



Home Office

Adopted children

Version 5.0

Assessing applications from adopted children seeking to enter the UK or children coming to the UK for adoption under Appendix Adoption.

Contents

Contents.....	2
About this guidance.....	4
Contacts	4
Publication.....	4
Changes from last version of this guidance	4
Purpose.....	5
Use of this guidance	5
Other information about this guidance	5
Introduction	6
Background.....	6
Article 8 of the European Convention on Human Rights (ECHR).....	7
The best interests of the child	8
Categories of permission for adopted or prospective adopted children	9
Adoption process	9
In-country applications for adoption involving individuals without entry clearance for that purpose.....	11
Adoptions leading to British citizenship.....	11
Adoption and EEA nationals.....	12
The EU Settlement Scheme	12
EEA citizens who do not fall within the EUSS.....	12
Adoptions under the Hague Convention.....	13
Introduction	13
A full order.....	14
Guardianship arrangement.....	14
Applications.....	14
Entry clearance requirements	14
Recognised Overseas Adoptions: Adoptions from a country on The Adoption (Designation of Overseas Adoptions) Order or on The Adoption (Recognition of Overseas Adoptions) Order 2013	16
Introduction	16
Applications.....	17
Entry clearance requirements	17
Entry clearance for settlement requirements	17
Entry clearance requirements	18
De facto adoptions.....	19

Introduction	19
Types of circumstances when a de facto adoption may arise.....	19
Applications	20
Entry clearance requirements (including for settlement)	20
Coming to the UK for adoption.....	22
Adoptions from a country not on The Adoption (Designation of Overseas Adoptions) Order or The Adoption (Recognition of Overseas Adoptions) Order 2013 – child for adoption in the UK.....	22
Introduction	22
Applications.....	22
Entry clearance requirements	22
Consideration of requirements	24
Certificate of eligibility	24
Summary of the Immigration Rules and the Certificate of Eligibility requirement	24
Definition of a parent.....	26
Interpretation of sole responsibility.....	26
Interpretation of serious and compelling reasons	26
Age	26
Independent life requirement.....	26
Adequate maintenance and accommodation	26
Financial requirements	27
Article 8 and unjustifiably harsh consequences.....	27
How to consider unjustifiably harsh consequences	28
Compassionate factors	28
Grounds for Refusal - suitability	29
Evidence	31
Entry clearance	31
Permission to stay and settlement	32
Decision letter wording	33

About this guidance

This guidance tells decision makers how to decide applications for entry clearance to the UK as an adopted child or a prospective adopted child under the age of 18 under Appendix Adoption of the Immigration Rules.

Any child applying to extend their stay in the UK, following a successful entry clearance application under Appendix Adoption, will need to apply on the same route as their parent.

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 Family 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 **5.0**
- published for Home Office staff on **4 June 2024**

Changes from last version of this guidance

This guidance has been updated to:

- remove references to paragraphs 309A to 316F of Part 8 of the Immigration Rules, which have been replaced by the simplified version of these rules: Appendix Adoption
- clarify the rules for de facto adoptions

Related content

[Contents](#)

Purpose

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

Use of this guidance

This guidance must be used for all decisions following a valid application for entry clearance (or permission to enter) or in accordance with Appendix Adoption.

Other information about this guidance

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

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

Related content

[Contents](#)

Introduction

This section introduces you to considering applications made for entry clearance to the UK as an adopted child or prospective adopted child.

Background

This guidance accompanies and explains the Appendix Adoption requirements to be met before an adopted child can be granted entry clearance to come to the UK from overseas, and the requirements to be met when entry clearance is sought for a child to come to the UK for the purpose of adoption or on the basis that the child is a de facto adopted child.

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

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

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

adoption is not likely to happen for that child, or when they should be seeking entry for the child under another category of the Immigration Rules that is more suitable for that child.

Appendix Adoption allows a consideration of Article 8 (the right to respect for private and family life) under the Immigration Rules if other eligibility requirements are not met. The Rules and this guidance also take into account the need to safeguard and promote the welfare of children in the UK.

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

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

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

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

ECHR Article 8 states:

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

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

With the introduction of Appendix Adoption, in addition to the core rules the further Article 8 test is now an eligibility requirement and the applicant must be granted if the decision maker is satisfied that refusal of the application would breach Article 8 of the Human Rights Convention, because it would result in unjustifiably harsh consequences for the applicant or their adoptive family unless the applicant has failed certain suitability grounds.

