



Home Office

Family asylum claims

Version 1.0

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About this guidance

This guidance tells you about how to decide claims for asylum under the Family Asylum Claims process. The Family Asylum Claims process must be used where the main claimant and their dependant children have common grounds of alleged persecution, which can be considered as part of a single asylum decision.

You should continue to follow the [Dependants and former dependants guidance](#) for child dependants, who are not claiming asylum, and for adult dependants.

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 the Asylum Policy team.

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 **1.0**
- published for Home Office staff on **17 September 2021**

Changes from last version of this guidance

New guidance

Related content

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Introduction

This guidance explains how you must determine asylum claims under the Family Asylum Claims process. The Family Asylum Claims process applies where a main claimant and any children dependant on their claim share common grounds for claiming asylum and can be considered together as part of a single consideration.

This instruction must be read in conjunction with the main asylum policy instructions, in particular:

- [Dependants and former dependants](#)
- [Asylum screening and routing](#)
- [Children's asylum claims](#)
- [Assessing credibility and refugee status](#)
- [Asylum interviews](#)
- [Disclosure and confidentiality of information in asylum claims](#)
- [Humanitarian protection](#)
- [Discretionary leave](#)

and where relevant:

- [Family tracing](#)
- [Gender issues in the asylum claim](#)
- [Gender identity issues in the asylum claim](#)
- [Sexual orientation issues in the asylum claim](#)
- [Exclusion \(Article 1F\) and Article 33\(2\) of the Refugee Convention](#)
- [Further submissions](#)
- [Hague Convention Cases Operating Instruction](#)

See [asylum decision making guidance](#) for further asylum instructions. 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 leave](#) instructions.

Background

As previously covered in the [Dependants and former dependants](#) policy, a child of a main claimant could be accepted as a dependant on the main claimant without making their own individual claim for asylum, or be accepted as a dependant on the main claimant and make their own individual claim for asylum.

The operation of the Dependants policy meant that in the majority of cases, where a child was accompanying their parent, the parent would make the claim for asylum (being the main claimant) with the child being named as a dependant on that claim. This policy was based on the rationale that in many cases children will share the same protection needs as their parent and the parent will be able to set out these issues on behalf of the children. This avoided putting children through the asylum

process, and in particular an interview, unnecessarily. In many cases the parent would actually be best placed to explain the reasons behind a claim, having likely made the decision for the family group to leave their country of origin, and having a better understanding of the risks that the family faced.

While child dependants were not formally considered as claimants in their own right, the Dependants policy ensured careful consideration was given to any different or additional protection needs the dependant child might have (whether by reason of their relationship with the main claimant or independently).

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 has been 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, and in fact in many cases, they are not best placed to do so.

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 [Children's asylum claims](#) applies. Being treated as having made an asylum claim, whether as part of a Family Asylum Claim or as an accompanied child, does not change how children under 18 are included for Asylum Support.

If a child has no protection needs then the existing policy on [Dependants](#) will continue to apply. For detail on who can be treated as a dependant when applying for asylum, see the dependants section in the [Asylum screening](#) guidance.

Claims involving adult dependants cannot currently be considered under the Family Asylum Claims process and the [Dependants](#) policy guidance should continue to be followed.

Policy intention

The policy objective behind the Family Asylum Claims process is to ensure that:

- legal obligations following [G \(Appellant\) v G \(Respondent\) \[2021\] UKSC 9](#) are implemented

- the rights of children seeking asylum are respected and they are given the opportunity to disclose, at the earliest opportunity, all evidence relevant to their asylum claim
- proportionate and necessary information is obtained to carefully and sensitively consider all asylum claims

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 into 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 [Dependants](#) and the [Children's asylum claims](#) guidance.

For Family Asylum Claims you must follow this guidance and the starting position should be to accept the parent’s decision on whether a dependant child should claim asylum in their right. The general position in law is that the parents’ decision as to what is in their child’s best interests is determinative, for example, *Charlie Gard* case [2017] EWHC 1909 (Fam) at section 18, Francis J: “Almost all of the time parents make decisions about what is in the best interests of their children and so it should be.”

The UKSC’s judgment in [G \(Appellant\) v G \(Respondent\) \[2021\] UKSC 9](#) expressly refers to dependant children being treated as applicants as a general, not universal, rule. As such, absent compelling reasons to the contrary, the parent’s decision should on this issue be respected. If the child, contrary to their parents’ decision, wishes to claim asylum in their own right then whilst the starting position will be to respect the decision of the parents, particularly with young children, you will need to give consideration to the child’s reasons for wanting to claim asylum in their own

right and their age - the younger the child, the greater the weight to be paid to the parents' assessment.

