption law, it may be more appropriate to consider the application under paragraph 316A.

## Indefinite leave to enter requirements

The requirements to be met by an applicant for indefinite leave to enter as the adopted child of a parent or parents present and settled in the UK or being admitted for settlement are set out in paragraph 310 of the Immigration Rules. See [Indefinite leave to enter requirements](#) above.

When considering the requirements, you:

- should refer to the [Consideration of requirements](#) and [Evidence](#) sections of this guidance
- may contact Family Policy for advice

If the applicant does not meet the requirements of the Immigration Rules, the application should be refused unless there are exceptional circumstances.

## Limited leave to enter or remain requirements

The requirements to be met by an applicant for limited leave to enter or remain as the adopted child of a parent given limited leave to enter or remain with a view to settlement are set out in paragraph 314 of the Immigration Rules. See: above.

When considering the requirements, you:

- should refer to the [Consideration of requirements](#) and [Evidence](#) sections of this guidance
- may contact Family Policy for advice

Under paragraph 315, limited leave to enter will be granted for up to 12 months. Limited leave to remain will then be granted in periods of up to 12 months until the adoptive parent has qualified for settled status in the UK.

If the applicant does not meet the requirements of the Immigration Rules, the application should be refused unless there are exceptional circumstances.

## Indefinite leave to remain requirements

The requirements to be met by an applicant for indefinite leave to remain as the adopted child of a parent or parents present and settled in the UK are set out in paragraph 311 of the Immigration Rules.

When considering the requirements, you:

- should refer to the [Consideration of requirements](#) and [Evidence](#) sections of this guidance
- may contact Family Policy for advice

If the applicant does not meet the requirements of the Immigration Rules, the application should be refused unless there are exceptional circumstances.

**Related content**

[Contents](#)

# Consideration of requirements

## Certificate of eligibility

Evidence that a Certificate of Eligibility has been issued in the form of a letter from the relevant Central Authority, confirming the certificate was issued, must be provided where relevant with entry clearance adoption applications under paragraphs 310-316C of the Immigration Rules. The table below sets out when such a certificate is required when entry is being sought under the particular paragraphs of the Immigration Rules. You can contact the relevant Central Authority to check the issue of a Certificate of Eligibility at:

- Email: [ica.darlington@educaton.gov.uk](mailto:ica.darlington@educaton.gov.uk) (England)
- Email: [PlantSynDerbynGofal@llyw.cymru](mailto:PlantSynDerbynGofal@llyw.cymru) (Wales) – for Hague Convention adoptions only, otherwise contact ICA Darlington
- Email: [intercountryadoption@gov.scot](mailto:intercountryadoption@gov.scot) (Scotland)
- Email: [intercountry.adoption@health-ni.gov.uk](mailto:intercountry.adoption@health-ni.gov.uk) (Northern Ireland)

## Summary of the Immigration Rules and the Certificate of Eligibility requirement

The Immigration Rules on adoption	Certificate of Eligibility
<b>Paragraphs 310-316</b>  De facto adoption rule requirements are met.	In most cases, confirmation of Certificate of Eligibility is not needed.  <b>But</b>  If, in a de facto adoption, the parent is habitually resident in the UK, and the child habitually resident outside the UK, and they state that they intend to adopt the child in the UK, confirmation of Certificate of Eligibility is needed.  For the purposes of the UK legislation is defined as 'the British Islands', which encompasses the UK, the Channel Islands and the Isle of Man.
<b>Paragraphs 310-316</b>  Child adopted according to law of an overseas country; adoption accepted as valid in UK; and	



(b) at any time brings, or causes another to bring, into the United Kingdom a child adopted by the British resident under an external adoption effected within the period of twelve months ending with that time.

The references to adoption, or to a child adopted, by the British resident include a reference to adoption, or to a child adopted, by the British resident and another person.

(2) But this section does not apply if the child is intended to be adopted under a Convention adoption order.

## Definition of a parent

The definition of the term 'parent' for the purposes of the Immigration Rules (paragraph 6 – Introduction to the Immigration Rules) includes: an adoptive parent, where a child was adopted in accordance with a decision taken by the competent administrative authority or court in a country whose adoption orders are recognised by the UK or where a child is the subject of a de facto adoption in accordance with the requirements of paragraph 309A (except that an adopted child or a child who is the subject of a de facto adoption may not make an application for leave to enter or remain in order to accompany, join or remain with an adoptive parent under paragraphs 297-303).