How to consider Article 8 is set out below

The best interests of the child

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

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

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

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

Related content

[Contents](#)

Categories of permission for adopted or prospective adopted children

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

- Hague Convention (see Adoption: Hague Convention in Appendix Adoption) - this refers to the process whereby parents resident in the UK have approached an adoption agency to be assessed and for help in identifying a child in a particular country for adoption
- Recognised Overseas Adoptions – settlement or temporary permission as a child who has been adopted according to the laws of the child’s country of origin or residence, this being a country whose adoptions are recognised under relevant UK legislation; see: [list of designated countries](#) and Recognised Overseas Adoptions in Appendix Adoption)
- De- facto adopted children - a category that recognises, in a concessionary way, the situation where parents living overseas will have cared for a child in an adoptive way but without access to a legal system in which formal adoption can take place. These are described as de facto adoptions, but a specific period of caring for the child’s needs must have been completed as set out in section “De Facto Adoption” of Appendix Adoption
- Coming to the UK for adoption - a category that allows a child to come to the UK for the purpose of being adopted (see Coming to the UK for Adoption in Appendix Adoption)

Adoption process

Inter-country adoptions are a specific type of adoption which would come under the Recognised Overseas Adoption route in Appendix Adoption. It is important to note that there are aspects of inter-country adoptions which, by law, must happen before consideration of the Immigration Rules.

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

There is different legislation in place in Scotland:

- (the [Adoption and Children \(Scotland\) Act 2007](#))
- [The Adoptions with a Foreign Element \(Scotland\) Regulations 2009](#))

and Northern Ireland

- (the [Adoption \(Northern Ireland\) Order 1987](#))

- [Adoption \(Intercountry Aspects\) Act \(Northern Ireland\) 2001](#)
- [Adoption of Children from Overseas Regulations \(Northern Ireland\) 2002](#)
- [Inter-country Adoption \(Hague Convention\) Regulations \(Northern Ireland\) 2003](#)
- [Registration of Foreign Adoptions Regulations \(Northern Ireland\) 2003](#)

The cases for which a Certificate of Eligibility is required under paragraphs AD16.3. or AD 43.2. of the Immigration Rules are those where an adoptive parent or parents habitually resident in the UK:

- (a) intend to bring a child who is habitually resident outside the UK to the UK for the purpose of adoption, or
- (b) where the adoption has taken place less than 12 months before the date on which the child will be entering the UK.

The following UK legislation refers:

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

Guidance for prospective adopters resident in England and Wales issued by the Department for Education is available on GOV.UK, see:

- [Adopting a child from overseas](#)
- [Annex C adoptions with a foreign element](#)

Guidance for residents of Scotland is available on the Scottish Government website, see:

- [Intercountry adoption](#)

and for residents of Northern Ireland on indirect, see:

- [Introduction to intercountry adoption.](#)

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

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

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

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

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

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

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

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

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

Adoptions leading to British citizenship

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

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

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

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

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

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

Adoption and EEA nationals

Adopted children of EEA and Swiss citizens must be considered in accordance with the relevant Immigration Rules and guidance appropriate to their circumstances.

The EU Settlement Scheme

EEA citizens who have been granted either pre-settled or settled status under the EU Settlement Scheme (EUSS) on the basis of having been resident in the UK by the end of the transition period, must be considered under the following guidance: [EU Settlement Scheme EU, other EEA, Swiss citizens and family members](#).

The requirements for status under the EUSS are contained in Appendix EU and Appendix EU (FP) to the Immigration Rules and these appendices cover adoption by EEA citizens who have been granted EUSS status.

Appendix EU and Appendix EU (FP) define 'child' which also includes an adopted child (adopted in accordance with a 'relevant adoption decision' as defined in Annex 1 to Appendix EU).

A 'relevant adoption decision' is defined in Annex 1 to both Appendix EU and Appendix EU (FP) as an adoption decision taken either:

- (a) by the competent administrative authority or court in the UK or the Islands; or
- (b) by the competent administrative authority or court in a country whose adoption orders are recognised by the UK or the Islands; or
- (c) in a particular case in which that decision in another country has been recognised in the UK or the Islands as an adoption

EEA citizens who do not fall within the EUSS

Adopted children of EEA and Swiss citizens who do not fall within the EUSS, must be considered under this guidance. These categories of applicants will include:

- those granted EUSS status as family members (and so cannot sponsor their own family members under the EUSS)
- those who arrived in the UK after the end of the transition period, and are out of the scope of the EUSS

Related content

[Contents](#)

Adoptions under the Hague Convention

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

Introduction

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

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

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

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

A Hague Convention adoption order will either:

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

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

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

A full order

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

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

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

Guardianship arrangement

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

Applications

A child who is being brought to the UK for adoption under the Hague Convention must apply for entry clearance to the UK and their application will be considered under the Hague Convention route section of Appendix Adoption.