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 cases involving children. You must also be aware that there may be individual protection needs or safeguarding concerns for children who are part of a family seeking asylum. Therefore, depending on the individual circumstances, it may be appropriate to share information with third parties in the best interests of the child. You must be vigilant that a child 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 the case must be referred 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

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Relevant legislation

This section tells you about the legislation, both national and international, relevant to Family Asylum Claims involving a child under 18 years old.

International conventions and treaties

The 1951 Refugee Convention

The [Refugee Convention](#) provides the framework for international refugee protection. It has been supplemented by the progressive development of international human rights law, and by a subsidiary protection regime in the UK.

Chapter VI, [Paragraphs 181 to 188 of the UNHCR Handbook](#) includes the principle of family unity.

UK legislation

The [Human Rights Act 1998](#) (HRA) gives effect in UK law to the human rights set out in the European Convention on Human Rights (ECHR) and applies to everyone in the UK regardless of their immigration status. Under section 6(1) of the HRA, a public authority is bound to act in a way which is compatible with the ECHR. Under Article 8, any consideration of the ECHR must take into account not only the potential impact of on the individual but also the potential consequences for their family members.

Article 8(1) of the ECHR states that “Everyone has the right to respect for his private and family life, his home and his correspondence”. However, Article 8 is a qualified right, rather than an absolute right, and Article 8(2) states:

There should be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic wellbeing of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

When making a Family Asylum Claim decision, you must have regard in every case to Article 2 (right to life), Article 3 (prohibition of torture or inhuman or degrading treatment or punishment), Article 4 (prohibition of slavery and forced labour) and Article 7 (no punishment without law). These are unqualified rights, and you will need to consider whether any of these rights would be engaged as a result of the Family Asylum Claim decision. The [Assessing credibility and refugee status](#) policy provides guidance on the definition of persecution.

Immigration Rules

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

[Paragraph 349 of the Immigration Rules](#) sets out who may be considered as dependants of the main claimant in an asylum claim. A spouse, civil partner, unmarried partner, or minor child accompanying a principal applicant may be included in the application for asylum as a dependant, provided, in the case of an adult dependant with legal capacity, the dependant consents to being treated as such at the time the application is lodged. A spouse, civil partner, unmarried partner or minor child may also claim asylum in their own right. If the principal applicant is granted refugee status or humanitarian protection and leave to enter or remain any spouse, civil partner, unmarried partner or minor child will be granted leave to enter or remain for the same duration. The case of any dependant who claims asylum in their own right will be also considered individually in accordance with paragraph 334 above. An applicant under this paragraph, including an accompanied child, may be interviewed where they make a claim as a dependant or in their own right.

If the spouse, civil partner, unmarried partner, or minor child in question has a claim in their own right, that claim should be made at the earliest opportunity. Any failure to do so will be taken into account and may damage credibility if no reasonable explanation for it is given.

There is no provision in the Rules for a parent to be dependent on a child's claim.

If an independent claim is made this must be considered individually in accordance with [paragraphs 328 to 333B of the Immigration Rules](#).

[Paragraph 334 of the Immigration Rules](#) sets out that refugee status can only be granted to those who are in need of protection and meet the criteria.

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Establishing a child's protection needs

As a child is generally considered to be an asylum claimant in their own right they must be given the opportunity to particularise their claim and set out what risks they may face on return to their country of origin. In cases where a child is accompanied by their parent, their parent may establish the basis of their child's claim for asylum following the Family Asylum Claim process set out below. It is open to a child to instead make a claim for asylum in their own right, rather than as part of a Family Asylum Claim, in which case the [Children's asylum claims](#) accompanied child process must be followed. A welfare interview will not usually be required in Family Asylum Claims but you must remain alert to [safeguarding](#) issues.

Establishing a child's individual protection needs: main claimant providing information

When an individual makes a claim for asylum and they have dependant children named on that claim, they must, as the main claimant, be asked to explain whether any dependant child has protection needs, and if they do, whether these are the same as, or additional or different to those which the main claimant is claiming. This will happen at 3 stages:

- screening interview
- Preliminary Information Questionnaire (PIQ)
- asylum interview - details of the questions that must be asked are set out in the section below, '[Establishing children's individual protection needs: main claimant asylum interview](#)'

Establishing children's individual protection needs: main claimant asylum interview

You must continue to follow the information set out in the published guidance on [Asylum interviews](#) and this guidance on Family Asylum Claims should be read alongside that guidance.

