



Home Office

# **Immigration Directorate Instruction**

## **Family Migration:**

### **Appendix FM Section 6.0**

## **Adult Dependent Relatives**

August 2017

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# 1. About this guidance

This guidance concerns applications for entry clearance as an adult dependent relative, or for limited or indefinite leave to remain as an adult dependent relative where the applicant is already in the UK with leave under this route.

## 1.1 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 email the Guidance, Rules and Forms team.

## 1.2 Clearance and publication

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

- Published for Home Office staff on 10 August 2017.

## 1.3 Changes from last version of this guidance

- Reflecting the Court of Appeal judgment in [Britcits v The Secretary of State for the Home Department \[2017\] EWCA Civ 368](#).
- Consideration of exceptional circumstances where the requirements of the adult dependent relative Rules are not met and the Article 8 right to respect for private and family life of the European Convention on Human Rights (ECHR) is engaged.

## 2. Introduction

The purpose of this route is to allow a non-European Economic Area (non-EEA) national adult dependent relative (ADR) of:

- a British Citizen in the UK;
- a person settled in the UK; or
- a person in the UK with refugee leave or humanitarian protection;

to settle here, if they can demonstrate that, as a result of age, illness or disability, they require a level of long-term personal care that can only be provided in the UK by their relative here and without recourse to public funds.

The policy intention behind the ADR Rules is, firstly, to reduce the burden on the taxpayer for the provision of NHS and local authority social care services to ADRs whose needs can reasonably and adequately be met in their home country; and, secondly, to ensure that those ADRs whose needs can only be reasonably and adequately met in the UK are granted immediate settled status (where their sponsor has this or is a British Citizen) and full access to the NHS and local authority social care services. This is intended to avoid creating a disparity between ADRs depending on their wealth and that of their sponsor, and to give those ADRs who qualify certainty about their long-term status in the UK.

This route can only be entered by an applicant outside the UK: a person cannot switch into this route in the UK.

In particular:

- The applicant must, as a result of age, illness or disability, require long-term personal care: that is, help performing everyday tasks, e.g. washing, dressing and cooking;
- The applicant must be unable, even with the practical and financial help of the sponsor, to obtain the required level of care in the country where they are living because it is not available and there is no person in that country who can reasonably provide it or because it is not affordable; and
- The Entry Clearance Officer (ECO) must be satisfied that the applicant will be adequately maintained, accommodated and cared for in the UK by the sponsor without recourse to public funds. If the sponsor is a British Citizen or settled in the UK, they must sign a 5-year undertaking to that effect, at the entry clearance stage.

On 24 May 2017, the Court of Appeal upheld the lawfulness of the adult dependent relatives Rules in [Britcits v The Secretary of State for the Home Department \[2017\] EWCA Civ 368](#). This guidance has taken account of the judgment.

# 3. Entry clearance as the adult dependent relative of a British Citizen, a person settled in the UK or a person in the UK with refugee leave or humanitarian protection

## 3.1 The Rules

The ADR Rules are set out in Appendix FM to the Immigration Rules. This section sets out an extract of those Rules, insofar as they relate to applications for entry clearance.

### **Section EC-DR: Entry clearance as an adult dependent relative**

EC-DR.1.1. The requirements to be met for entry clearance as an adult dependent relative are that-

- (a) the applicant must be outside the UK;
- (b) the applicant must have made a valid application for entry clearance as an adult dependent relative;
- (c) the applicant must not fall for refusal under any of the grounds in Section S-EC: Suitability for entry clearance; and
- (d) the applicant must meet all of the requirements of Section E-ECDR: Eligibility for entry clearance as an adult dependent relative.

### **Section E-ECDR: Eligibility for entry clearance as an adult dependent relative**

E-ECDR.1.1. To meet the eligibility requirements for entry clearance as an adult dependent relative all of the requirements in paragraphs E-ECDR.2.1. to 3.2. must be met.

#### **Relationship requirements**

E-ECDR.2.1. The applicant must be the-

- (a) parent aged 18 years or over;
- (b) grandparent;
- (c) brother or sister aged 18 years or over; or

(d) son or daughter aged 18 years or over  
of a person (“the sponsor”) who is in the UK.

E-ECDR.2.2.If the applicant is the sponsor’s parent or grandparent they must not be in a subsisting relationship with a partner unless that partner is also the sponsor’s parent or grandparent and is applying for entry clearance at the same time as the applicant.

E-ECDR.2.3. The sponsor must at the date of application be-

(a) aged 18 years or over; and

(b)

(i) a British Citizen in the UK; or

(ii) present and settled in the UK; or

(iii) in the UK with refugee leave or humanitarian protection.

E- ECDR.2.4. The applicant or, if the applicant and their partner are the sponsor’s parents or grandparents, the applicant’s partner, must as a result of age, illness or disability require long-term personal care to perform everyday tasks.

E- ECDR.2.5. The applicant, or if the applicant and their partner are the sponsor’s parents or grandparents, the applicant’s partner, must be unable, even with the practical and financial help of the sponsor, to obtain the required level of care in the country where they are living, because-

(a) it is not available and there is no person in that country who can reasonably provide it; or;

(b) it is not affordable.

### **Financial requirements**

E- ECDR.3.1. The applicant must provide evidence that they can be adequately maintained, accommodated and cared for in the UK by the sponsor without recourse to public funds. [NOTE: the evidence to be provided in this regard is set out in Appendix FM-SE].

E- ECDR.3.2. If the applicant’s sponsor is a British Citizen or settled in the UK, the applicant must provide an undertaking signed by the sponsor confirming that the applicant will have no recourse to public funds, and that the sponsor will be responsible for their maintenance, accommodation and care, for a period of 5 years from the date the applicant enters the UK if they are granted indefinite leave to enter.