Entry clearance requirements

The requirements to be met by an applicant for entry clearance as a child for adoption under the Hague Convention are set out in paragraph AD 1.1. to AD 12.2. of Appendix Adoption.

When considering paragraph AD 4.1. you must be satisfied that the prospective parent or parents are habitually resident in the UK. Habitual Residence means stable, factual residence including settlement. It is a legal concept which is subject to interpretation by the courts. There is no statutory definition of the term. Whether

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

When considering paragraph AD 4.2. and paragraph AD 4.3., you must be satisfied that the adoption is the subject of an agreement made under Article 17(c) of the Hague Convention and the child is coming for adoption in the UK under the Hague Convention. The relevant Central Authority letter confirming that a certificate of eligibility has been provided will confirm this.

When considering the requirements, you:

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

Under paragraph AD 11.1., entry clearance will be granted for up to 24 months to allow for the adoption in the UK to be finalised.

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

Related content

[Contents](#)

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

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

Introduction

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

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

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

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

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

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

In cases where a child was legally adopted in a country named on The Adoption (Designation of Overseas Adoptions) Order 1973 before 3 January 2014, the prospective adopters would not be caught by this provision and therefore there would be no requirement for them to apply for a Certificate of Eligibility.

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

Applications

Applications from children in this category are processed under paragraphs AD 13.1. to AD 24.1.(c) of Appendix Adoption and can result in settlement either on entry or later, once one or both parents have qualified for settled status here.

Applications should be made on the [online settlement visa application](#) for settlement. The applications for permission to stay are:

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

The length of time the child will be granted will depend on the immigration status of the adoptive parent or parents, as set out in AD 23.1. to AD 23.2.

Where the application falls under paragraph AD 18.1.(c) and the 'other adoptive parent' mentioned in that paragraph has or is being granted entry clearance or permission to stay on a route to settlement, the application must also meet the requirements, as appropriate, of the route to settlement the 'other adoptive parent' is applying under.

Entry clearance requirements

Under paragraph AD 16.3. a letter from the relevant Central Authority in the UK confirming the issue of a Certificate of Eligibility must be provided with the entry clearance application in some cases. See the table at: [Summary of the Immigration Rules and the Certificate of Eligibility requirement](#).

Entry clearance for settlement requirements

The requirements to be met by an applicant for entry clearance for settlement as a child adopted in a country whose adoption provisions are accepted by the UK of a parent or parents present and settled in the UK or being admitted for settlement are set out in paragraph AD 23.1. and AD 23.2. of the Immigration Rules.

When considering the requirements, you:

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

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

Entry clearance requirements

Under paragraph AD 16.3. a letter from the relevant Central Authority in the UK confirming the issue of a Certificate of Eligibility must be provided with the entry clearance application in some cases. See the table at: [Summary of the Immigration Rules and the Certificate of Eligibility requirement](#).

The requirements to be met by an applicant for entry clearance as a child adopted in a country whose adoption provisions are accepted by the UK are set out in the Recognised Overseas Adoptions section of Appendix Adoption in the Immigration Rules.

Where the applicant's adoptive parent has or is being granted entry clearance or permission to stay on a route to settlement, the application must also meet the financial requirements of that route to settlement as set out in AD 19.2.

When considering the requirements, you:

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

Under paragraph AD 23.2., permission to enter will be granted to end at the same time as the permission granted to their adoptive parent(s).

The applicant will be granted settlement under AD 23.1. where one of the following is true:

- the applicant's adoptive parents are British citizens who are settled or live in the UK and have a right to stay without restriction
- in the instance of a sole responsibility parent, that parent is a British Citizen, settled or living in the UK and have a right to stay without restriction

Related content

[Contents](#)

De facto adoptions

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

Introduction

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

A de facto adoption allows the admission of de facto adopted children from countries where no legal adoption procedure exists, or where the system operating is not recognised by the UK. The definition for de facto adoptions is in paragraphs AD 28.1. – AD 28.3. of Appendix Adoption to the Immigration Rules. The de facto adoption will be regarded as having taken place where the adoptive parent(s) can show they have:

- lived abroad for a period of at least 18 months (for applications involving 2 parents both must have lived abroad together)
- lived with and cared for the child for at least the period of 12 months immediately before the application for entry clearance
- assumed the role of the child's parent for the full 18-month period mentioned above, and there has been a genuine transfer of parental responsibility

Applications based on a de facto adoption require at least one of the adoptive parents to be a British Citizen or have settled status, as set out in paragraph AD 30.1.

