



Home Office

Dependants and former dependants

Version 3.0

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About this guidance

This guidance tells decision-makers how to process and consider asylum claims where a main claimant has one or more family members who are either dependent on the claim or claiming asylum separately in their own right. It also provides guidance on handling asylum claims from former dependants who make a claim in their own right, with or without the former main claimant as a dependant on the new claim.

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 Asylum 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 **3.0**
- published for Home Office staff on **05 July 2023**

Changes from last version of this guidance

This guidance has been updated following the introduction of Family Asylum Claims and it has been put into the latest guidance template.

Related content

[Contents](#)

Introduction

This guidance provides specific instructions on:

- the categories of persons who may be accepted as dependants on an asylum claim and the consequences of a grant or refusal of permission to stay
- considering claims involving dependants or separate claims from family members
- how asylum claims by those previously accepted as dependants should be considered
- how applications for permission to stay by UK-born children of asylum claimants, those granted protection or other permission to stay should be considered.

This guidance must be read in conjunction with the asylum policy guidance in particular:

- Family Asylum Claims
- Assessing credibility and refugee status (the guidance relevant to the date of the asylum claim must be followed based on whether the asylum claim was made before 28 June 2022, or on or after the 28 June 2022 when the 2022 Act came into force - this guidance explains the transitional arrangements)
- Disclosure and confidentiality of information in asylum claims
- Asylum Interviews
- Gender issues in the asylum claim
- Humanitarian Protection
- Discretionary leave
- Further submissions
- Family Reunion
- Revocation of refugee status
- Withdrawing asylum claims

You must also refer to the relevant country policy and information notes which include country specific guidance. For family and private life applications see family instructions.

Background

Asylum claims may include one or more family members who are accepted as dependent on the main claimant's asylum claim or who may be making a claim in their own right. It is important to fully consider all the evidence available, including that provided by dependants or other family members who have made claims in their own right, and to recognise protection issues which may arise in the family context when considering such claims. It is therefore important to link Home Office files relating to the same family to ensure all relevant evidence is considered.

Following the introduction of the Family Asylum Claims policy, this Dependant and former dependants policy applies to dependants who do not have their own protection needs and therefore are only a dependant on an asylum claim; they are not making an asylum claim in their own right.

On 19 March 2021 the UK Supreme Court in *G (Appellant) v G (Respondent)* [2021] UKSC 9 found that a child who is named as a dependant on an asylum claim can and should (generally) be understood to have made a claim for asylum in their own right. This means that generally, child dependants are required to be treated as claimants (unless they have no protection needs). The Family Asylum Claims process was introduced to implement the Supreme Court's judgment. It aims to provide for children to be considered in their own right in accordance with the law, but also to honour the intention of the Dependants policy, understanding that children should not be required to particularise their own claim unless it is necessary.

Under a Family Asylum Claim, although the main claimant and any children will each be a claimant in their own right, the claim will be dealt with in a single consideration. This is on the basis that the protection needs of each claimant are the same as those established by the main claimant. However, if it is established that a child has separate (additional or different) protection needs to that of the main claimant, then the child's claim must be considered separately and cannot be part of a Family Asylum Claim. The child's claim must be considered as an accompanied asylum seeking child and the existing guidance on Processing children's asylum claims applies.

If a child has no protection needs, then the Dependants and former dependants policy will apply and this guidance provides detail on who can be treated as a dependant.

Adult dependants should claim asylum at the earliest opportunity if they have protection needs. They can be treated as a dependant providing they meet the criteria set out in [paragraph 349 of the Immigration Rules](#).

Policy intention

The policy intention when considering all asylum claims involving dependants or former dependants who claim in their own right is to:

- ensure asylum claims are properly considered in a timely and sensitive manner on an individual, objective and impartial basis
- ensure protection needs are identified at the earliest point possible and all relevant evidence provided by the main claimant and any dependants is properly considered and given appropriate weight in the decision-making process, with only those who require protection in their own right being granted protection status

Application in respect of children

[Section 55 of the Borders, Citizenship and Immigration Act 2009](#) requires the Secretary of State of the Home Department to make arrangements for ensuring that immigration, asylum and nationality functions are discharged having regard to the need to safeguard and promote the welfare of children in the UK. The section 55 duty applies whether the child applies in their own right or as the dependant of a parent or guardian.

The statutory guidance, [Every Child Matters – Change for Children](#), sets out the key principles to take into account in all actions concerning children. All decisions must demonstrate that the child's best interests have been a primary (albeit not necessarily the only) consideration. The individual protection needs of children is one of the factors to take in account when working with a child and their family.

Our statutory duty to children means you must demonstrate:

- fair treatment which meets the same standard a British child would receive
- the child's best interests being made a primary, although not the only, consideration
- no discrimination of any kind
- timely processing of asylum claims
- identification of those who might be at risk from harm

You must keep this duty in mind throughout the process and refer to other specific guidance available, as relevant, in the Family Asylum Claims and the Children's asylum claims guidance.

You must be alert to the possibility that there may be reasons that the parents may not be acting in the child's best interests. In which case, you must follow the [safeguarding](#) procedures.

Safeguarding

You must carefully and sensitively consider all cases. You must also be aware that there may be individual protection needs or safeguarding concerns for dependants who are part of a family seeking asylum, for example this could include safeguarding concerns such as domestic abuse or child welfare. Therefore, depending on the individual circumstances, it may be appropriate to share information with third parties in their best interests, such as the police or relevant safeguarding agency. You must be vigilant that a dependant may be at risk of harm and be prepared to refer cases immediately to the Asylum Safeguarding Hub for referral to a relevant safeguarding agency where child protection issues arise.

