Home Office

Private life

Version 7.0

This guidance tells decision makers how to consider applications for permission to stay in the UK on the basis of private life, made by a person who arrived in the UK as an adult, by a person who arrived in the UK as a child, and by such a person who is now over 18 who arrived in the UK as a child. It also tells decision makers how to deal with applications from a dependent child born in the UK to a person on the private life route.

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About this guidance

This guidance tells decision makers how to consider applications for permission to stay on the basis of private life and claims based on Article 8 (on the basis of private life) of the European Convention on Human Rights (ECHR).

It includes guidance on:

- children under the age of 18 years who have at least 7 years continuous residence in the UK, and it is not reasonable for them to leave - children born in the UK who have at least 7 years continuous residence in the UK can apply for immediate settlement on the basis of private life. See: Settlement family and private life
- a young adult aged 18 years and above and under 25 years who arrived in the UK as a child and has spent at least half their life in the UK
- a person who is over 18 years of age who has spent at least 20 years in the UK
- a person who is over 18 years of age, who has spent less than 20 years in the UK, but for whom there would be very significant obstacles to their return
- consideration under Article 8 of the ECHR where a person does not meet the eligibility or suitability requirement on the private life route
- dependent children born in the UK to a person who has permission or is seeking permission on the private life route

It sets out the approach to considering applications from children whether they are applying on their own or as part of a family group. It sets out what permission should be granted when a child meets the private life rules but also dependent child rules in Appendix FM.

There is separate guidance on: Settlement family and private life.

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 Human Rights and Family Policy Unit.

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 **7.0**
- published for Home Office staff on **8 October 2026**

Changes from last version of this guidance

This guidance has been updated to reflect changes to the Immigration Rules to remove the requirement to make a valid application under Appendix Private Life for those in the Family Returns Process. .

Related content
Contents

Introduction

This section introduces you to considering applications for permission to stay on the basis of private life.

Background

Appendix Private Life was introduced by Statement of changes HC 1118 and replaced the previous private life provisions in Part 7 of the Immigration Rules.

It applies to all applications for permission to stay made on the basis of private life in the UK on or after 20 June 2022. A private life application can only be made in the UK.

Private life, as enshrined in Article 8 of the European Convention on Human Rights (ECHR), is a general right that is applied to cases in an individual way. It states:

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

Article 8 ECHR is a qualified right so as to allow countries to set requirements which properly balance the individual right to respect for private or family life with the public interest in safeguarding the economic well-being of the UK by controlling immigration, in protecting the public from foreign criminals and in protecting the rights and freedoms of others.

The private life Immigration Rules therefore express a policy on private life that is compatible with Article 8 ECHR on private life. In the event of an adverse decision and an appeal being considered, section 5A of the Nationality Immigration and Asylum Act 2002 is the primary legislation designed to produce in all cases a final result which is compatible with Article 8 ECHR, including in those cases where the requirements of the Immigration Rules may not have been met.

The private life Immigration Rules and this guidance do, in their entirety, reflect the duty contained 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. This guidance and the Immigration Rules it covers form part of the arrangements for ensuring that we give practical effect to these obligations.

Concession for granting longer periods of leave and early indefinite leave to remain

In October 2021 a concession was introduced to grant young adults longer periods of leave and early indefinite leave to remain on the basis of private life.

This concession allowed a person who had arrived in the UK as a child to qualify for settlement after 5 years if they had been granted leave on private life or family grounds and had completed 5 years after the age of 18 with such leave. This concession ended when it was incorporated into the Immigration Rules on 20 June 2022 along with the other changes set out in the Background section.

Transitional provisions

If you are considering an application made before 20 June 2022, you must do so under the rules in force on 19 June 2022. You can find these rules, and the previous casework guidance (Family life as a partner or parent, private life and exceptional circumstances version 16 and Concession to the family Immigration Rules for granting longer periods of leave and early indefinite leave to remain version 2), at the following links:

- Archive: Immigration Rules
- Archive: Guidance

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 for external access.

Related content
Contents

Approach to children and young adults

The private life route is for a person wishing to stay in the UK because they have spent a significant period of time in the UK and built a private life. Private life can be established by a person who has spent time in the UK with or without lawful permission and whilst it is normally a 10-year route to settlement, there are justifiable exceptions.

The private life rules allow children and certain young adults (who arrived in the UK as children) who qualify for permission to stay on the basis of their private life to settle in the UK after 5 years with permission. The relevant cohorts are:

- children who have been continuously resident in the UK for 7 years and it would not be reasonable for them to leave
- a young adult (aged between 18 and under 25) who arrived in the UK as a child and has spent at least half their life in the UK

Children and young adults have a choice on the duration of their permission and can choose to be granted for either 30 or 60 months. Adults granted permission to stay under the private life rules can settle after 10 years continuous residence and permission will be granted for 30 months.