Under paragraph AD 37.1, where the adoptive parents are both British Citizens or have settled status, or the parent with sole responsibility is a British citizen (or has settled status), the child will be granted settlement. In all other cases, under paragraph AD 37.2, the child will be granted permission that ends at the same time as their non-British Citizen/settled adoptive parent's permission to stay.

Types of circumstances when a de facto adoption may arise

A de facto adoption may arise where:

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

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

Applications

If the criteria set out in AD 28.1. to AD 28.3. in Appendix Adoption of the Immigration Rules are met, the child may apply for:

- entry clearance for settlement as the adopted child of a parent or parents who are present and settled in the UK without time limit on their stay, as set out in AD 37.1
- entry clearance or permission to enter the UK with a view to settlement as the adopted child of parents where one of the parents is on a route to settlement, as set out in AD 37.2

Applications from children in this category are processed under paragraphs AD 25.1. – AD38.3. in Appendix Adoption.

Applications should be made on the ‘Non-British adopted child or child coming to the UK for adoption of a parent or parents who are British citizens or settled in the UK’ form.

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

- if the adoptive parent(s) is/are present and settled in the UK, permission to enter for settlement will be considered under paragraph AD 37.1
- if one of the adoptive parents has permission to stay on a route to settlement, entry clearance or permission to stay will be considered under AD 37.2
- settlement applications following a grant of permission to stay under Appendix Adoption will be considered under the route the adoptive parent is applying or has been granted under

In cases where the parent or parents are seeking to adopt the child in accordance with UK adoption law, it may be more appropriate to consider the application under the ‘Adoption: coming to the UK for adoption’ section of Appendix Adoption.

Entry clearance requirements (including for settlement)

The requirements to be met by an applicant for entry clearance as the adopted child of a parent or parents present and settled in the UK (de facto route) are set out in paragraphs AD 25.1. - AD 38.3. in the Immigration Rules.

When considering the requirements, you:

- should refer to the [Consideration of requirements](#) and [Evidence](#) sections of this guidance

- may contact Family Policy for advice

Under paragraph AD 37.2., entry clearance will be granted in line with the adoptive parent who is on a route to settlement.

Under paragraph AD 37.1. settlement will be granted where either:

- both adoptive parents are British citizens, settled or have a right to stay in the UK without restriction
- an adoptive parent has sole parental responsibility, that parent is a British citizen, settled or has a right to stay in the UK without restriction

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

Related content

[Contents](#)

Coming to the UK for adoption

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

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

Introduction

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

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

Applications

A child who is being brought to the UK for adoption from a country whose adoptions are not recognised by UK law must apply on the [online settlement visa application](#) for permission to enter the UK with a view to settlement. Their application will be considered under paragraphs AD 39.1. – AD 49.2 of Appendix Adoption to the Immigration Rules. Once the adoption is complete and the adoptive parent(s) have settled status in the UK, the child can apply for settlement under the same route as their adoptive parent(s).

Entry clearance requirements

Under paragraph AD 43.2., where appropriate, a letter from the relevant Central Authority in the UK confirming the issue of a Certificate of Eligibility must be provided with the entry clearance application on behalf of a child coming to the UK for the purpose of adoption.

The requirements to be met by an applicant for entry clearance for settlement as a child seeking permission to enter the UK for the purpose of being adopted (which does not include de facto adoption) in the UK are set out in the coming to the UK for adoption section of Appendix Adoption in the Immigration Rules.

Where the applicant's adoptive parent has or is being granted entry clearance or permission to stay on a route to settlement, the application must also meet the financial requirements that route to settlement as set out in AD 44.2.

When considering the requirements, you:

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

Under paragraph AD 49.1., permission will be granted for a period of 24 months to enable the adoption to be completed.