### **Suitability requirements**

The applicant must meet the requirements at section S-EC: Suitability for entry clearance:

S-EC.1.1. The applicant will be refused entry clearance on grounds of suitability if any of paragraphs S-EC.1.2. to 1.7. apply.

S-EC.1.2. The Secretary of State has personally directed that the exclusion of the applicant from the UK is conducive to the public good.

S-EC.1.3. The applicant is at the date of application the subject of a deportation order.

S-EC.1.4. The exclusion of the applicant from the UK is conducive to the public good because they have been convicted of an offence for which they have been sentenced to imprisonment for at least 12 months.

S-EC.1.5. The exclusion of the applicant from the UK is conducive to the public good because, for example, the applicant's conduct (including convictions which do not fall within paragraph S-EC.1.4.), character, associations, or other reasons, make it undesirable to grant them entry clearance.

S-EC.1.6. The applicant has failed without reasonable excuse to comply with a requirement to- (a) attend an interview; (b) provide information; (c) provide physical data; or (d) undergo a medical examination or provide a medical report.

S-EC.1.7. It is undesirable to grant entry clearance to the applicant for medical reasons.

S-EC.2.1. The applicant will normally be refused on grounds of suitability if any of paragraphs S-EC.2.2. to 2.5. apply.

S-EC.2.2. Whether or not to the applicant's knowledge-

(a) false information, representations or documents have been submitted in relation to the application (including false information submitted to any person to obtain a document used in support of the application); or (b) there has been a failure to disclose material facts in relation to the application. 6

S-EC.2.3. One or more relevant NHS body has notified the Secretary of State that the applicant has failed to pay charges in accordance with the relevant NHS regulations on charges to overseas visitors and the outstanding charges have a total value of at least £1000.

S-EC.2.4. A maintenance and accommodation undertaking has been requested or required under paragraph 35 of these Rules or otherwise and has not been provided.

S-EC.2.5. The exclusion of the applicant from the UK is conducive to the public good because:

(a) within the 12 months preceding the date of the application, the person has been convicted of or admitted an offence for which they received a non-custodial sentence or other out of court disposal that is recorded on their criminal record; or

(b) in the view of the Secretary of State:



- (i) the person's offending has caused serious harm; or
- (ii) the person is a persistent offender who shows a particular disregard for the law.

## 4. Assessing the requirements

### 4.1 Require long-term personal care as a result of age, illness or disability

As a result of age, illness or disability, the applicant must require long-term personal care to perform everyday tasks, e.g. washing, dressing and cooking. This means that they must be incapable of performing such everyday tasks for themselves.

This situation may have been arrived at recently – such as the result of a serious accident resulting in long-term incapacity – or it could be the result of deterioration in the applicant’s condition over several years. The evidence required to show this is set out below.

### 4.2 Unable to receive the required level of care in the country where they are living

The application must establish that the applicant has no access to the required level of care in the country where they are living, even with the practical and financial help of the sponsor in the UK. This could be because it is not available and there is no person in that country who can reasonably provide it, or because it is not affordable.

The “required level of care” is a matter to be objectively assessed, with reference to the specific needs of the applicant. The level of long-term personal care must be what is required by the individual applicant to perform everyday tasks, in light of their physical needs and any emotional or psychological needs, in each case as established by evidence provided by a doctor or other health professional.

In considering whether the care is available in the country in which the applicant is living, the ECO will consider both what care is available, and whether it is realistically accessible to the applicant. As to the latter, consideration should be given both to the geographical location and the cost of such care.

The evidence required to establish this is set out below. If the required level of care is available or affordable in the country where the applicant is living, the application should be refused.

### 4.3 No person in that country who can reasonably provide that care

The ECO should consider whether there is anyone in the country where the applicant is living who can reasonably provide the required level of care. This might be a close family member: son, daughter, brother, sister, parent, grandchild, grandparent; a wider family member, friend or neighbour; or another person who can reasonably provide the care required, e.g. a home-help, housekeeper, nurse, carer or care or nursing home.

If an applicant has more than one close family member in the country where they are living, those family members may be able to pool resources to provide the required care.

The concept of whether another person can “reasonably” provide care may require consideration of such matters as the location of that person, their own circumstances and other commitments, and their willingness to provide such care. The fact that a person or organisation has been providing care for a period may suggest that they can continue to do so: however, if evidence is provided as to the temporary nature of such care, or as to a change in circumstances, this must be carefully considered.

The provision of the care in the applicant’s home country must be reasonable both from the perspective of the provider of the care and the perspective of the applicant.

The ECO should bear in mind any relevant cultural factors, such as in countries where women are unlikely to be able to provide support in some circumstances.

#### 4.4 Adequately maintained, accommodated and cared for

The accommodation in which the applicant will live in the UK must be owned, or occupied exclusively, by the sponsor. The addition of the applicant to the accommodation must not contravene the UK statutory regulations on overcrowding or on public health.

The ECO must be satisfied that adequate maintenance and the required level of care can and will be met by the sponsor in the UK without recourse to public funds.

Maintenance may be provided by the sponsor or by any combination of the funds available to the sponsor and the applicant. Promises of third party support will not be accepted as these are vulnerable to a change in another person’s circumstances or in the sponsor’s or the applicant’s relationship with them. Cash savings which have originated from a gift (not a loan) from a third party can count towards the required maintenance, but those cash savings must be in an account in the name of the sponsor or the applicant and under their control.