When you are conducting a substantive asylum interview and there are dependant children named on the claim, you must ask the main claimant whether each child (if there is more than one) has individual protection needs which are the same as, or additional or different to those of the main claimant. The following question must be put to the main claimant:

Your dependant children will be considered to have made an asylum claim in their own right unless you say they have no protection needs. We understand that in many cases the basis of a child's claim for asylum is the same as the main claimant. We can therefore assess the child's claim for asylum based on the information you provide to us. In other cases, a child will have additional or different protection needs to those of the main claimant. It is important for

us to understand whether a child faces any risks which are additional or different to the main claimant so we can properly consider their claim.

In respect of each of your children who are dependent on your claim:

- Does the child face a risk on return to their country of origin?
- If yes, do you believe the risk to be same risk that you face, or are there additional or different risks?

You must confirm in the asylum interview record that the questions have been asked and record the answers given.

When interviewing the main claimant, you must remain alert (irrespective of the view of the main claimant) as to whether the information provided by the main claimant suggests objectively that a dependant child may have their own (additional or different) protection needs.

If in the interview you become aware of potential additional or different protection needs in respect of any child, these must be explored in the main claimant's interview. See following sections, including [Claims where the child has additional or different protection needs](#) and [Family Asylum Claim collective decision](#).

Deciding whether to treat a claim as a Family Asylum Claim

To decide whether a claim can be determined under the Family Asylum Claim process, you must take into account the information provided by the main claimant:

- during their screening interview
- in any PIQ they have returned
- during their substantive asylum interview
- in any additional evidence

If it is clear to you, at any stage of the process, that a child has additional or different protection needs to those established by the main claimant, then you must consider the process outlined in the [Claims where the child has additional or different protection needs](#) section. You do not need to wait until the outcome of the interview with the main claimant to initiate a separate process for a dependant child.

It is important to continually consider whether the claim is suitable for the Family Asylum Claims process and be aware of situations where the child and their parent have different protection needs. In many cases, it is likely that the grounds raised by the main claimant for fearing persecution or serious harm will also apply, by reason of their relationship, to a child who is a dependant of that adult. There will be some claims where the child is at risk, and the parent is therefore also at risk by virtue of them seeking to protect their child. However, this is not always the case. It may become apparent during the consideration of a Family Asylum Claim that in fact the claims require different outcomes. You must carefully consider each claim for asylum and decide whether each family member is in need of protection.

There are three potential scenarios as set out below: (i) claims where the child has the same protection needs as the main claimant, (ii) claims where the child has additional or different protection needs and (iii) claims where the child has no protection needs.

Claims where the child has the same protection needs as the main claimant

A claim must be treated as a Family Asylum Claim where the main claimant confirms that any child dependant is claiming asylum on the same grounds as those particularised by the main claimant, and the evidence that they have provided (through interviews, the PIQ or any other information) supports a finding that the main claimant and the child share the same basis of claim. See [Family Asylum Claim collective decision](#).

Claims where the child has additional or different protection needs

Where you have established that the child has additional or different protection needs to that of the main claimant, the Family Asylum Claims process must not be followed. The child must be treated as an asylum claimant in their own right. These claims must be determined in the same way as any other individual claim. For child specific considerations for gathering information and deciding asylum claims, see the [Children's asylum claims](#) policy guidance. Child's asylum claims will need to be dealt with by minors trained decision makers.

You must consider, based on the information obtained from the main claimant, whether the child should be interviewed and treated as an accompanied child with their own asylum claim. In some cases, the parent will be able to explain on behalf of their child where the child has their own asylum claim. This will need to be considered on a case by case basis taking into consideration the age of the child (for example a very young child will not be able to complete their own Statement of Evidence Form (SEF) or asylum interview) and the information already obtained (for example through the PIQ or main claimant interview) as to whether there is sufficient information to make the decision on the child's asylum claim. Where more information is required, the accompanied [Children's asylum claims](#) process should be followed. You must seek advice from a technical specialist or senior caseworker who can escalate to the Asylum Chief Casework team for advice.

Records relating to the same family must be linked so, where possible, family cases can be dealt with at the same time. For example, interviews be conducted on the same day where more than one family member needs to be interviewed, and decisions served together.

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. For guidance on sharing information for cases where family

members are making separate asylum claims, see [Disclosure](#) guidance on transfer of information between cases.

Claims where the child has no protection needs

There may be cases where a child has no protection needs and would not be at risk on return to their country of origin. This may occur, for example, because:

- the child does not share the same nationality as their parent
- the nature of the risks set out by the main claimant do not impact on the child and the child would not be at risk for those reasons

These cases cannot be considered under the Family Asylum Claims process. The child may still be treated as dependant on the claim of the main claimant, under [Paragraph 349 of the Immigration Rules](#), and the [Dependants](#) guidance must be followed for any children who are not considered to be making an asylum claim in their own right.