The shorter and more generous route to settlement for children and young adults is in line with the UK's duty to safeguard and promote the welfare of a child when carrying out immigration functions. The approach for those that arrived in the UK as children recognises that these applicants did not make a conscious choice themselves to move to the UK and are not responsible for any time spent in the UK without permission as any applications to regularise their stay would have had to be made by others on their behalf. In addition, those arriving as children and meeting the private life rules are likely to have been educated in the UK, have well-developed English language skills, and have integrated into life in the UK. The shorter, 5-year route to settlement provides the child or young adult with necessary certainty and security on their immigration status by bringing the waiting period in line with the normal period for settlement elsewhere in the rules.

Considering applications from children on the basis of 7 years continuous residence in the UK

A child who has been resident in the UK for 7 years may be considered under the private life rules if applying on their own or if applying as part of a family group.

In all family applications, you should check whether any children included in the application have been resident in the UK for 7 years. If so, you will firstly need to consider whether the child meets the continuous residence requirements under the private life rules and if so, that it is not reasonable for the child to leave the UK. See Child – 7 years continuous residence in the UK section below. The child's family relationships and whether they could leave the UK with other family members

(including any parents the child is applying with if applying as part of a family group), are relevant when considering whether it is reasonable for the child to leave the UK. The remaining family members will be considered under Appendix FM if their basis for remaining in the UK is based on their family life. You should consider the family life guidance (internal link).

Where permission should be granted if a child or young adult meets both Appendix Private Life and Appendix FM

Where a child or young adult meets both Appendix Private Life and Appendix FM, they should be granted under Appendix Private Life as this gives the child or young adult the most favourable grant of leave and allows a shorter route to settlement.

This may lead to a child who meets the requirements of the private life rules being granted a different length of leave and on a shorter route to settlement from their parent or parents or other family members.

Example 1 - A parent and child apply at the same time for permission to stay in the UK under the family rules. The child has been in the UK continuously for 7 years and was born outside the UK. The child should be considered under the private life rules because of the duration of time they have spent in the UK. The parent should be considered under the family rules if their reason for remaining in the UK is their family life. The family guidance should be followed, and the parent considered under the relevant parent rules as well as exceptional circumstances. If the child meets the private life rules, they should be granted permission under Appendix Private Life. If the parent meets the family rules, they should be granted permission under Appendix FM. The child is not to be granted as a dependent of their parent under Appendix FM.

Example 2 - A parent and 2 children apply at the same time for permission to stay in the UK under the family rules. Child 1 has lived in the UK continuously for 8 years and Child 2 has lived in the UK for 4 years. Neither child was born in the UK. Child 1 should be considered under the private life rules because of the duration of time they have spent in the UK. The parent and Child 2 should be considered under the family rules including exceptional circumstances under paragraph GEN.3.2., if their reason for remaining in the UK is their family life. If Child 1 meets the private life rules, they should be granted permission under Appendix Private Life. If the parent and Child 2 meet the family rules, they should be granted permission under Appendix FM. Child 1 is not to be granted as a dependent of their parent under Appendix FM.

Example 3 – A parent and child apply at the same time for permission to stay on the basis of their private life. The parent has lived in the UK continuously for 20 years and the child has lived in the UK for 7 years and was born outside the UK. Both parent and child should initially be considered under the private life rules as they are applying to stay on the basis of their private life and not on the basis of their family relationships in the UK. If both applicants fail to meet the residence requirements (for example, the caseworker found they had not been continuously resident), the caseworker must go on to consider whether refusal would breach Article 8 of the European Convention on Human Rights (ECHR) under the private life rules.

Example 4 – Both parents and 2 children apply at the same time, as a family unit, for permission to stay under the family rules. Child 1 has lived in the UK continuously for 7 years and Child 2 has lived in the UK for 3 years. Neither child was born in the UK. Child 1 should be considered under the private life rules because of the duration of time they have spent in the UK. Both parents and Child 2 should be considered under the family rules including exceptional circumstances under paragraph GEN.3.2., if the reason for remaining in the UK is their family life. If Child 1 meets the private life rules, they should be granted permission under Appendix Private Life. If both parents and Child 2 meet the family rules, they should be granted permission under Appendix FM. The parents should both be granted as parents and Child 2 granted leave for the same period as their dependent. Child 1 is not to be granted as a dependent of their parents under Appendix FM.

Dependent children born in the UK

Children who are born in the UK to a person who has permission or is seeking permission on the private life route, can be added as a dependant in certain circumstances. See Dependent children born in the UK to a person on the private life route section below.

Where a person is applying for permission to stay in the UK on the basis of their private life and they have a dependent child who was born in the UK, the child should be considered under Appendix Private Life.

Related content
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Burden and standard of proof, and evidential flexibility

This section applies to all applications.

The burden of proof is on the applicant to show that they meet the eligibility requirements of the Immigration Rules. The standard of proof is the balance of probabilities (in other words, it is more likely than not that a requirement is met). When applying the suitability requirements, the burden of proof sometimes shifts to the Home Office (see Suitability guidance (internal link)).

In all cases you should apply the principles of evidential flexibility (see Evidential flexibility guidance (internal link)).

Related content
Contents

Related external links
General grounds for refusal guidance

Validity

This section tells caseworkers how to assess whether an application for permission to stay on the private life route is valid.