## Interpretation of sole responsibility

Guidance on how to interpret the term 'sole responsibility' can be found in the 'Sole parental responsibility' section of the family life as a partner or parent guidance at:

- Family life (partner or parent), private life and exceptional circumstances (internal)
- [Family life \(as a partner or parent\), private life and exceptional circumstances](#) (external)

## Interpretation of serious and compelling family reasons

Guidance on how to interpret the term 'serious and compelling family reasons' can be found in the children guidance at:

- Ch8 Section 5A Annex M Children – internal
- [Ch8 Section 5A Annex M Children](#) – external

## Age

When considering paragraphs 310(ii), 314(ii), 316A(ii) and 316D(iv) for entry clearance applications you must be satisfied that the applicant is under the age of 18 at the date of application.

When considering paragraphs 311(ii) and 314(ii) for leave to remain applications you must be satisfied that the applicant is under the age of 18 at the date of application or was under 18 when granted leave to enter as an adopted child.

## Definition of child not leading an independent life, is unmarried and is not a civil partner, and has not formed an independent family unit

Guidance on the definition of child not leading an independent life, is unmarried and is not a civil partner, and has not formed an independent family unit can be found in the children guidance at:

- Ch8 Section 5A Annex M Children – internal
- [Ch8 Section 5A Annex M Children](#) – external

## Accommodation

Guidance on adequate accommodation can be found at:

- for consideration under Part 8:
  - Adequate Maintenance and Accommodation (internal)
  - [Adequate Maintenance and Accommodation](#) (external)
- for consideration when financial requirements under Appendix FM apply:
  - Adequate Maintenance and Accommodation (internal)
  - [Adequate Maintenance and Accommodation](#) (external)

## Maintenance

Guidance on adequate maintenance can be found at:

- for consideration under Part 8:
  - Adequate Maintenance and Accommodation (internal)
  - [Adequate Maintenance and Accommodation](#) (external)
- for consideration when financial requirements under Appendix FM apply:
  - Adequate Maintenance and Accommodation (internal)
  - [Adequate Maintenance and Accommodation](#) (external)

## Financial requirements

**This section applies to entry clearance and leave to remain applications under paragraphs 314(i)(a); 314(i)(d) – if one of the parents is not settled or being admitted for settlement; and paragraphs 316A(i)(d) and 316A(i)(e).**

To qualify for entry clearance or leave to remain as an adopted child the applicant must meet the financial requirement in [Appendix FM- Family Life as a child of a person with limited leave as a partner](#) if one of the adoptive parents:

- has limited leave to enter or remain under **EC-P** or **R-LTRP**
- is being given entry clearance under **EC-P** at the same time as entry for the adopted child

The relevant paragraphs are:

Entry clearance: **E-ECC.2.1. to E-ECC.2.3.**

Leave to remain: **E-LTRC.2.1. to E-LTRC.2.3.**

This includes providing the specified evidence required by [Appendix FM-SE](#).

For guidance on the financial requirement, see:

- FM1.7 financial requirement (internal)
- [FM 1.7 financial requirement](#) (external)

## Grounds for Refusal

In considering all applications for entry clearance or leave to remain as an adopted child or child for adoption the decision maker must consider the grounds for refusal: [Immigration Rules Part 9: grounds for refusal](#).

Guidance on considering the grounds for refusal can be found here:

- Grounds for refusal (internal)
- [Grounds for refusal](#) (external)

If the grounds for refusal apply, the application must be refused. Guidance on refusal wordings under grounds for refusal can be found using the links to the guidance above.

### Related content

[Contents](#)

# Exceptional circumstances

## Process to be followed in considering exceptional circumstances

**Where possible exceptional circumstances are raised**, even if implicitly, there should be a consideration as to whether or not these factors might mean that refusal would result in unjustifiably harsh consequences for the applicant or their family

If the Entry Clearance Officer or other decision maker does not consider that the factors raised might make refusal unjustifiably harsh for the applicant or their family, the refusal notice should explain that:

We have also considered whether the particular circumstances set out in your application constitute exceptional circumstances which, consistent with the right to respect for family life contained in Article 8 of the European Convention on Human Rights, warrant consideration by the Secretary of State of a grant of entry clearance to come to [for leave to remain in] the United Kingdom outside the requirements of the Immigration Rules. We have decided that they do not, because [set out reasons why the circumstances are not considered exceptional, including, where relevant, consideration of the best interests of any relevant child]. Your application for entry clearance to come to [for leave to remain in] the United Kingdom is therefore refused.

Where an Entry Clearance Officer considers that the factors raised **might** amount to exceptional circumstances warranting a grant of entry clearance outside the rules, the case must be referred for consideration by RCU. The Entry Clearance Officer should then make a recommendation for RCU to consider, setting out clear reasons as to whether a grant of entry clearance outside the rules is appropriate taking into account this guidance on exceptional circumstances.