You do not have to stop making the asylum decision whilst a safeguarding issue is investigated. However, you must speak to your technical specialist or senior caseworker to check whether service of the asylum decision is appropriate, or if the safeguarding issue needs to be considered together with the asylum claim. You must make a referral to the Asylum Safeguarding Hub in order for safeguarding staff to liaise with the statutory authorities.

If you become concerned that a claimant may be in danger, you need to take immediate action to ensure their safety. Where there are child welfare or protection concerns that may involve safeguarding issues within the family unit the case must be referred immediately to the Asylum Safeguarding Hub, who will refer the case to the relevant local authority. There is no requirement to obtain the consent of any adults involved as safeguarding the child is our primary responsibility. In an emergency you must refer the case to the police without delay. The Safeguarding Advice and Children's Champion (SACC) can also offer specialist safeguarding and welfare advice on issues relating to children, including family court proceedings and complex child protection cases.

Signposting to support services

The asylum claimant receives the [information leaflet for asylum applications](#) which includes information on support services and you can refer them to the contacts for appropriate support which are detailed in this leaflet.

Female Genital Mutilation (FGM)

For asylum claims involving Female Genital Mutilation you must follow the FGM guidance in the Gender issues in the asylum claim policy.

Family court cases

You may encounter cases which involve the family courts, for example when a family relationship has broken down and one parent has claimed asylum with the children but without the other parent. See the Disclosure and confidentiality of information in asylum claims for guidance on sharing information.

Hague Convention cases

Where there is an outstanding asylum claim and concurrent Hague Convention Proceedings the Hague Convention Cases Operating Instruction must be followed.

Related content

[DNA policy guidance](#)

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Relevant legislation

Current UK asylum law is derived from a range of sources; international law, primary and secondary legislation, the Immigration Rules (which are in turn supported by policy and guidance), and a substantial body of caselaw.

The Refugee Convention

The [Refugee Convention](#) is the primary source of the framework of international refugee protection. As a post-Second World War instrument, it was originally limited in scope to those fleeing events occurring before 1 January 1951 and within Europe. The 1967 Protocol removed these limitations to give the Refugee Convention universal coverage. It has since been supplemented in the European Union and other regions by a subsidiary protection regime, as well as through the progressive development of international refugee and human rights law.

Under [paragraph 328](#) of the Immigration Rules, all asylum applications have to be decided in accordance with the Refugee Convention. Many of the principles set out in the Refugee Convention have been applied and interpreted by UK law, through statute, caselaw, and policies.

The European Convention on Human Rights (ECHR)

The [ECHR](#) (formally the Convention for the Protection of Human Rights and Fundamental Freedoms) is an international convention to protect human rights and political freedoms in Europe. Drafted in 1950 by the [Council of Europe](#), the Convention entered into force on 3 September 1953. The Convention established the [European Court of Human Rights](#) (ECtHR). Any individual who feels his or her rights have been violated under the Convention by a state party can take a case to the Court.

The ECHR has been given effect to in UK law through the Human Rights Act 1998. This makes it unlawful for a public authority to act in breach of the UK's obligations under the ECHR. Decision-makers are in some cases required to assess whether an individual has protection needs related to their rights under the ECHR and this is dealt with through separate guidance on claims for humanitarian protection and family life.

Immigration Rules

[Part 11 of the Immigration Rules](#) sets out the provisions for the consideration of asylum claims and reflects our obligations under the Refugee Convention.

[Paragraph 349](#) of the Immigration Rules sets out who may be considered as dependants of the main claimant on an asylum claim. A spouse, civil partner, unmarried or same-sex partner, or minor child who is accompanying the main claimant and does not wish to claim asylum in their own right will normally be treated

as a dependant provided, in the case of an adult dependant with legal capacity, they consent to be treated as such at the time the application is lodged.

If the main claimant is granted protection status and permission to stay, any qualifying dependant will be granted permission to stay under paragraph 339QC of the Immigration Rules, for the same duration with the same expiry date and conditions as the main claimant.

Family members with protection needs should make an asylum claim in their own right to enable these needs to be considered. If an independent claim is made by a family member this must be considered individually in accordance with [paragraphs 328 to 333B](#) of the Immigration Rules. See Family Asylum Claims guidance for cases where children have the same protection needs as their parent.

[Appendix Family Reunion \(Protection\)](#) of the Immigration Rules set out requirements for family reunion for those who are seeking leave to enter or remain as the family member of someone granted asylum or humanitarian protection.

Other relevant legislation

The [Nationality and Borders Act 2022](#) contains a number of definitions of key terms for decision-makers to use when considering whether an individual meets the definition of refugee in accordance with Article 1(A)(2) of the Refugee Convention. The terms defined in the 2022 Act include persecution, well-founded fear, reasons for persecution, protection from persecution and internal relocation.

[Section 82 of the Nationality, Immigration and Asylum Act 2002](#) (as amended by the [Immigration Act 2014](#)) sets out the rights of appeal available against decisions taken under the Immigration Rules. An appeal can only be brought against a decision to refuse a protection or human rights claim, or revoke protection status. Therefore, where a dependant has not made an asylum claim in their own right, they will not have their own right of appeal if the main claimant, whom they are dependent on, has their asylum claim refused.