Family Asylum Claim collective decision

You must follow the [Assessing credibility and refugee status](#) and [Children's asylum claims](#) guidance when considering Family Asylum Claims. Where you are able to proceed with the claim as a Family Asylum Claim and make a collective decision based on the information provided by the main claimant, the children who are claimants named on the Family Asylum Claim will not usually need to be interviewed.

You must also follow the guidance on [Drafting, implementing and serving decisions](#) but note the following requirements for Family Asylum Claims. Whilst Family Asylum Claims can be considered collectively and a single decision made, the main claimant and each child named on the Family Asylum Claim must be served with their own decision letter, as they are being treated as having made an asylum claim in their own right. In cases where asylum is refused, the main claimant and each child will each have a right of appeal against this decision and you must consider whether any other leave is appropriate.

Child dependants possible decision outcomes

Family Asylum Claims - collective decision:

- Grant refugee status to both the main claimant and each child (who is included in the Family Asylum Claim) – Refugee status will be confirmed on the Biometric Residence Permit (BRP) of each claimant
- Refuse asylum to both the main claimant and each child – grant other leave if appropriate – the main claimant and each child must be served with an individual refusal letter and have individual rights of appeal – any separate appeals should be linked at the appeals stage

Claims involving accompanied child asylum claim – individual decisions:

- The adult main claimant is granted asylum but the accompanied child claimant is not – the adult main claimant must be granted refugee status but if a child is not at risk of persecution, they cannot be granted refugee status, so must be refused asylum with a refusal letter and right of appeal. The child can be considered as a dependant, under the [Dependants](#) policy, and be granted leave in line but not refugee status under [paragraph 334 of the Immigration Rules](#)
- The accompanied child claimant is granted asylum but the adult main claimant is not – an adult cannot be treated as a dependant of a child under [paragraph 349 of the Immigration Rules](#). The child must be granted refugee status and the adult main claimant refused asylum. The main claimant must be considered for other leave, as appropriate, in order to enable them to remain with their child. Depending on the circumstances you must consider which leave is appropriate, [Humanitarian Protection](#), [Discretionary Leave](#) or [Private or Family Life Leave](#) under Article 8 (ECHR)

Claims involving dependant child not claiming asylum:

- where the adult main claimant is granted asylum, if it is not already clear, you will need to check that the dependant child wishes to be granted leave in line before doing so
- where the adult main claimant is refused asylum - the child must be refused as a dependant, without a Right of Appeal, as they have not made an asylum claim and therefore this decision is only appealable by the main claimant

For guidance on the certification of clearly unfounded claims, see the section on Dependants in the [Certification of protection and human rights claims under section 94 of the Nationality, Immigration and Asylum Act 2002 \(clearly unfounded claims\)](#).

Requests to be added to the Family Asylum Claim

Where the claimant makes a request to include children on the Family Asylum Claim, who were not included in the original claim, before the initial asylum decision is made, they may be included provided they meet the requirements set out in [paragraph 349 of the Immigration Rules](#) and have the same protection needs as the main claimant. Where the child has additional or different protection needs, or the request is received after the initial asylum decision has been made, the child must make their own asylum claim and can be treated as an accompanied child.

The dependants section of the [Asylum screening](#) guidance must be followed to ensure that the requirements set out in [paragraph 349 of the Immigration Rules](#) are met. If the main claimant's asylum interview has already been completed but the decision has not yet been made, a child can be added where they have the same protection needs. Therefore, you will need to check with the main claimant if the child has the same or any additional or differing protection needs. If they have additional or differing protection needs, they must be treated as an accompanied child rather than part of the collective Family Asylum Claim.

Children who reach the age of 18 before an initial decision

A minor child, included as part of a Family Asylum Claim, who reaches the age of 18 before an initial decision is made, should normally continue to be treated as part of the Family Asylum Claim for the purposes of the asylum claim.

Official – sensitive: Start of section

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Official – sensitive: End of section

Further submissions

You must follow the [Further submissions](#) guidance. It is important to avoid children who were dependants on claims decided prior to the implementation of Family Asylum Claims on 2 August 2021 from inadvertently being denied the right to claim asylum. Therefore, if they wish to make a claim for asylum in their own right, they must be treated as having not previously made an asylum claim. This means that child dependants who have not previously received their own decision with a right of appeal must not be required to establish that they meet the fresh claim criteria under paragraph 353. In this circumstance, you must direct them to make an asylum claim in their own right. Claims can, if appropriate, be certified for failure to have raised matters in response to an earlier section 120 notice.

Related content

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