Otherwise, maintenance and accommodation should be assessed using the entry clearance guidance on maintenance and accommodation:

<http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/ecg/maa/#header>

#### 4.5 Example scenarios

The following are examples, but each case must be considered on its merits in the light of all the circumstances.

(a) A person (aged 25) has a learning disability that means he cannot feed, wash or dress himself. His parents (with whom he lived) have recently died in an accident and his only surviving close relative is a brother in the UK who has been sending money to the family for some time. The person has been cared for temporarily by family friends since his parents’ death, but they are no longer able to do this. The sponsor is unable to meet the costs of full-time residential care, but he and his family

have sufficient financial and other means to care for the applicant in their home. **This could meet the criteria if the applicant can demonstrate that they are unable even with the practical and financial help of the sponsor to obtain the required level of care in the country where they are living because it not available and there is no person in that country who can reasonably provide it or it is not affordable (and other relevant criteria are met).**

(b) A person (aged 30) has lived alone in Sri Lanka for many years. His parents are settled in the UK; other siblings live in the UK and USA. The person has recently been involved in a road accident and as a result has developed a long-term condition which means that he can no longer care for himself. The mother has been visiting Sri Lanka to care for her son, but needs to return to the UK to care for her younger children. **This could meet the criteria if the applicant can demonstrate that they are unable even with the practical and financial help of the sponsor to obtain the required level of care in the country where they are living because it not available and there is no person in that country who can reasonably provide it or it is not affordable and other relevant criteria are met.**

(c) A person (aged 70) lives alone in India. Her daughter lives in the UK; her son and his family live in the UAE. The daughter sends her mother money to pay for someone to do her cleaning, but is concerned that her mother is becoming increasingly frail and forgetful. **This would not meet the criteria as the applicant is able to perform everyday tasks and/or has help available with these tasks.**

(d) A person (aged 26) entered the UK as a visitor. His parents and younger siblings are settled in the UK. The applicant lived in Canada to complete his higher education. He has diabetes which is managed by medication. **This would not meet the criteria as the applicant is able to perform everyday tasks. Also he cannot apply from within the UK.**

(e) A person (aged 85) lives alone in Afghanistan. With the onset of age he has developed very poor eyesight, which means that he has had a series of falls, one of which resulted in a hip replacement. His only son lives in the UK and sends money to enable his father to pay for a carer to visit each day to help him wash and dress, and to cook meals for him. **This would not meet the criteria because the sponsor is able to arrange the required level of care in Afghanistan.**

(f) A person (aged 45) lives in China and was widowed 5 years ago. They are disabled and cannot perform everyday tasks for themselves. Their son lives in the UK. The person lives with their new husband in China. The son wants his mother to come and live with him in the UK. **This would not meet the criteria because the applicant is in a subsisting relationship with a partner who is not the sponsor's parent.**

(g) A husband and wife (both aged 70) live in Pakistan. Their daughter lives in the UK. The wife requires long-term personal care owing to ill health and cannot perform everyday tasks for herself. The husband is in good health, but cannot provide his wife with the level of care she needs. They both want to come and live in the UK. The daughter can care for her mother full time in her home as she does not work whilst her husband provides the family with an income from his employment. Her sister in the UK will also help with care of the mother. The applicant provides the

ECO with the planned care arrangements in the UK. **This could meet the criteria if the applicant can demonstrate that they are unable even with the practical and financial help of the sponsor to obtain the required level of care in the country where they are living because it not available and there is no person in that country who can reasonably provide it or it is not affordable (and other relevant criteria are met).**

## 5. Evidence in support of the application

The ECO should expect to see:

### 5.1 Evidence of the family relationship

Evidence of the relationship between the applicant and the sponsor will need to be provided. This should be in the form of birth or adoption certificates, or other evidence. The ECO will need to assess whether other evidence is needed.

### 5.2 Evidence that, as a result of age, illness or disability, the applicant requires long-term personal care

Medical evidence that the applicant's physical or mental condition means that they require long-term personal care because they cannot perform everyday tasks, e.g. washing, dressing and cooking. This must be from a doctor or other health professional.

Under paragraphs 36-39 of the Immigration Rules, the ECO has the power to refer the applicant for medical examination and to require that this be undertaken by a doctor or other health professional on a list approved by the British Embassy or High Commission.

### 5.3 Evidence that the applicant is unable, even with the practical and financial help of the sponsor in the UK, to obtain the required level of care in the country where they are living

Evidence that the required level of care:

(a) Is not, or is no longer, available in the country where the applicant is living. This evidence should be from a central or local health authority, a local authority, or a doctor or other health professional in the country in question. If the required care has been provided through a private arrangement, the applicant must provide details of that arrangement and why it is no longer available.

(b) Is not, or is no longer, affordable in the country where the applicant lives. If payment is currently being made for care, or was made previously, the ECO should ask to see records of such payments and an explanation of why this payment cannot continue. If financial support has been provided by the sponsor or other close family in the UK, the ECO should ask for an explanation of why this cannot continue or is no longer sufficient to enable the required level of care to be provided.

## 5.4 Evidence of adequate maintenance, accommodation and care in the UK

Where the sponsor is a British citizen or settled in the UK, the applicant must provide a signed undertaking from the sponsor confirming that the applicant will have no recourse to public funds, and that the sponsor will be responsible for the applicant's maintenance, accommodation and care, for a period of 5 years from the date the applicant enters the UK if they are granted Indefinite Leave to Enter.

