



Home Office

Criminal casework

Concluding family cases

Concluding family cases

About this guidance

<p>About this guidance</p> <p>Legal barriers</p> <p>Granting leave to remain</p> <p>Action post-deportation or removal</p>	<p>This guidance tells you about the various legal barriers which may arise during the pursuit of deportation in foreign national offender (FNO) family cases, and the ways in which immigration enforcement (IE) may seek to conclude such cases.</p> <p>Types of case conclusion in the criminal casework directorate include:</p> <ul style="list-style-type: none">• Deportation of the FNO and all family members.• Deportation of the FNO without family members, or with only some.• Deportation of the FNO and family not pursued, but referred to a local immigration team for possible alternative removal action.• Deportation of the FNO and family not pursued, removal not pursued, so leave to remain granted. <p>Changes to this guidance – This page tells you what has changed since the previous version of this guidance.</p> <p>Contacts – This page tells you who to contact for more help if your senior caseworker or line manager can't answer your question.</p> <p>Information owners – This page tells you about this version of the guidance and who owns it.</p> <p>Safeguard and promote child welfare – This page explains your duty to safeguard and promote the welfare of children and tells you where to find out more information.</p>	<p>In this section</p> <p>Changes to this guidance</p> <p>Contact</p> <p>Information owner</p> <p>Related links</p> <p>Safeguard and promote child welfare</p>
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Changes to this guidance

<p>About this guidance</p> <p>Legal barriers</p> <p>Granting leave to remain</p> <p>Action post-deportation or removal</p>	<p>This page lists the changes to the concluding family cases guidance, with the most recent at the top.</p> <table border="1"><thead><tr><th data-bbox="490 392 831 432">Date of the change</th><th data-bbox="831 392 1532 432">Details of the change</th></tr></thead><tbody><tr><td data-bbox="490 432 831 544">09 August 2017</td><td data-bbox="831 432 1532 544">Removal of page on residence orders under legal barriers section.</td></tr><tr><td data-bbox="490 544 831 767">11 November 2013</td><td data-bbox="831 544 1532 767">Six month review by the modernised guidance team:<ul style="list-style-type: none">• Minor housekeeping and plain English changes throughout.</td></tr><tr><td data-bbox="490 767 831 959">28 May 2013</td><td data-bbox="831 767 1532 959">Six month review by the modernised guidance team:<ul style="list-style-type: none">• Minor housekeeping changes.</td></tr><tr><td data-bbox="490 959 831 1102"></td><td data-bbox="831 959 1532 1102">For previous changes to this guidance you will find earlier versions in the archive. See related link: Children and family members - Archive.</td></tr></tbody></table>	Date of the change	Details of the change	09 August 2017	Removal of page on residence orders under legal barriers section.	11 November 2013	Six month review by the modernised guidance team: <ul style="list-style-type: none">• Minor housekeeping and plain English changes throughout.	28 May 2013	Six month review by the modernised guidance team: <ul style="list-style-type: none">• Minor housekeeping changes.		For previous changes to this guidance you will find earlier versions in the archive. See related link: Children and family members - Archive.	<p>Related links</p> <p>See also</p> <p>Contact</p> <p>Information owner</p> <p>Children and family members - Archive</p>
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Legal barriers

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

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

<p>About this guidance</p> <p>Legal barriers</p> <p>Granting leave to remain</p> <p>Action post-deportation or removal</p>	<p>This page tells you how to balance the existence of court orders with considerations under Article 8 of the European Convention on Human Rights (ECHR) for deportation.</p> <p>Where a foreign national offender (FNO) is involved in ongoing family proceedings in the UK, for example, about contact with their child, it may, or may not, be appropriate to remove them until the outcome of those proceedings is determined.</p> <p>You must consider each case on its facts. Whilst involvement in, or orders made in, Children Act 1989 proceedings do not deprive the Secretary of State of powers of deportation and removal, you must take such factors into account when deciding whether to exercise those powers, and whether doing so would be a proportionate response, in light of article 8 or article 6 of the ECHR.</p> <p>You must consider whether the offences committed may be relevant to any contact particularly if the offences were in connection to the children involved in the ongoing proceedings. In some cases immigration enforcement can argue in the courts that removal would not be in breach as the proceedings can be pursued from abroad by telephone, through lawyers.</p> <p>In other cases it may be appropriate to grant discretionary leave to remain on article 8 or article 6 grounds for a short period to allow the FNO to remain in the UK for the case to be concluded. For guidance on discretionary leave, see related link.</p> <div style="border: 2px solid red; padding: 5px; text-align: center;"><p>Restricted – do not disclose – start of section</p><p>The information on this page has been removed as it is restricted for internal Home Office use.</p><p>Restricted – do not disclose – end of section</p></div>	<p>In this section</p> <p>Contact orders</p> <p>Related links</p> <p>Discretionary Leave</p> <p>External links</p> <p>CAFCASS</p>
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Granting leave to remain

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

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

<p>About this guidance</p> <p>Legal barriers</p> <p>Granting leave to remain</p> <p>Action post-deportation or removal</p>	<p>This page explains who to contact for more help with concluding family cases in criminal casework.</p> <p>If you have read this guidance and still need more help with this category, you must first ask your senior caseworker or line manager.</p> <p>If they cannot answer your question, they or you may email criminal casework operational process and policy (CCOPP) using related link: Email CC process team.</p> <p>Changes to this guidance can only be made by the modernised guidance team (MGT). If you think the policy content needs amending you must contact CCOPP, who will ask the MGT to update the guidance, if appropriate.</p> <p>The MGT will accept direct feedback on broken links, missing information or the format, style and navigability of this guidance. You can send these using the link: Email: Modernised guidance team.</p>	<p>Related links</p> <p>See also</p> <p>Changes to this guidance</p> <p>Information owner</p> <p>External links</p> <p>Email CCD process team</p> <p>Email: Modernised guidance team</p>
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Information owner

<p>About this guidance</p> <p>Legal barriers</p> <p>Granting leave to remain</p> <p>Action post-deportation or removal</p>	<p>This page tells you about this version of the concluding family cases guidance and who owns it.</p> <table border="1" data-bbox="499 391 1630 774"><tr><td>Version</td><td>7.0</td></tr><tr><td>Valid from date</td><td>09 August 2017</td></tr><tr><td>Policy owner</td><td>Official – sensitive: information removed</td></tr><tr><td>Cleared by director</td><td>-</td></tr><tr><td>Director's role</td><td>-</td></tr><tr><td>Clearance date</td><td>-</td></tr><tr><td>This version approved for publication by</td><td>Official – sensitive: information removed</td></tr><tr><td>Approver's role</td><td>Official – sensitive: information removed</td></tr><tr><td>Approval date</td><td>09 August 2017</td></tr></table> <p>Changes to this guidance can only be made by the modernised guidance team (MGT). If you think the policy content needs amending you must contact CCOPP (see related link: Email CCD process team), who will ask the MGT to update the guidance, if appropriate.</p> <p>The MGT will accept direct feedback on broken links, missing information or the format, style and navigability of this guidance. You can send these using the link: Email: Modernised guidance team.</p>	Version	7.0	Valid from date	09 August 2017	Policy owner	Official – sensitive: information removed	Cleared by director	-	Director's role	-	Clearance date	-	This version approved for publication by	Official – sensitive: information removed	Approver's role	Official – sensitive: information removed	Approval date	09 August 2017	<p>Related links</p> <p>See also</p> <p>Changes to this guidance</p> <p>Contact</p> <p>External links</p> <p>Email CCD process team</p> <p>Email: Modernised guidance team</p>
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