Related content

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Applications to be considered as a dependant

Dependants: definition

Dependants will normally be identified at the screening stage of the initial claim, or on occasion, at the substantive asylum interview. You must be satisfied that an individual applying to be treated as a dependant of the main claimant:

- is related as claimed to the main claimant, is not a British Citizen and the relationship falls within the categories set out in paragraph 349 of the Immigration Rules
- in the case of an adult dependant with legal capacity, consents to being treated as a dependant at the time the claim is lodged (consent will normally be gained during the screening process)
- if claiming to be a child, is under 18 years of age or, in the absence of documentary evidence establishing age, does not appear to be significantly over 18
- if claiming to be an unmarried or same sex partner, is an individual who has been living together with the main claimant in a subsisting relationship akin to marriage or a civil partnership for 2 years or more

Relatives who accompanied the main claimant to the UK who are not the partner or minor child, for instance a dependent parent or other relative, must not be accepted as dependants and should claim asylum in their own right if they have protection needs. In cases where the age of a dependant is disputed, they should be treated as being under 18 until the age dispute is resolved unless they are considered to be significantly over 18. See the Assessing age guidance.

A parent cannot be accepted as a dependant on a child's asylum claim. For FGM claims, see the Gender issues in the asylum claims guidance where there are accompanying parents.

If the main claimant is looking after a child but they are neither the parent nor have they adopted the child, then the child cannot be their dependant, even if the individual has responsibility for the child by law, custom or private fostering arrangement. The child can, however, claim asylum in their own right and may be considered as an accompanied asylum-seeking child. Such cases are to be linked and considered together. See Children's asylum process for more detail on issues such as private fostering arrangements and definitions of accompanied and unaccompanied children.

The asylum support provisions for who can be included as a dependant on an asylum support application are not the same as who can be included as a dependant on an asylum claim, see Dependants on a support application.

You must check with the main claimant whether any children they want to be dependant on their claim have the same protection needs as the main claimant or any additional or different protection needs. If they have the same protection needs they can be considered as a Family Asylum Claim, see Family Asylum Claims guidance for processing these claims. Where the children have additional or different protection needs they must be treated as an accompanied child and the Processing children's asylum claims guidance be followed. Where the children have no protection needs, they can be added as a dependant in line with this policy guidance.

Traditional or customary marriage

If the main claimant claims that their dependant is a partner as a result of a traditional or customary marriage, the dependant should be treated as an unmarried partner, providing they meet the criteria set out in [paragraph 349 of the Immigration Rules](#).

Polygamous and polyandrous marriages

It is government policy to prevent the formation of polygamous and polyandrous marriages in the UK. Only the first married spouse can be included as a dependant in accordance with Section 2 of the [Immigration Act 1988](#) and [paragraphs 278-279](#) of the Immigration Rules. Any other spouses should claim asylum in their own right if they have protection needs. The files should be linked for consideration purposes.

Dependants claiming asylum in their own right

Dependants are entitled to claim asylum in their own right and all adults must be asked during the screening process, if they wish to apply for asylum in their own right. Where adult dependants have their own protection needs, they should claim asylum in their own right at the earliest possible opportunity to ensure their protection needs are considered. The Asylum screening and routing instruction provides guidance for screening officers – this includes that adult dependants must be asked this separately and confidentially from the main claimant because the dependant may want to disclose sensitive information that they do not want their partner to know about, such as rape. You must be sensitive to any possible protection needs or vulnerabilities within the context of the family unit, such as forced marriage or domestic violence and the dependant may request that they do not want to leave with their partner. Follow [Safeguarding](#) procedures where you have any concerns.

You must check the case file to ensure that full details have been obtained of any dependants, including name, age, nationality, and relationship to the main claimant. Any relevant documents that can be provided must be retained as relevant (for example, a passport or valuable document) and recorded or where relevant copied, returned and recorded. If this has not been completed at screening, this must be done at the substantive interview.

Adult dependants must be screened and fingerprinted, method of entry to the UK established and if appropriate, served with the relevant immigration notices. You

must arrange for this to be completed if it is not clear from the case file that this has been completed. Also see the section on [Dependants claiming in their own right](#).

Child dependants

At the asylum screening and asylum interviews, you must ask the main claimant whether any child dependants have the same protection needs as themselves or if the children have any additional or different protection needs.

If they have the same protection needs, they can be considered as a Family Asylum Claim, the Family Asylum Claims guidance must be followed for these claims.

Where the children have additional or different protection needs their asylum claim must be individually considered and therefore, they should be treated as an accompanied child and the Processing children's asylum claims guidance must be followed.

Where the children have no protection needs, they can be added to the main claimant's asylum claim as a dependant in line with this policy guidance, providing they meet the criteria set out in [paragraph 349](#) of the Immigration Rules.

Requests to be added to the claim before an initial decision

There may be cases where dependants are identified during the main claimant's substantive asylum interview. Spouses, civil partners, unmarried or same-sex partners and minor children may be included as dependent on the main claimant's asylum claim before an initial decision is made, providing that they meet the requirements set out in [paragraph 349](#) of the Immigration Rules and are enrolled as appropriate at a screening event.

Requests to be added to the claim after an initial decision

Spouses, civil partners, unmarried or same-sex partners and minor children should not be accepted as dependants following a decision to grant any form of permission to stay on the main claimant's asylum claim. See [Applications for permission to stay in line following a decision](#) and [Dependants included in further submissions and appeals](#) sections for guidance on dependants not included in the original claim.

Children who reach the age of 18 before an initial decision

A minor child included as a dependant in the original claim who reaches the age of 18 before an initial decision on the main claimant's claim, should normally continue to be treated as a dependant for the purposes of the claim. See [Dependants included in further submissions and appeals](#) section for guidance on dealing with further submissions.

Although dependants who are over 18 can continue to be treated as dependants for the purpose of considering the initial asylum claim, they cannot continue to be treated as a dependant for removal purposes. See Removals guidance for further details.