In addition, in all cases the applicant must provide evidence from the sponsor that the sponsor can provide the maintenance, accommodation and care required, in the form of any or all of the following:

- (a) Original bank statements covering the last six months;
- (b) Other evidence of income – such as pay slips, income from savings, shares, bonds – covering the last six months;
- (c) Relevant information on outgoings, e.g. Council Tax, utilities, etc, and on support for anyone else who is dependent on the sponsor;
- (d) A copy of a mortgage or tenancy agreement showing ownership or occupancy of a property; and
- (e) Planned care arrangements for the applicant in the UK (which can involve other family members in the UK) and the cost of these (which must be met by the sponsor, without undertakings of third party support).

## 6. Exceptional circumstances and ECHR Article 8

Where the applicant does not meet the requirements of the ADR Rules, the decision-maker must go on to consider:

- Firstly, whether, in the particular circumstances of the case, the ECHR Article 8 right to respect for private and family life is engaged; and
- If it is, secondly, whether there are exceptional circumstances which would render refusal a breach of Article 8 because it would result in unjustifiably harsh consequences for the applicant or their family.

Article 8 protects the right to respect for private and family life. However, the “family life” element of Article 8 is not normally engaged by the relationship between adult family members who are not partners. Neither blood ties nor the bonds of concern and affection that ordinarily go with them are, by themselves or together, enough to constitute family life for the purposes of Article 8. Accordingly, in order to establish that family life exists between adults who are not partners, there must be something more than such normal emotional ties. Whether such family life exists will depend on all of the facts of the case. Relevant factors will include the age, health and vulnerability of the applicant, the closeness and previous history of the family, the applicant’s dependence on the financial and emotional support of the family, and the prevailing cultural tradition and conditions in the country where the applicant lives.

Where such family life exists, such that Article 8 is engaged, the decision-maker must assess whether there are exceptional circumstances which would render refusal a breach of Article 8, under paragraph GEN.3.2. of Appendix FM.

### 6.1 Exceptional circumstances

Under paragraph GEN.3.2., where an application for entry clearance or leave to enter or remain under Appendix FM does not otherwise meet the requirements of that Appendix or of Part 9 of the Rules, the decision-maker must go on to consider, on the basis of the information provided by the applicant, whether there are exceptional circumstances which would render refusal a breach of Article 8. A breach will arise if such refusal would result in unjustifiably harsh consequences for the applicant, their partner, a relevant child or another family member whose Article 8 rights it is evident from that information would be affected by a decision to refuse the application.

A “relevant child” is a person under the age of 18 years at the date of application who, it is evident from the information provided by the applicant, would be affected by a decision to refuse the application.

Under section 55 of the Borders, Citizenship and Immigration Act 2009 and under paragraph GEN.3.3. of Appendix FM, the decision maker must take into account, as



a primary consideration, the best interests of any relevant child in considering whether there are exceptional circumstances under paragraph GEN.3.2.

## 6.2 Definition

“Exceptional circumstances” means circumstances which would render refusal of the application a breach of Article 8, because it would result in unjustifiably harsh consequences for the applicant, their partner, a relevant child or another family member whose Article 8 rights it is evident from the application would be affected.

“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 of the application would result in unjustifiably harsh consequences for the individual or their family such that refusal would not be proportionate under Article 8.

“Unjustifiably harsh consequences” are ones which involve a harsh outcome(s) for the applicant or their family which is not justified by the public interest, including in maintaining effective immigration controls, preventing burdens on the taxpayer, promoting integration and protecting the public and the rights and freedoms of others.

This involves consideration of whether refusal would be proportionate, taking into account all the facts of the case and, as a primary consideration, the best interests of any relevant child. The case-law makes clear that where the applicant does not meet the requirements of the Rules, and has established their family life in “precarious” circumstances (e.g. when they have limited leave to enter or remain in the UK), something “very compelling” is required to outweigh the public interest in refusal. Likewise, where family life is formed or exists with a person outside the UK who has no right to enter the UK and does not meet the requirements of the Rules for entry clearance, Article 8 does not require that they be granted entry, in the absence of such exceptional circumstances.

For further guidance on children’s best interests, see [section 13](#) of the IDI Family Migration: Appendix FM Section 1.0a Family Life (as a Partner or Parent) 5-Year Routes, which can be found on GOV.UK at:

<https://www.gov.uk/government/publications/family-life-as-a-partner-or-parent-private-life-and-exceptional-circumstance>

# 7. Grant of Entry Clearance

## 7.1 Adult dependent relative of a British Citizen or a person present and settled in the UK

If the requirements of the ADR Rules are met (and whether or not there are exceptional circumstances as described under paragraph GEN.3.2. of Appendix FM) and the applicant's sponsor is a British Citizen in the UK or a person present and settled in the UK, the applicant will be granted Indefinite Leave to Enter (ILE).

## 7.2 Adult dependent relative of a person in the UK with refugee leave or humanitarian protection

If the requirements of the ADR Rules are met (and whether or not there are exceptional circumstances as described under paragraph GEN.3.2. of Appendix FM) and the applicant's sponsor is a person in the UK with limited leave as a refugee or a person with humanitarian protection, the applicant will be granted entry clearance as an ADR of a duration which will expire at the same time as the sponsor's limited leave, and subject to a condition of no recourse to public funds.

## 8. Refusal of Entry Clearance

If the requirements of the ADR Rules are not met (and there are no exceptional circumstances as described under paragraph GEN.3.2. of Appendix FM), the application for entry clearance as an ADR will be refused.

## **9. Further limited leave as the adult dependent relative of a person in the UK with refugee leave or humanitarian protection**

If the applicant's sponsor is a person in the UK with limited leave as a refugee or a person with humanitarian protection, and if the sponsor applies for and is granted further limited leave in that category, the applicant may apply for further limited leave of the same duration if the requirements in paragraph EC-DR.1.1.(c) and (d) are met and subject to a condition of no recourse to public funds.