**If no exceptional circumstances are raised**, either explicitly or implicitly, in an application, the refusal notice should state this. After explaining that the applicant has failed to meet the requirements of the Immigration Rules and why this is so, the refusal notice should state:

We have also considered whether your application raises any exceptional circumstances which, consistent with the right to respect for family life contained in Article 8 of the European Convention on Human Rights, warrant consideration by the Secretary of State of a grant of entry clearance to come to [for leave to remain in] the United Kingdom outside the requirements of the Immigration Rules. We have decided that it does not. Your application for entry clearance to come to [for leave to remain in] the United Kingdom is therefore refused.

## How to consider exceptional circumstances

'Exceptional' does not mean 'unusual' or 'unique'. Whilst all cases are to some extent unique, those unique factors do not generally render them exceptional. For

example, a case is not exceptional just because the criteria set out in the Immigration Rules have been missed by a small margin. Instead, “exceptional” means circumstances in which refusal would result in unjustifiably harsh consequences for the individual or their family such that refusal of the application would not be proportionate under Article 8. The fact that refusal may, for example, result in the continued separation of family members does not of itself constitute exceptional circumstances where the family have chosen to separate themselves. Cases that raise exceptional circumstances to warrant a grant of entry clearance or leave outside the Rules are likely to be rare.

When considering whether there are exceptional circumstances the decision maker should consider circumstances relating to all family members of the applicant where these are raised, including wider family members.

In determining whether there are exceptional circumstances, the decision maker must consider **all** relevant factors raised by the applicant and weigh them against the public interest under Article 8. Examples of relevant factors include:

- the best interests of any child in the UK affected by the decision. See section below
- the nature of the family relationships involved
- the likely impact on the applicant or other family members if the application is refused
- whether there are any factors which might increase the public interest in refusal, for example where the applicant has failed to meet the suitability requirements because of deception or issues around their character or conduct
- cumulative factors should be considered:
  - cumulative factors weighing in favour of the applicant should be balanced against cumulative factors weighing in the public interest in deciding whether refusal would be unjustifiably harsh for the applicant or their family

In any case where, following referral to RCU, the RCU caseworker decides that it is appropriate for entry clearance to be granted outside the Rules, this should be granted for 33 months.

You should consult the Exceptional Circumstances Section of the [Family Life \(as a partner or parent\): private life and exceptional circumstances guidance](#) for further information when considering exceptional circumstances.

## Compassionate factors

Compassionate factors are compelling compassionate reasons on a basis other than family or private life under ECHR Article 8, which might justify a grant of entry clearance or leave to remain outside the Immigration Rules, even though the applicant has failed to meet the requirements of the Rules and there are no exceptional circumstances in their case. While exceptional circumstances on the basis of Article 8 must be considered in every case falling for refusal under the Rules, **compassionate factors only need to be considered if they are specifically raised by the applicant.**

If compassionate factors are raised in the context of a child applying under the Rules relating to adoption, they must be considered.

Compassionate factors are, broadly speaking, exceptional circumstances, e.g. relating to serious ill health, which might mean that a refusal of leave to remain would result in unjustifiably harsh consequences for the applicant or their family, but not constitute a breach of ECHR Article 8.

In considering compassionate factors, the decision maker must consider all relevant factors raised by the applicant.

If any compassionate factors are raised in the application, the decision maker should consult the following leave outside the Rules guidance:

- Leave Outside the Rules (LOTR) (internal)
- [Leave Outside the Rules \(LOTR\)](#) (external)

You should ensure that where an applicant is granted entry clearance or limited leave to enter or remain on the basis of compassionate factors, the decision letter and associated status documentation clearly show that the grant has been given outside the Immigration Rules on the basis of compassionate factors, and should not indicate that the grant is on the basis of their family or private life.

Where an Entry Clearance Officer considers that the compassionate factors raised **might** warrant a grant of entry clearance outside the Rules, the case must be referred for consideration by RCU. The Entry Clearance Officer should make a recommendation for RCU to consider, setting out clear reasons as to whether a grant of entry clearance outside the Rules is appropriate taking into account this guidance.

#### **Related content**

[Contents](#)

# Evidence

Decision makers should be prepared to request additional evidence if they require it in order to be certain that the details of the application are as claimed.

Documents which are not in English or Welsh must be accompanied by a certified translation.