Dependants included in further submissions and appeals

Where a spouse, civil partner or unmarried partner or minor child of the main claimant was treated as a dependant on the initial asylum or human rights claim and still wishes and qualifies to be treated as such, they must continue to be considered as a dependant on any further submissions or appeals.

Where a minor child was treated as a dependant on the initial asylum claim but turns 18 before further submissions are lodged, they will not qualify as a dependant on the further submissions and will either need to apply for permission to stay in their own right, including make a first protection claim if appropriate, or leave the UK. See [Children who reach the age of 18 before an initial decision](#) for details on serving immigration paperwork to dependants over 18.

Should a dependant have protection needs in their own right then they must claim asylum (or lodge further submissions if paragraph 353 applies) in their own right.

Dependants who were not included in the original claim, even where they meet the dependants requirements set out in [paragraph 349](#) of the Immigration Rules, must not be included as a dependant on any further submissions or appeals, including allowed appeals. The main claimant should be informed that they will not be considered as a dependant and the individual should make an application under the appropriate Immigration Rules. You must still consider any relevant family issues as part of the overall consideration of the further submissions.

Where the initial decision is a refusal, any UK born dependants should normally be included as part of any further submissions or appeals.

If a dependant has permission to stay in another capacity, they should apply for any further permission to stay under the appropriate Immigration Rules and should not be included as a dependant in any further submissions or appeals.

Left the UK and returned with dependants not included in the original claim

There may be instances where an individual returns to the UK, following previous removal action or voluntary departure, with dependants who were not included in the original asylum claim. In these cases, providing they meet the requirements in [paragraph 349](#) of the Immigration Rules and the guidance under the [Dependants definition](#) section, they should be accepted as dependants on any subsequent further submissions.

You must make appropriate checks to establish identity and the dependants' relationship to the main claimant. There must be credible evidence of the

relationship between a parent and any children not previously included. Where there are child protection concerns the case must be referred immediately to the Safeguarding hub and in an emergency, you must contact the police, see [Safeguarding](#) section. See the Further submissions guidance for further details on processing the claim.

Applications for permission to stay in line following a decision

Pre-flight spouses, partners and children of individuals with protection status

Spouses, civil partners, same sex partners and children who formed part of the family unit of the individual granted protection status, at the time that the individual granted protection status left their country of origin or their country of former habitual residence to seek asylum, are deemed to have established their relationship with the main claimant 'pre-flight'. Pre-flight dependants must be considered in accordance with [Appendix Family Reunion \(Protection\)](#) of the Immigration Rules and the Family Reunion policy, if they were not included as dependants before a decision on the main claimant's claim. It is permissible to make either an in country or out of country application for Family Reunion. See the Family reunion guidance.

Any permission to stay granted to family members joining a beneficiary of protection status must be granted permission to stay in line with that of the individual granted protection status. Protection status must not be granted when granting permission to stay in line. Permission to stay in line should be for the same duration, with the same expiry date and conditions but not protection status. See the Family reunion guidance for information on granting permission to stay and issuing relevant supporting documents.

The family reunion provisions do not extend to claimants who have been refused protection status and subsequently granted discretionary leave or permission to stay on the basis of family or private life in the UK. Claimants will need to make an application under the relevant Immigration Rules, or outside the rules on a discretionary basis for other reasons not covered by the Immigration Rules, and should be referred to the [Home Office website](#) for the current application process and appropriate form.

Post-flight spouses or partners

Spouses, civil partners and same sex partners not part of the family unit of a person granted protection status, before that person left their country of origin or country of former habitual residence, 'post-flight', must not be added as dependants. They can apply to join a beneficiary of protection status under [Appendix FM](#) of the Immigration Rules. See the Family life (as a partner or parent) and exceptional circumstances guidance. Applicants should be referred to the [Home Office website](#) for the correct application process and forms.

Post-flight children

Children born in the UK after an individual is granted protection status should be granted permission to stay in line for the same duration and with the same expiry date and conditions, unless they acquire British citizenship – in which case, they cannot be granted under the Immigration Rules as they will have right of abode and are exempt from immigration control. Protection status must not be granted as there will have been no individual consideration of the child's case. See [Children born in the UK](#) for further guidance.

Dependants identified as part of criminality checks

Where security checks identify a dependant who is known to Foreign National Offenders Removals Command (FNORC) or the offence is one that falls within the FNORC referral criteria, the case must be referred to FNORC casework. See FNORC referral guidance for further details.

European Economic Area (EEA) dependants and non-EEA dependants of EEA nationals

Any case involving an EEA national family member should be discussed with a senior caseworker in the first instance as the case may need to be referred to another team to consider. For example, if the dependant is an EU national, does the main claimant also hold nationality of the EU country (dual nationality, in the EU country and their country of origin), or - through their relationship to their dependants - does the main claimant have a sufficient connection to that country such that third country inadmissibility action should be considered? See the guidance on EEA and EU asylum claims and Inadmissibility: safe third country cases. For guidance on dealing with non-EEA national family members of EEA nationals see European Policy Instructions.

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Granting or refusing permission to stay in line

Granting permission to stay to dependants

Dependants of an asylum claimant who have been included in the initial asylum claim should, if the main claimant is granted protection status normally be granted permission of the same duration, with the same expiry date and conditions as the main claimant under [paragraph 339QC](#) of the Immigration Rules. Dependants must not be granted protection status in line unless you have specifically considered that they qualify for refugee status or humanitarian protection under [Part 11 of the Immigration Rules](#).

Permission to stay of the same duration with the same expiry date and conditions as the main claimant will also normally be granted where the main claimant is granted family or private life leave to remain or Discretionary Leave.