# 10. Indefinite Leave to Remain as the adult dependent relative of a person in the UK with refugee leave or humanitarian protection

## 10.1 The Rules

The ADR Rules are set out in Appendix FM to the Immigration Rules. This section sets out an extract of those Rules, insofar as they relate to applications for indefinite leave to remain.

### **Section R-ILRDR: Requirements for indefinite leave to remain as an adult dependent relative**

R-ILRDR.1.1. The requirements to be met for indefinite leave to remain as an adult dependent relative are that-

- (a) the applicant is in the UK;
- (b) the applicant must have made a valid application for indefinite leave to remain as an adult dependent relative;
- (c) the applicant must not fall for refusal under any of the grounds in Section S-ILR: Suitability - indefinite leave to remain; and
- (d) the applicant must meet all of the requirements of Section E-ILRDR: Eligibility for indefinite leave to remain as an adult dependent relative.

### **Section E-ILRDR: Eligibility for indefinite leave to remain as an adult dependent relative**

E-ILRDR.1.1. To qualify for indefinite leave to remain as an adult dependent relative all of the requirements of paragraphs E-ILRDR.1.2. to 1.5. must be met.

E-ILRDR.1.2. The applicant must be in the UK with valid leave to remain as an adult dependent relative (disregarding any period of overstaying for a period of 28 days or less).

E-ILRDR.1.3. The applicant's sponsor must at the date of application be

- (a) present and settled in the UK; or
- (b) in the UK with refugee leave or as a person with humanitarian protection and have made an application for indefinite leave to remain.

E-ILRDR.1.4. The applicant must provide evidence that they can be adequately maintained, accommodated and cared for in the UK by the sponsor without recourse to public funds.

E-ILRDR.1.5. The applicant must provide an undertaking signed by the sponsor confirming that the applicant will have no recourse to public funds, and that the sponsor will be responsible for their maintenance, accommodation and care, for a period ending 5 years from the date the applicant entered the UK with limited leave as an adult dependent relative.

### **Section S-ILR: Suitability:**

S-ILR.1.1. The applicant will be refused indefinite leave to remain on grounds of suitability if any of paragraphs S-ILR.1.2. to 1.9. apply.

S-ILR.1.2. The applicant is at the date of application the subject of a deportation order.

S-ILR.1.3. The presence of the applicant in the UK is not conducive to the public good because they have been convicted of an offence for which they have been sentenced to imprisonment for at least 4 years.

S-ILR.1.4. The presence of the applicant in the UK is not conducive to the public good because they have been convicted of an offence for which they have been sentenced to imprisonment for less than 4 years but at least 12 months, unless a period of 15 years has passed since the end of the sentence.

S-ILR.1.5. The presence of the applicant in the UK is not conducive to the public good because they have been convicted of an offence for which they have been sentenced to imprisonment for less than 12 months, unless a period of 7 years has passed since the end of the sentence.

S-ILR.1.6. The applicant has, within the 24 months preceding the date of the application, been convicted of or admitted an offence for which they received a non-custodial sentence or other out of court disposal that is recorded on their criminal record.

S-ILR.1.7. The presence of the applicant in the UK is not conducive to the public good because, in the view of the Secretary of State, their offending has caused serious harm or they are a persistent offender who shows a particular disregard for the law.

S-ILR.1.8. The presence of the applicant in the UK is not conducive to the public good because their conduct (including convictions which do not fall within paragraphs S-ILR.1.3. to 1.6.), character, associations, or other reasons, make it undesirable to allow them to remain in the UK.

S-ILR.1.9. The applicant has failed without reasonable excuse to comply with a requirement to- (a) attend an interview; (b) provide information; 13

(c) provide physical data; or (d) undergo a medical examination or provide a medical report.

S-ILR.2.1. The applicant will normally be refused on grounds of suitability if any of paragraphs S-ILR.2.2. to 2.4. apply.

S-ILR.2.2. Whether or not to the applicant's knowledge –

(a) false information, representations or documents have been submitted in relation to the application (including false information submitted to any person to obtain a document used in support of the application); or (b) there has been a failure to disclose material facts in relation to the application.

S-ILR.2.3. One or more relevant NHS body has notified the Secretary of State that the applicant has failed to pay charges in accordance with the relevant NHS regulations on charges to overseas visitors and the outstanding charges have a total value of at least £1000.

S-ILR.2.4. A maintenance and accommodation undertaking has been requested under paragraph 35 of these Rules and has not been provided.

S-ILR.3.1. When considering whether the presence of the applicant in the UK is not conducive to the public good, any legal or practical reasons why the applicant cannot presently be removed from the UK must be ignored.”.

## 10.2 Adequately maintained, accommodated and cared for

The accommodation in which the applicant will live in the UK must be owned, or occupied exclusively, by the sponsor. The addition of the applicant to the accommodation must not contravene the statutory regulations on overcrowding or on public health.

The caseworker must be satisfied that both adequate maintenance and the required level of care can and will be met by the sponsor in the UK, without recourse to public funds.

Maintenance may be provided by the sponsor or by any combination of the funds available to the sponsor and the applicant. Promises of third party support will not be accepted as these are vulnerable to a change in another person's circumstances or in the sponsor's or the applicant's relationship with them. Cash savings which have originated from a gift (not a loan) from a third party can count towards the required maintenance, but those cash savings must be in an account in the name of the sponsor or the applicant and under their control.