Related content

[Contents](#)

Consideration of requirements

Certificate of eligibility

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

- England - ica.darlington@education.gov.uk
- Wales - PlantSynDerbynGofal@llyw.cymru – for Hague Convention adoptions only, otherwise contact ICA Darlington
- Scotland - intercountryadoption@gov.scot
- Northern Ireland - intercountry.adoption@health-ni.gov.uk

Summary of the Immigration Rules and the Certificate of Eligibility requirement

Appendix Adoption in the Immigration Rules	Certificate of Eligibility
AD 1.1. – AD 12.2. Hague Convention adoption.	Confirmation of Certificate of Eligibility is needed.
AD 13.1. – AD 24.1. Child adopted according to law of an overseas country; adoption accepted as valid in UK; and <ul style="list-style-type: none">• date of adoption is more than 12 months before planned date of entry to the UK	Confirmation of Certificate of Eligibility is not needed.
AD 13.1. – AD 24.1. Child adopted according to law of an overseas country; adoption accepted as valid in UK, but <ul style="list-style-type: none">• date of adoption is 12 months or less before planned date of entry to the UK, and• adoptive parents are habitually resident in the UK and the child habitually resident outside the UK.	Confirmation of Certificate of Eligibility is needed.

Appendix Adoption in the Immigration Rules	Certificate of Eligibility
<p>AD 25.1. – AD 38.3.</p> <p>De facto adoption rule requirements are met.</p>	<p>In most cases, confirmation of Certificate of Eligibility is not needed.</p> <p>But</p> <p>If, in a de facto adoption, the parent is habitually resident in the UK, and the child habitually resident outside the UK, and they state that they intend to adopt the child in the UK, confirmation of Certificate of Eligibility is needed.</p> <p>In the relevant legislation, for example the Adoption and Children Act 2002, the UK is defined as ‘the British Islands’, which encompasses the UK, the Channel Islands and the Isle of Man.</p>
<p>AD 39.1. – AD 49.2.</p> <p>Child seeks entry for purpose of adoption, and adoptive parents are habitually resident in the UK.</p>	<p>Confirmation of Certificate of Eligibility is needed.</p>
<p>AD 39.1. – AD 49.2.</p> <p>Child seeks entry for purpose of adoption, and adoptive parents are habitually resident outside the UK.</p>	<p>Confirmation of Certificate of Eligibility is not needed.</p>

If the intention is to seek to adopt the child in the UK and the de facto living requirements are met, then a Certificate of Eligibility may still be required. Such cases are likely to be rare given that the de facto adoption provisions are capable of being sufficient in themselves.

For reference purposes an extract from Section 83 of the Adoption and Children Act 2002 is reproduced below:

S.83 - Restriction on bringing children in.

This section has no associated Explanatory Notes

(1) This section applies where a person who is habitually resident in the British Islands (the “British resident”)—

(a) brings, or causes another to bring, a child who is habitually resident outside the British Islands into the United Kingdom for the purpose of adoption by the British resident, or

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

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

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

Definition of a parent

For guidance on the definition of the term 'parent' for the purposes of the Immigration Rules see Appendix Children guidance.

Interpretation of sole responsibility

Guidance on how to interpret the term 'sole responsibility' (also called sole parental responsibility) can be found in the Appendix Children Guidance.

Interpretation of serious and compelling reasons

Guidance on how to interpret the term 'serious and compelling reasons' can be found in the Appendix Children guidance.

Age

When considering entry clearance applications under Appendix Adoption, you must be satisfied that the applicant is under the age of 18 at the date of application. Further guidance can be found in the Appendix Children guidance.

Independent life requirement

Guidance on the independent life requirement can be found in the Appendix Children guidance.

Adequate maintenance and accommodation

Guidance on meeting the requirements for adequate maintenance and accommodation can be found at:

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

Financial requirements

This section applies to entry clearance applications under Appendix Adoption if one of the parents is on a route to settlement.

To qualify for entry clearance or permission to stay as an adopted child, the applicant must meet the financial requirement under the route to settlement the adoptive parent is applying under (for example, Appendix FM, Skilled Worker).

For guidance on the financial requirement where the parent is applying as a partner under Appendix FM, see:

- Family Migration: Appendix FM and Appendix HM Armed Forces – Minimum Income Requirement (internal)
- Family Migration: Appendix FM and Appendix HM Armed Forces – Minimum Income Requirement (external)

Article 8 and unjustifiably harsh consequences

Appendix Adoption requires, at AD 9.1-2, AD 21.1-2, AD 35.1-2 and AD 47.1-2, that there must be a consideration as to whether refusal would breach Article 8 because it would result in unjustifiably harsh consequences for the applicant or their family.

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

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

Where an Entry Clearance Officer considers that the factors raised **might** amount to a breach of Article 8 because there are exceptional circumstances warranting a grant of entry clearance, the case must be referred for consideration by Referred Casework Unit (RCU). The Entry Clearance Officer should then make a recommendation for RCU to consider, setting out clear reasons as to whether a grant of entry clearance is appropriate taking into account this guidance on Article 8 and exceptional circumstances.