[Paragraph 349](#) of the Immigration Rules states that if the main claimant is granted protection status and permission to stay, any qualifying dependants will also be granted permission for the same duration. This applies whether the dependants arrived in the UK with the main claimant or followed at a later date but were included on the claim before the decision was made.

If when considering the asylum claim it is apparent that the dependants would also be at risk of persecution or serious harm, despite not claiming asylum in their own right, you should check again whether it remains the case that the dependant would prefer to be granted leave in line with the main claimant or if they should be granted protection status. You should make them aware that having considered the main claimant's asylum claim, you have concluded the dependant would also be at risk on return. See [Evidence from dependants](#) sections.

Casework systems must be updated to grant leave in line to dependants by creating a leave in line record. Dependants should only be granted protection status where they have been treated as having a protection claim in their own right (the includes children who are treated as claimants as part of a Family Asylum Claim as set out in the Family Asylum Claims guidance) and been considered to have a protection need, in line with [Part 11 of the Immigration Rules](#).

Official – sensitive: Start of section

The information in this section has been removed as it is restricted for internal Home Office use only.

Official – sensitive: End of section

Where the main claimant has been granted permission to stay under the Restricted Leave policy, any dependants should normally be granted leave outside the rules. The length of leave granted should be in line with the duration of restricted leave granted to the main claimant. However, it may not be appropriate or necessary to attach the same conditions to the dependant's leave as the main claimant. You must have regard to the need to safeguard and promote the welfare of children in the UK under section 55. You must therefore consider the likely impact that imposing such conditions may have on dependent children and consider what is appropriate in the particular circumstances of the individual case. See [Application in respect of children](#) section and the Restricted Leave guidance. See also the Exclusion and dependants section of the Exclusion guidance

Refusing permission to stay to dependants

Applications for permission to stay as a dependant will not be granted if the applicant does not qualify as a dependant under [paragraph 349](#) of the Immigration Rules. The applicant must be notified, with reasons, why they do not qualify to be treated as a dependant and what this means for their immigration status.

If the main claimant is refused permission to stay, any dependants on that claim will not normally qualify for permission to stay and should normally also be refused in line, unless they have individual protection needs or [section 55](#) consideration leads to a grant of leave. Dependants do not receive a right of appeal as refusal of leave in line is not an appealable decision.

If the main claimant is refused leave to remain and is to be deported, deportation action may be taken against a family member under section 3(5)(b) of the [Immigration Act 1971](#). A family member is defined as a spouse, civil partner or children under the age of 18. Where a deportation order is made against a person under the 1971 Act, a deportation order cannot be made against the family member of that person if more than 8 weeks have elapsed since the person was removed from the UK. For further information, see the Conducive Deportation guidance.

Similarly, if the main claimant is subject to administrative removal under section 10 of the [Immigration and Asylum Act 1999](#), removal directions may be served on children under section 10(2) of the 1999 Act.

Related content

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Evidence from dependants

You must ensure that all available evidence in asylum claims is fully considered, including evidence provided by dependants and other family members. It will normally be appropriate to link relevant files to consider claims from family members together, even where separate claims have been lodged, to ensure all relevant factors have been considered, including an evaluation of protection needs in the family context, and to ensure consistency in decision-making.

Relevant issues affecting dependants, which may give rise to individual protection needs, can come to light at any point in the asylum process but are most likely to be identified through evidence provided during a dependent adult's screening interview, written evidence submitted in a 'one stop' section 120 notice or by the main claimant. It may also be important to gather additional information on key aspects of the claim from dependants where this is necessary to fully consider the claim.

You should be alert to expressions of a need for protection from dependants that suggest they may have a claim in their own right, independently of the main claimant. Where evidence comes to light suggesting a dependant who has not claimed in their own right has individual and specific protection needs, it may be necessary to treat them as having claimed asylum in their own right and where necessary, interview them if such issues cannot be properly considered without further specific evidence from that individual. [Paragraph 339NA](#) of the Immigration Rules sets out the circumstances in which an asylum interview can be omitted, for example if a grant of protection status is able to be taken on the basis of evidence available.

Gathering additional evidence from dependants

In the majority of cases, the main claimant should be able to provide details of the asylum claim. It will not normally be necessary to interview dependants. However, you must be aware that dependants may raise issues independent of the main claimant which may give rise to a protection claim in their own right. They may also be able to provide relevant details that are material to the main claimant's claim which would not otherwise be available. For example, a spouse or partner may be better placed than the main claimant to provide details of their individual political activities, religious practices, relevant family history or incidents of past persecution, and it may be appropriate to request a written statement from the dependant or interview them if the issue is material to the claim.

You must gather and assess all relevant information to fully consider the protection needs of the family unit. Where necessary and bearing in mind the need to consider the best interests of the child to avoid putting children through an interview unnecessarily, where the child is of an appropriate age, you should consider whether hearing from the child is necessary. Where children are interviewed, this must be conducted in accordance with the Processing Children's Asylum Claims guidance.

Considering evidence provided by dependants

You must ensure that you gather and assess any relevant evidence relating to protection needs in the family context to ensure the asylum claim is fully considered. This includes considering:

- any evidence provided by dependants, including evidence provided at the screening interview, completed section 120 (one stop) notices and statements of additional grounds
- any Home Office files relating to previous applications by the claimant or any relatives (including, for example, previous student applications)
- country of origin information specifically relevant to family members

It is important to fully consider any evidence provided by dependants because the existence and experiences of family members can give rise to protection needs for the family as a whole or impact on consideration of internal relocation, for example. However, it is essential that any evidence provided by any individual other than the main claimant is handled with due regard to confidentiality and the potential impact on the family unit.