Otherwise, maintenance and accommodation should be assessed using the relevant guidance:

<http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/ecg/maa/#header5>

## 10.3 Additional requirements

In order to grant Indefinite Leave to Remain, the decision maker must be satisfied that:

- a. The applicant has limited leave to enter or remain in the UK as the adult dependent relative of a person in the UK with refugee leave or humanitarian protection; and
- b. The applicant's sponsor is now settled in the UK, or is in the UK with refugee leave or humanitarian protection and has made an application for indefinite leave to remain.

## 10.4 Evidence of adequate maintenance, accommodation and care in the UK

The applicant must provide an undertaking signed by the sponsor confirming that the applicant will have no recourse to public funds, and that the sponsor will be responsible for their maintenance, accommodation and care, for a period ending 5 years from the date the applicant entered the UK with limited leave as an adult dependent relative.

In addition, the applicant must provide evidence from the sponsor that the sponsor can provide the maintenance, accommodation and care required, in the form of any or all of the following:

- (a) Original bank statements covering the last six months;
- (b) Other evidence of income – such as pay slips, income from savings, shares, bonds – covering the last six months;
- (c) Relevant information on outgoings, e.g. Council Tax, utilities, etc, and on support for anyone else who is dependent on the sponsor;
- (d) A copy of a mortgage or tenancy agreement showing ownership or occupancy of a property; and
- (e) Planned care arrangements for the applicant in the UK (which can involve other family members in the UK) and the cost of these (which must be met by the sponsor, without undertakings of third party support).

## 10.5 Criminality

For applications made before 13 December 2012 the applicant should not be subject to any unspent convictions in the UK or overseas within the meaning of the Rehabilitation of Offenders Act 1974.

For applications made on or after 13 December 2012 the application will fail if:



S-ILR.1.5. The presence of the applicant in the UK is not conducive to the public good because they have been convicted of an offence for which they have been sentenced to imprisonment for less than 12 months, unless a period of 7 years has passed since the end of the sentence.

S-ILR.1.6. The applicant has, within the 24 months preceding the date of the application, been convicted of or admitted an offence for which they received a non-custodial sentence or other out of court disposal that is recorded on their criminal record.

The decision maker must ensure that the relevant PNC check has been done.

## 10.6 Grant of leave

If the applicant meets all of the requirements, and the applicant's sponsor is settled in the UK, the applicant will be granted Indefinite Leave to Remain (ILR) under paragraph D-ILRDR.1.1.

If the applicant does not meet the requirements for ILR as an adult dependent relative on the basis of criminality, the applicant may be granted further limited leave to remain as an adult dependent relative for a period not exceeding 30 months, and subject to a condition of no recourse to public funds under paragraph D-ILRDR.1.2.

If the applicant's sponsor has made an application for ILR and that application is refused, the applicant's application for ILR will be refused. If the sponsor is granted limited leave, the applicant will be granted further limited leave as an adult dependent relative of a duration which will expire at the same time as the sponsor's further limited leave, and subject to a condition of no recourse to public funds under paragraph D-IRLDR.1.3.

## 10.7 Refusal of leave

Where the applicant does not meet the requirements for ILR or further limited leave to remain, the application will be refused under paragraph D-IRLDR.1.4.

# Annex A – Entry Clearance Visa Endorsements and Case Information Database (CID) Codes

## Entry clearance endorsements

Where an applicant is granted entry clearance under Appendix FM, they are issued with a vignette (visa sticker in their passport), which is used to travel to the UK and is valid for 30 days. The endorsement on the vignette indicates the basis on which they have been granted entry clearance under the Rules and identifies the route they are being granted on. The endorsement also indicates if they have been granted settlement (indefinite leave to enter), or when they are likely to be able to apply for settlement (assuming they continue to meet the relevant requirements and make the necessary further applications). This is explained to the applicant in an accompanying letter that must be presented to an Immigration Officer on arrival in the UK.

### Indefinite leave to enter as an adult dependent relative of a British Citizen or a person present and settled in the UK

Where the applicant is being granted indefinite leave to enter the UK as an ADR of a British Citizen or a person present and settled in the UK under paragraph D-ECDR.1.1., the endorsement on the vignette includes the phrase:

- (Standard)

Where the applicant is being granted indefinite leave to enter the UK as an ADR of a British Citizen or a person present and settled in the UK under paragraph D-ECDR.1.1., because, following consideration under paragraph GEN.3.2., the decision-maker has decided that there are exceptional circumstances that would render refusal a breach of Article 8, the endorsement on the vignette includes the phrase:

- (Non-Standard 2)

### Limited leave to enter as an adult dependent relative of a person in the UK with refugee leave or humanitarian protection

Where the applicant is being granted limited leave to enter the UK as an ADR of a person in the UK with refugee leave or humanitarian protection under paragraph D-ECDR.1.2. of a duration that will expire at the same time as the sponsor's limited leave, the endorsement on the vignette includes the phrase:

- (Standard)

Where the applicant is being granted limited leave to enter the UK as an ADR of a person in the UK with refugee leave or humanitarian protection under paragraph D-ECDR.1.2. of a duration that will expire at the same time as the sponsor's limited leave, because, following consideration under paragraph GEN.3.2., the decision-maker has decided that there are exceptional circumstances that would render refusal a breach of Article 8, the endorsement on the vignette includes the phrase:

- (Non-Standard 2)

## Leave to Remain CID Codes

### Grants

#### **Indefinite Leave to Remain as the adult dependent relative of a person in the UK with refugee leave or humanitarian protection who has now settled in the UK**

4FD – dependant of refugee

4GD – dependant of humanitarian protection beneficiary

#### **Further limited leave to remain as the adult dependent relative of a person in the UK with refugee leave or humanitarian protection**