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

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

How to consider unjustifiably harsh consequences

When considering whether there are unjustifiably harsh consequences the decision maker should consider circumstances relating to all family members of the applicant where these are raised, including wider family members. The fact that refusal may, for example, result in the continued separation of family members does not of itself constitute unjustifiably harsh consequences where the family have chosen to separate themselves.

In determining whether refusal would result in unjustifiably harsh consequences, the decision maker must consider **all** relevant factors raised by the applicant and weigh them against the public interest under Article 8. Examples of relevant factors include:

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

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

Compassionate factors

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

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

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

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

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

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

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

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

Grounds for Refusal - suitability

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

For guidance on considering the grounds for refusal see:

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

If the grounds for refusal as set out in AD 9.2., AD 21.2., AD 35.2. and AD47.2. apply, and refusal would not breach Article 8 of the Human Rights Convention the application must be refused. Guidance on refusal wordings under grounds for refusal can be found using the links to the guidance above.

If the grounds for refusal as set out in AD 9.2., AD 21.2., AD 35.2. and AD47.2. apply, and refusal would breach Article 8 of the Human Rights Convention, the application on the route applied for must be refused.

Where a person has a custodial sentence and is in the UK, they may meet the threshold for deportation. You must refer the case to the Foreign National Offender (FNO) Returns Command for them to consider whether to pursue deportation. You should also refer the case to FNO Returns Command where there is a live deportation order.

In circumstances where there is an established Article 8 barrier to deportation and FNO Returns Command have confirmed they do not have a continued interest in pursuing deportation because of this barrier, consideration of a grant of leave outside the rules for 30 months on Article 8 grounds may be granted for the above suitability grounds, except 9.2.1 and 9.2.3. of Part 9: Grounds for Refusal. Whilst the Secretary of State retains discretion as to the conditions of such permission, it will normally be appropriate to grant such permission with permission to work, permission to study but no recourse to public funds.

For applicants falling for refusal under 9.2.1 and 9.2.3. with an ECHR barrier to removal or deportation, consideration should be given to Restricted leave (internal link). Potential restricted leave referrals must be emailed to Special Cases General Enquiries and to Criminality Policy.

Related content

[Contents](#)

Evidence

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

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

Entry clearance

Applications for entry clearance should include the child's passport and original birth certificate showing their name at birth (as appropriate) with the completed [application](#) and [VAF4A Appendix 1](#) (or [Appendix 2](#) for those which must meet the financial requirement under Appendix FM). If these documents cannot be provided, an explanation should be requested of why they are not available.

Other evidence that may be provided with the application includes:

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

- where the child has been abandoned, a certificate of abandonment from the authorities previously responsible for the child's care

Permission to stay and settlement

Any child who has been granted entry clearance under Appendix Adoption should then make any future applications under the route of their adoptive parent who is on a route to settlement, not through Appendix Adoption.

Related content

[Contents](#)

Decision letter wording

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

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

Adoptive parent(s) not settled

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

Not adopted when both adoptive parents resident together

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

AD 6.1., AD 18.1., AD 28.1.(a) or AD 46.1.

Purpose

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

AD 4.4., AD 16.6., AD 28.3.(a) or AD 43.1.(b)

Same rights/obligations

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

AD 28.3.(b) or AD 43.1.(c)

Genuine transfer of parental responsibility

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

AD 28.1.(c), AD 28.2(c) or AD 43.1.(d)

Inability to care for child of original parent/current guardian

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

AD 28.3.(c) or AD 43.1.(d)

Adoption not recognised in the UK

'...but as you were adopted in a country whose adoption orders are not recognised in the United Kingdom, I am not satisfied that your application falls to be considered under the provisions of the Immigration Rules in respect of adopted children.

Accordingly, I am not satisfied that permission to enter/variation of permission to enter/stay is being sought for a purpose covered by the Immigration Rules.'

AD 4.2. or AD 16.1.

Over age

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

AD 5.1.(a), AD 17.1.(a), AD 29.1.(a) or AD 42.1.(a)

Not sole responsibility / no serious and compelling considerations

'...but [in view of...] I am not satisfied that both your adoptive parents are or will be settled or admitted for settlement to the United Kingdom, or that the adoptive parent you intend to [accompany/join] has had sole responsibility for your upbringing, or that there are serious and compelling reasons to grant you entry clearance.'

Related content

[Contents](#)