It will not normally be appropriate to directly present evidence provided by one family member to another family member, see [Disclosure and confidentiality](#) section. Instead, apparently contradictory evidence should be used to explore the relevant aspects of the claim in more depth if the issue is material to the claim. It is not appropriate to confront individuals with evidence from family members in an adversarial manner as this is likely to prevent claimants from disclosing relevant evidence and may, in extreme cases, put family members at risk of harm.

Apparent contradictions must be carefully addressed as part of the overall evaluation of the claim and given appropriate weight, bearing in mind that family members, particularly children, may not be fully aware of the reasons why their family left in the first place and sought asylum in the UK, or have complete knowledge or understanding of the facts relevant to the main claimant's claim.

You must carefully consider the impact on the family unit of contradictory statements, bearing in mind the potential damage this may cause. In particular, where statements or previous evidence is withdrawn by the main claimant or a family member, you must carefully consider the reasons for this in the family context.

See [Assessing credibility and refugee status guidance](#) for further details.

Disclosure and confidentiality

There may be cases where it is considered appropriate and necessary to disclose evidence provided by one family member to another if this is the only way to properly investigate a material aspect of the claim that cannot otherwise be explored through methods that do not require such disclosure. It may also be considered appropriate and necessary to refer to evidence from dependants or other family

members in the decision. Before doing so you must have due regard to confidentiality, data protection requirements and any evidence of individual protection needs relating to family members.

Under the terms of the [Data Protection Act](#) it is important to obtain informed consent from all members of the family, providing evidence as part of the claim, before directly referring to such evidence during an interview or in any decision to refuse the claim. A claimant may have legitimate reasons why they do not give consent, such as a fear of violence from their partner, so careful consideration needs to be given to the evidence before citing failure to give consent as a credibility issue.

See the Disclosure and confidentiality of information in asylum claims guidance for further details in particular the section on Transfer of information between cases must be followed.

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Dependants claiming in their own right

[Paragraph 349](#) of the Immigration Rules states that family members dependent on the main claimant's asylum claim, may claim asylum in their own right. Their claim must be considered individually irrespective of the outcome of the main claimant's claim.

Family members may lodge their own asylum claim at any time during their stay in the UK but are expected to claim protection, where this is needed, at the earliest possible opportunity, see [The One Stop Notice \(section 120 of the NIA Act 2002\)](#) section.

See [Withdrawing asylum claims instruction](#) for guidance on when the main claimant's asylum claim is treated as withdrawn.

Family members claiming in their own right who do not remain dependent on the main claimant's claim

Each family member claiming asylum in their own right should be treated as a main claimant for the purposes of the decision. This includes for example, issuing a Reasons for refusal letter and associated rights of appeal where this applies. The Family Asylum Claims guidance must be followed for asylum claims where the main claimant and any children with the same claim are being considered together. Where children have additional or different needs to the main claimant, they cannot be part of a Family Asylum Claim, the Processing children's asylum claims guidance must be followed for those cases.

Where an adult dependant claims asylum in their own right, this claim cannot be considered as part of the Family Asylum Claims process (which is for cases where the main claimant and child dependants have the same protection claim). However, family member asylum cases should continue to be linked in order to enable the claims to be processed as efficiently as possible.

Main claimant is refused and dependant applies as the main claimant with the former main applicant as their dependant

The former main claimant must be served with decision paperwork as a dependant. Where permission to stay is granted, the qualifying dependant must be granted permission to stay in line for the same duration, with the same expiry date and usually with the same conditions. Protection status in line must not be granted. The former dependant must be served decision paperwork as a main claimant.

Main claimant is refused and dependant applies as main claimant without the former main claimant as a dependant

The former dependant should be served paperwork as a main claimant. You must ensure that in cases where a former dependant applies in their own right and does not maintain any link with the former main claimant, that these cases are handled sensitively. This is particularly important if the relationship between the family members has broken down as there could, for example, be potential safeguarding risks to family members. See Disclosure and confidentiality of information in asylum claims guidance, in particular the transfer of information between cases section.

Dependants incorrectly added to main claimant's asylum claim or no longer dependant

In cases where it comes to light that an individual should not have been added to a main claimant's asylum claim as a dependant, for example because they do not meet the criteria under [paragraph 349](#) of the Immigration Rules; or they are no longer a dependant, for example because the relationship has ended - the dependant must be removed from the asylum claim and advised that they will need to apply for permission to stay in their own right, including make a first protection claim if appropriate, or leave the UK.

In cases where a dependant had been granted permission to stay but the individual they were dependant on has their permission to stay cancelled, you must follow the Cancellation and curtailment of permission guidance sections relevant to dependants.

The One Stop Notice (section 120 of the NIA Act 2002)

All dependants should have been served with a one stop notice under section 120 of the [Nationality, Immigration and Asylum Act 2002](#). The aim of the one-stop procedure is to encourage claimants to provide all their reasons for wanting to enter or remain in the UK as early as possible to allow full consideration of claims, taking into account all relevant evidence. Late asylum claims made by former dependants must be considered but, where the claim relies on a matter which could or should have been raised earlier and where there is no satisfactory reason provided or identified for it not having been raised earlier, consideration must be given to whether certification of the claim is appropriate. See [Certification under Section 96 of the 2002 Act](#).

Asylum claims made by previous dependants at the AIU

Where a claim for asylum is made at an Asylum Intake Unit (AIU – previously the Asylum Screening Unit) by an individual previously registered as a dependant on another claim, Home Office systems must be checked to see where the case is located and being handled.