RBD – dependant of refugee extension

RCD – dependant of humanitarian protection beneficiary extension

#### **Further limited leave to remain following consideration of exceptional circumstances under paragraph GEN.3.2.**

Family LTR/extn – GEN 3.2. Breach of A8 Exceptional Circumstances U7

### Refusals

#### **Indefinite Leave to Remain as the adult dependent relative of a person in the UK with refugee leave or humanitarian protection who has now settled in the UK**

XOTHSFD01 – recourse to public funds

XOTHSFD02 – accommodation

XOTHSFD04 – no refugee or humanitarian protection relation

XOTHSFD05 – criminality

XOTHRSD06 – no leave to remain in this route

XOTHRSD08 – relative not settled

**Further limited leave as the adult dependent relative of a person in the UK with refugee leave or humanitarian protection**

RDD – recourse to public funds

RED – accommodation

RGD – no refugee or humanitarian protection relation

RHD – not finan. dep. on relative

## Annex B – Refusal paragraphs

**Note:** The following wordings are examples. They do not constitute an exhaustive list of possible refusal paragraphs.

Refusal Reason	Suggested Wording
<b>Suitability: exclusion</b>	The Secretary of State has personally directed that your exclusion from the United Kingdom is conducive to the public good. Your application is therefore refused under paragraph S-EC.1.2. of Appendix FM to the Immigration Rules.
<b>Suitability: deportation order</b>	At the date of application you are/were the subject of a deportation order issued on <b>[insert date of deportation order]</b> . You therefore fail to meet the requirements for entry clearance because paragraph S-EC.1.3. of Appendix FM to the Immigration Rules applies.
<b>Suitability: criminality</b>	See refusal wording in Criminality & General Grounds for Refusal Guidance for refusals under S-EC.1.2.-1.5.:  <b><u>General Grounds for Refusal</u> – internal guidance</b>  <b><u>General Grounds for Refusal</u> – external guidance</b>
<b>Suitability: non-compliance</b>	You have failed to <b>[attend an interview/provide information/provide physical data/undergo a medical examination or provide a medical report]</b> <b>(delete as appropriate)</b> . You have stated that <b>[insert any reason given by the applicant for their non-compliance and why this reason is not accepted /or You have provided no reasonable excuse for your failure to comply with this requirement]</b> . You therefore fail to meet the requirements for entry clearance because paragraph S-EC.1.6. of Appendix FM to the Immigration Rules applies.
<b>Suitability: medical reasons</b>	I have received confirmation from the Medical Referee that for medical reasons it is undesirable to admit you to the UK. Your application is therefore refused under paragraph S-EC.1.7. of Appendix FM to the Immigration Rules.
<b>Suitability: false representations</b>	<b>[Insert nature of document or date and nature of false representations or information]</b> was submitted in support of your application. This/These <b>[document/information/representations]</b> is/are false <b>[insert basis for assessing document/information is false]</b> .  I have considered whether you should nevertheless be granted entry clearance but have concluded that the

Refusal Reason	Suggested Wording
	<p>exercise of discretion is not appropriate on this occasion because <b>[insert reasons]</b>.</p> <p>You therefore fail to meet the requirements for entry clearance because paragraph S-EC.2.2.(a) of Appendix FM to the Immigration Rules applies.</p>
<p><b>Suitability: failure to disclose material facts</b></p>	<p>In your application, <b>[you or another person]</b> failed to disclose the following facts <b>[state facts]</b>. I am satisfied that these facts were material to the application because <b>[state reasons]</b>.</p> <p>I have considered whether you should nevertheless be granted entry clearance but have concluded that the exercise of discretion is not appropriate on this occasion because <b>[insert reasons]</b>.</p> <p>You therefore fail to meet the requirements for entry clearance because paragraph S-EC.2.2.(b) of Appendix FM to the Immigration Rules applies.</p>
<p><b>Suitability: Failure to pay outstanding litigation costs awarded to the Home Office</b></p>	<p>The Secretary of State is satisfied that you have failed to pay outstanding litigation costs awarded to the Home Office.</p> <p><b>[Explain reasons here]</b></p> <p>In light of this, the Secretary of State has deemed that refusal is appropriate and is not prepared to exercise discretion in your favour.</p> <p>You therefore fail to meet the requirements for entry clearance because paragraph S-EC.3.1. of Appendix FM to the Immigration Rules applies.</p>
<p><b>Suitability: Failure to pay an outstanding charge to the National Health Service (NHS)</b></p>	<p>The Secretary of State is satisfied that you have failed to pay an outstanding charge or charges with a total value of at least £500 in respect of National Health Service (NHS) treatment that you have received. This is in accordance with the relevant NHS regulations on charges for overseas visitors, based on evidence received from <b>[insert name of relevant NHS body]</b>.</p> <p><b>[Explain reasons here]</b></p> <p>In light of this, the Secretary of State has deemed that refusal is appropriate and is not prepared to exercise discretion in your favour.</p> <p>You therefore fail to meet the requirements for entry</p>