## Entry clearance

Applications for entry clearance should include the following documents (as appropriate) with the completed [application](#) and [VAF4A Appendix 1](#) (or [Appendix 2](#) for those which must meet the financial requirement under Appendix FM):

- the child's passport
- the child's original birth certificate showing their name at birth
- a contemporary report from the overseas equivalent of the social services department, which details: the child's parentage and history; the degree of contact with the original parent or parents; the reasons for the adoption; where relevant, the date, reasons and arrangements for the child's entry into an institution or foster placement; and when, how and why the child came to be offered to the adoptive parent or parents:
  - where no legal adoption has taken place, a full written account of the background should be provided
- where the child has been abandoned, a certificate of abandonment from the authorities previously responsible for the child's care
- the adoption/guardianship order (where applicable)
- passport or passports of the adoptive parent or parents or other evidence to show that they have, as appropriate, settled status or habitual residence in the UK, such as a birth certificate, registration or naturalisation certificate
- evidence that the relevant Central Authority in the UK has issued a Certificate of Eligibility attesting to the suitability of the adopters and allowing them to approach the adoption authorities of the relevant country (where applicable)
- bank statements and an accountant's letter or pay slips which show the monthly incomings and outgoings of the adoptive parent or parents, or the specified evidence in Appendix FM-SE if the financial requirement applies, and details of their accommodation in the UK
- for Scotland, where the child is of sufficient age and understanding to be able to make a decision in relation to the adoption (normally from the age of 7), a report of an interview with the child confirming that the child has been informed and understands the circumstances of the adoption
- in England, Wales and Northern Ireland, the child's views must be taken into account where they are of sufficient age (normally from the age of 7) and understanding to be able to make a decision in relation to their adoption - the Family Court will wish to see a report about the child, prepared by the court-appointed Children's Guardian/Guardian Ad-Litem (GAL)

## Limited leave to remain

Applicants must complete the [limited leave to remain in the UK on the basis of family life](#) application to apply for limited leave to remain and submit all the evidence requested in the form.

## Indefinite leave to remain

Applicants must complete the appropriate form to apply for indefinite leave to remain and submit all the evidence requested in that form:

- for indefinite leave to remain as the main applicant, application [indefinite leave to remain as a child](#) , with all the evidence requested in that form
- for indefinite leave to remain as a dependant, application [indefinite leave to remain](#), with all the evidence requested in that form

### Related content

[Contents](#)

# Decision letter wording

Where a specific feature of the Immigration Rules on adoption is at issue, such as the legality of the adoption or the lack of transfer of parental responsibility to the adoptive parent or parents, the following may be used.

The paragraph in [Process to be followed in considering exceptional circumstances](#) above about considering any ECHR Article 8 claim and considering exceptional circumstances must also be used.

## **Adoptive parent(s) not settled**

'...but [in view of...] the Secretary of State is not satisfied that your adoptive [mother/father/parents] [is/are] present and settled in the United Kingdom or [is/are] to be admitted for settlement.'

## **Not adopted when both adoptive parents resident together**

'...but [in view of...] the Secretary of State is not satisfied that you were adopted at a time when both adoptive parents were resident together abroad or at a time when either or both adoptive parents were settled in the United Kingdom.'

**Paragraph 310(vii), 311(vii) or 314(vi)**

## **Purpose**

'...but [in view of...] the Secretary of State is not satisfied that the adoption is not one of convenience arranged to facilitate your admission to the United Kingdom.'

**Paragraph 310(xi), 311(xi), 314(x) or 316A(viii)**

## **Same rights/obligations**

'...but [in view of...] the Secretary of State is not satisfied that you have the same rights and obligations as any other child of your adoptive parents or parents' family.'

**Paragraph 310(viii), 311(viii), 314(vii) or 316A(v)**

## **Genuine transfer of parental responsibility**

'...but [in view of...] the Secretary of State is not satisfied that there has been a genuine transfer of parental responsibility to the adoptive parents.'

**Paragraph 310(ix), 311(ix), 314(viii) or 316A(vi)**

## **Inability to care for child of original parent/current guardian**

'... but [in view of...] the Secretary of State is not satisfied that you were adopted due to the inability of your [original parent(s)/current carer(s)] to care for you.'

**Paragraph 310(ix), 311(ix), 314(viii) or 316A(vi)**

## **Adoption not recognised in the UK**

'...but as you were adopted in a country whose adoption orders are not recognised in the United Kingdom, the Secretary of State is not satisfied that your application falls to be considered under the provisions of the Immigration Rules in respect of adopted children. Accordingly, the Secretary of State is not satisfied that leave to enter/variation of leave to enter/remain is being sought for a purpose covered by the Immigration Rules.'

**Paragraph 310(vi)(a), 311(vi)(a) or 314(v)(a)**

**Over age**

'...but [as you were born on.../as you have failed to produce [satisfactory] evidence of your date of birth] the Secretary of State is not satisfied that you are under the age of 18.'

**Paragraph 310(ii), 311(ii)(a), 314(ii) or 316A(ii)**

**Not sole responsibility / no serious and compelling considerations**

'...but [in view of...] the Secretary of State is not satisfied that both your adoptive parents are or will be settled in or admitted for settlement to the United Kingdom, or that the adoptive parent you intend to [accompany/join] has had sole responsibility for your upbringing, or that there are serious and compelling family or other considerations which make your exclusion from the United Kingdom undesirable.'

**Related content**

[Contents](#)