Claimants are not usually required to undergo normal screening procedures because they have already been screened as a dependant on the previous claim. However, if the claimant has not been fully screened (typically where the claimant

was a minor when their parent claimed asylum) the AIU must complete a full screening interview and biometric registration with them as a main claimant, plus any actions not previously taken.

The screening officer must contact the decision-maker responsible for the main claimant's claim and note case working systems that a dependant of the main claimant has claimed asylum in their own right. If removal directions have been set, see [Claims by dependants where removal directions have been set](#) section.

Officers will retain Application Registration Cards (ARC) that are no longer valid/have no expiry date and arrange for new cards to be issued to the claimant and any dependants on their claim. If the claimant has an ARC that has not expired there is no need to reissue a new one. If a previous dependant wishes to make their own claim and add dependants to that claim, the dependants must be present at the screening location. If they are not present, they cannot be added to the claim and will need to return to the screening location with the dependants they wish to add.

Once screening actions have been completed, normal procedures should follow.

Where a former dependant states that they do not want the main claimant to know about their separate asylum claim, this must be respected. You must ensure the confidentiality of the dependant's claim in such circumstances and update Home Office records accordingly.

Postal applications must be rejected and dealt with in accordance with the Asylum Screening and routing guidance.

Claimant advises that a dependant wishes to claim asylum

If advised by the main claimant that one or more of their dependants wishes to claim asylum in their own right, you must inform them that their dependant or dependants will need to attend an AIU for their claim to be registered - unless removal directions have already been set for the main claimant and any dependants on the claim.

Claims by dependants where removal directions have been set

When a claimant is identified as having had a decision and where removal directions have been set, a dependant can claim asylum if they have not previously claimed asylum in their own right:

Requests made to the decision-maker handling the main claim: If removal is not imminent and a previous dependant claims asylum following the setting of removal directions, you must inform them to make an appointment to attend the AIU or you can make local arrangements for registration, if exceptional circumstances apply. All claims for asylum must be made in person, and they will need to be recorded as an asylum claimant in their own right across the biometric and biographic Home Office systems. You will need to determine whether you have sufficient evidence to consider the asylum claim or whether the claimant needs to be interviewed.

[Paragraph 339NA](#) of the Immigration Rules sets out circumstances in which an asylum interview can be omitted, for example if a grant of protection status is able to be taken on the basis of evidence available.

Claims made to an AIU: If removal is not imminent, the AIU should contact the decision-maker and in conjunction with the National Asylum Intake Unit (NAIU) decide how the claim should be taken forward. It may be, for example, that although initially dependent on the main claimant, the new claimant is no longer dependent, for example there is no genuine and subsisting family life, and the family can be split. For guidance on setting removals directions and family separations, see removals guidance.

If removal is imminent the officer dealing with the claim must immediately contact Operational Support and Certification Unit (OSCU) to inform them that the dependant has claimed asylum in their own right. The case notes of the main claimant on which they were a dependant must be updated to record that the dependant has made their own asylum claim. OSCU will advise on next steps.

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Deciding claims by former dependants

Cases being handled by Asylum and Protection

Where former dependants claim in their own right the case should be routed to the asylum team who had conduct of the main claimant's case, where this is possible. If an interview is required this should be arranged and conducted in accordance with existing guidance, see the Asylum interviews guidance.

You must raise any barriers to removal on the relevant databases for the dependants of the claimant in cases where the family should not be split. This should make it clear that there is an outstanding claim from a former dependant which, until considered, prevents removal.

All Home Office records relating to the main claimant and all dependants must be obtained and linked before considering the case. This is important to ensure all relevant evidence is properly considered in the family context and to ensure decisions made are consistent, whilst ensuring that any confidentiality issues in relation to the claims are taken into account, see [Disclosure and confidentiality](#) section. When a decision has been made, you must refer to the asylum guidance on Drafting, implementing and serving decisions.

Claims from children

Generally, unless children do not have a protection need, they are understood to have made an asylum claim. Asylum claims from children who were previously dependent on another claim or could not be treated as a Family Asylum Claim, as they have additional or different protection needs, must be considered by decision-makers trained to handle claims from children. See the Processing children's asylum claims for further guidance. You must not apply the actions set out in these instructions either to children or to those with children without having due regard to [Section 55 of the Borders, Citizenship and Immigration Act 2009](#).

Considering the claim

Asylum claims made by former dependants should be considered on their own merits, in the same way as other asylum claims. Whilst delay in claiming asylum in their own right will be a factor that should be addressed, you must provide an opportunity for the claimant to explain, and any reasons given for failure to disclose information earlier must be given careful consideration. It is not appropriate to reject the claim on the basis of the delay in claiming alone and you must consider any new material, including any reasons for the delay, in the round and in the context of all the evidence available. See Assessing credibility and refugee status and Gender issues in the asylum claim for further guidance.

Where it is considered appropriate to refer to evidence from other dependants or family members in the decision, you must carefully consider any confidentiality issues that may arise, see [Disclosure and confidentiality](#) section.

If the claim falls to be refused, consideration should be given to whether certification is appropriate, see [Certification under section 96 of the 2002 Act](#) and [Certification under section 94 of the 2002 Act](#).

Certification under Section 96 of the 2002 Act

Section 96 of the [Nationality, Immigration and Asylum Act 2002](#) (as amended) allows the Home Office to certify that the claim is late in certain circumstances. This means that an appeal may not be brought either in-country or out-of-country. This decision can be challenged by judicial review.