Refusal Reason	Suggested Wording
	<p>clearance because paragraph S-EC.3.2. of Appendix FM to the Immigration Rules applies.</p>
<p><b>Suitability: Lack of maintenance, accommodation and undertaking</b></p>	<p>On [date] a maintenance and accommodation undertaking from [name of sponsor] was requested [under paragraph 35 of the Immigration Rules or otherwise]. No such undertaking has been provided.</p> <p>I have considered whether you should nevertheless be granted leave to remain but have concluded that the exercise of discretion is not appropriate on this occasion because [insert reasons].</p> <p>You therefore fail to meet the requirements for entry clearance because paragraph S-EC.2.4. of Appendix FM to the Immigration Rules applies.</p>
<p><b>Eligibility: Relationship</b></p>	<p>Your application is refused because you are not the parent, grandparent, brother or sister over the age of 18, or son or daughter over the age of 18 of your sponsor.</p> <p>You applied on the basis of your relationship with [give details]. However, because [give details] we cannot be satisfied that your relationship with [name] is genuine/subsisting. Your application is therefore refused.</p> <p>From the information provided it appears that you are in a subsisting relationship with a partner. As your partner is not also the parent/grandparent of your sponsor who is applying for entry clearance at the same time, your application is refused under paragraph E-ECDR.2.2 of the Immigration Rules.</p> <p>From the information provided it appears that you are in a subsisting relationship with a partner. As your partner is also the parent/grandparent of your sponsor but is not applying for entry clearance at the same time, your application is refused under paragraph E-ECDR.2.2 of the Immigration Rules.</p>
<p><b>Eligibility: Sponsor is not a British Citizen/Present and Settled/Refugee/person with Humanitarian Protection in the UK</b></p>	<p>As your sponsor [name] is not over the age of 18/a British citizen in the UK or present and settled in the UK or in the UK with refugee leave or humanitarian protection, your application for entry clearance is refused under paragraph E-ECDR.2.3 of the Immigration Rules.</p> <p>As your sponsor [name] is not present and settled in the UK/ is in the UK with refugee leave or humanitarian protection but has not made an application for indefinite leave to remain, your application for indefinite leave to</p>

Refusal Reason	Suggested Wording
	<p>remain is refused under paragraph E-ILRDR.1.3 of the Immigration Rules.</p>
<p><b>Eligibility: applicant does not require long-term personal care to perform everyday tasks</b></p>	<p>You have stated that [give details], but from the information provided it appears that [give details]. We are not therefore satisfied that, as a result of age, illness or disability, you require long-term personal care to perform everyday tasks. Your application is therefore refused under paragraph E-ECDR.2.4. of Appendix FM to the Immigration Rules.</p>
<p><b>Eligibility: level of care required is available in the country in which they are living or is affordable there</b></p>	<p>You have stated that [give details], but from the information provided it appears that [give details]. We are not therefore satisfied that the level of care you require cannot be obtained in the country where you are living and there is no person in that country who can reasonably provide it/is not affordable in that country. Your application is therefore refused under paragraph E-ECDR.2.5. of Appendix FM to the Immigration Rules.</p>
<p><b>Financial requirement: insufficient evidence of adequate maintenance, accommodation and care</b></p>	<p>On [date], evidence of adequate maintenance, accommodation and care from [name of sponsor] was requested. No/insufficient evidence has been provided.</p> <p>You therefore fail to meet the requirements for entry clearance because paragraph E-ECDR.3.1. of Appendix FM of the Immigration Rules applies.</p>
<p><b>Financial requirement: maintenance, accommodation and care undertaking not provided (for a period of 5 years)</b></p>	<p>On [date] a maintenance, accommodation and care undertaking from [name of sponsor] was requested. No such undertaking has been provided.</p> <p>You therefore fail to meet the requirements for entry clearance because paragraph E-ECDR.3.2. of Appendix FM to the Immigration Rules applies.</p>
<p><b>Refusal of ILR</b></p>	<p>In order to qualify for indefinite leave to remain as an adult dependent relative a person must be in the United Kingdom with valid leave as an adult dependent relative. As you are in the UK with leave as [give details of category] you do not meet this requirement and your application is refused under paragraph E-ILRDR.1.2 of Appendix FM to the Immigration Rules.</p> <p>In order to qualify for indefinite leave to remain as an adult dependent relative a person must be in the United Kingdom with valid leave as an adult dependent relative. You were given leave to enter the UK on [give details] with permission to stay until [give date]. As such you remained in the UK unlawfully. The Immigration Rules</p>



Refusal Reason	Suggested Wording
	<p>allow us to disregard a period of overstaying of up to 28 days, but your period of unlawful residence was [give details]. [We have taken into account give details of any representations but explain why discretion not exercised]. Your application is therefore refused under paragraph E-ILRDR.1.2 of Appendix FM to the Immigration Rules.</p>
<p><b>Conviction</b></p>	<p>You were convicted on [date] of [details of conviction]. As this will not become spent under the Rehabilitation of Offenders Act until [date] your application for indefinite leave cannot be granted under paragraph E-ILRDR.1.6 of Appendix FM to the Immigration Rules. We have therefore granted you a period of further limited leave to remain in the United Kingdom as an adult dependent relative until [insert date – up to 30 months].</p>
<p><b>Sponsor's ILR application refused</b></p>	<p>Your sponsor [name] applied for indefinite leave to remain in the United Kingdom, but his/her application has been refused. Your application for indefinite leave to remain is also therefore refused and we have granted you a period of limited leave as an adult dependent relative for a period of [insert time] in line with [sponsor's name]. This leave is subject to a condition of no recourse to public funds.</p>
<p><b>There are no exceptional circumstances under paragraph GEN.3.2.</b></p>	<p>We have considered, under paragraph GEN.3.2. of Appendix FM, whether there are exceptional circumstances in your case which would render refusal a breach of Article 8 of the ECHR because it would result in unjustifiably harsh consequences for you or your family. In so doing we have taken into account, under paragraph GEN.3.3. of Appendix FM, the best interests of any relevant child as a primary consideration.</p> <p>No information or evidence provided:</p> <p>You have provided no information or evidence to establish that there are any exceptional circumstances in your case.</p> <p>Information or evidence provided:</p> <p>Based on the information you have provided we have decided that there are no such exceptional circumstances in your case.</p> <p>You have told us:</p> <p>We have reached this decision because:</p>