If the dependant claiming asylum in their own right has previously been served with a [section 120 one-stop notice](#) as a dependant (or on another basis) and failed to raise asylum or human rights issues in the Statement of Additional Grounds, certification under Section 96 may be appropriate if the present claim now falls for refusal.

Section 96 is intended to prevent people raising matters at the last minute to frustrate removal. For example, it would usually be appropriate to certify where one spouse has an asylum claim refused and the other claims on the same grounds. However, a certificate should not be issued unless and until the claim by the former dependant has been carefully considered. See the Appeals guidance for further details.

Certification under Section 94 of the 2002 Act

If no section 96 certificate is issued, you must consider whether it is appropriate to certify under section 94 that the claim is clearly unfounded. A decision to certify a case under section 94 must only be made by a fully NSA accredited decision-maker. See the Asylum Instruction Certification under section 94 of the NIA Act 2002 for further guidance.

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Children born in the UK

[Section 55 of the Borders, Citizenship and Immigration Act 2009 \(section 55\)](#)

requires the Home Office to carry out its functions in a way that takes into account the need to safeguard and promote the welfare of children in the UK. You must not apply the actions set out in this guidance either to children or to those with children without having due regard to section 55. The instruction [Every Child Matters – Change for Children](#) sets out the key principles to take into account.

The statutory duty to children includes the need to make decisions affecting children in a timely and sensitive way. The best interests of the child will be a primary consideration (although not necessarily the only consideration) when making decisions affecting children, whether the child is the main claimant or an adult claimant is the primary parent or guardian of a child in the UK, or has genuine and subsisting family life with a child in the UK.

Children with British citizenship

Children with British citizenship cannot register an asylum claim ([under Immigration Rule 327AB iii](#)), they have a right of abode in the UK and are exempt from immigration control. This right does not extend to their immediate family.

When checking whether a child has British Citizenship it may be helpful to refer to [Checking British Citizenship](#). For guidance on British Citizenship, please refer to the [Nationality](#) guidance. For those who do not have an automatic entitlement to British Citizenship, see the [Registration of children](#) guidance.

Children without British Citizenship

Children born in the UK who are not British citizens are subject to immigration control. Such children require leave to enter when admission to the UK is sought and leave to remain/permission to stay when permission is sought for them to be allowed to stay in the UK. [Section 73 of the NIA 2002](#) allows removal directions to be given to UK born children of illegal entrants. For further details on the paperwork to serve, you should refer to the Returns guidance.

Including UK born dependants in asylum claims

UK born dependants who are not British citizens may be included as dependants on their parent's asylum claim (and included on any subsequent further submissions and appeals subject to meeting the criteria set out in the [Applications to be considered as a dependant](#) sections) - such an application constitutes an application for permission to stay. If they are refused leave as dependants, the decision does not attract any right of appeal.

They will not be considered for removal until and if the main claimant, on whom they are dependent, has exhausted all avenues of appeal. If the parents are subject to

administrative removal under section 10 of the [Immigration and Asylum Act 1999](#), removal directions may be served on the children.

It will normally be in the best interests of the child to accompany the parents but submissions to the contrary must be carefully considered, taking into account the need to safeguard and promote the welfare of children in accordance with the [section 55](#) duty.

Granting permission to stay in line to UK born dependants

Any request received by the Home Office for permission to stay in line, with an individual granted permission to stay following an initial decision on an asylum claim, must be considered in line with the guidance below:

Children included in the initial claim before a decision is taken

Where the parent claiming asylum includes their UK born child in their asylum claim before a decision is taken on the initial claim, that child should be treated in the same way as any other dependent child.

Children not included in the initial claim or born to parents granted protection status

Where no application has been made on behalf of a child, born in the UK, before a grant of permission to stay but their parents are granted protection status, you should ask the parent or parents to regularise the child's stay by applying for permission to stay in line. You must ensure that a copy of the full birth certificate is provided with any application for permission to stay in line. If parents do not do so, you should inform them that, although the child's presence in the UK is not unlawful, the child is not a British citizen, is subject to immigration control, and if seeking to re-enter the UK at a future date will require leave to enter in accordance with the immigration policies in force at that time.

Unless specifically requested by the parent or parents with protection status, a child granted permission to stay in line must not be granted protection status in line since this status cannot be recognised without an individual assessment of the child's protection needs. If protection status is requested, you must acquire the necessary evidence to decide whether the child qualifies for protection status in their own right – this is likely to be by writing to the claimant (with a response likely being provided by their responsible adult or adults). This is not a charged application and no application form or fee is involved in this process. However, a claim for asylum will need to be registered in person.

See the section on [UK born children who apply for asylum](#) for those born in the UK.

Children not included in the initial claim or born in the UK to parents granted permission to stay under family or private life Immigration Rules or Discretionary Leave

Where no application has been made on behalf of a child, born in the UK, prior to a grant of permission to stay but the parents are granted permission to stay under the family or private life Immigration Rules or Discretionary Leave, you should ask the parent or parents to regularise the child's stay by applying for permission to stay relevant to their route.

If the parent or parents do not do so, you should inform them that although the child's presence in the UK is not unlawful, they are subject to immigration control because the child is not a British citizen. If the child leaves the UK and seeks to re-enter the UK at a future date, they will require leave to enter in accordance with the immigration policies in force at that time.

Children born in the UK to parents granted permission to stay, other than permission to stay on a protection route, can make a 'child born in the UK' application where at least one parent is settled. Parents must ensure that they include UK born children on any subsequent applications for leave. See [Home Office](#) website for the correct application process and forms.

UK born children who apply for asylum

A UK born child, who is not a British citizen, can claim asylum in their own right and any such claim must be considered on its merits.

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