Overview

Before you consider an application or claim for permission to stay on the private life route, you must check that it meets the validity requirements in paragraphs PL 1.1. to PL 1.2. of Appendix Private Life.

The validity requirements in paragraphs PL 1.1. and PL 1.2. of Appendix Private Life are that the applicant:

- has completed the specified application form on the GOV.UK website: Application to remain in the UK on the basis of family life or private life
- has paid in full the application fee and the Immigration Health Charge unless the applicant has been granted a fee waiver (internal link) in whole or in part
- has given their biometric information, unless exempt – see Identity checks and biometrics (internal link)
- has provided a passport or other travel document which satisfactorily establishes their identity and nationality
- is in the UK on the date of application

More information on validity and the process for considering whether to reject an invalid application can be found in the Validation, variation and withdrawal of applications guidance (internal link).

Application does not meet all of the validity requirements

If the application does not meet all of the validity requirements set out in paragraphs PL 1.1. and PL 1.2. the application is invalid and may be rejected and not considered. This does not apply when considering certain Article 8 claims that do not require a valid application – see below.

If the application is valid

If the application meets all of the validity requirements, or you have otherwise decided to accept the application as valid, you must go on to consider whether it meets the suitability and eligibility requirements for permission to stay.

Where a private life claim is being made under Article 8 of the European Convention on Human Rights (ECHR)

A person who makes a private life claim under Article 8 of the ECHR for one of the reasons below is not required to complete the specified application form, pay the application fee and Immigration Health Charge, or provide a passport or other

document which satisfactorily establishes their identity and nationality, for consideration under Appendix Private Life.

The validity requirement in paragraph PL 1.3. of Appendix Private Life waives those requirements where the claim is made:

- at the same time as a protection claim or further submission in person after a protection claim has been refused (see Further submissions guidance (internal link) for details of when a further submission is considered)
- in detention (and the claim was submitted to a prison officer, custody officer or a member of Home Office staff at the place of detention)
- during an appeal (subject to the consent of the Secretary of State where applicable)
- by those in the Family Returns Process

Guidance on how to consider such cases is contained in the Family life as a partner or parent guidance (internal link).

Related content
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Related external links
Validation, variation and withdrawal of applications
Identity checks

Grounds for refusal - suitability

It is consistent with Article 8 of the European Convention on Human Rights (ECHR) that applicants seeking permission to stay on private life grounds can be refused for specified suitability reasons.

In considering **all** applications on the basis of a person's private life, you must consider whether the applicant fails the suitability requirements under Part Suitability.

Guidance on considering individual requirements of Part Suitability can be found here:

- Part Suitability (internal link)
- Grounds for refusal (external link)

This means you must consider the application against those rules and come to a decision on whether it falls to be refused under them. Care must be taken where the suitability ground states that an application 'may' be refused – these are non-mandatory grounds and caseworkers must ensure any reasons that justify not refusing the application have been taken into account.

Where an applicant 'must' be refused, or where a discretionary refusal is being imposed, consideration should be given to whether a refusal would be incompatible with the UK obligations under Article 8 of the European Convention on Human Rights (ECHR) (See 'Eligibility requirement for private life route relying on Article 8 of the European Convention on Human Rights').

However, where an application on the basis of Private Life falls for refusal under SUI 2.1., SUI 3.1., SUI 4.1. or SUI.5.1. the application must be refused under Appendix Private Life as PL 8.2. will apply.

Previous breach of immigration law grounds

Where an individual meets the eligibility criteria in Appendix Private Life it will not normally be appropriate to refuse under SUI 11.3. on the basis of immigration breaches.

For full information on how to consider suitability in an application see: Family life (as a partner or parent) and exceptional circumstances (internal).

Related content
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Child – 7 years continuous residence in the UK

A child may be considered under the private life route when applying in their own right or applying as part of a family. See Approach to children and young adults.

A child born in the UK who has been continuously resident in the UK for at least 7 years is eligible to apply for immediate settlement on the basis of private life. See: Settlement family and private life.

Residence requirements

To meet the residency requirements, the child must be under 18 years old and have been continuously resident in the UK for 7 years on the date of application. You must check the date the applicant applied for permission to stay and how old the applicant was on that date.

You must assess whether the applicant has been continuously residence in the UK for 7 years. Further information on continuous residence can be found in the Continuous residence section.

Applying for extension of permission to stay

A person applying for an extension of permission on the private life route who was initially granted permission under either Appendix private life or paragraph 276ADE in Part 7 may no longer be under 18 at the date of application for an extension. The applicant will be eligible to extend their permission to stay under PL 10.1. if they were initially granted as a person who was under 18 years old with 7 years residency when first granted permission to stay on the private life route.

Reasonable test

If the child meets the residence requirements, you must go on to consider whether it is reasonable to expect the child to leave the UK. You must carefully consider all the information provided by the applicant, together with any other relevant information that is available.

Assessing whether it is reasonable to expect a child to leave the UK

The reasonable assessment must take place in every case where the child has shown continuous residence for 7 years as a child. This is consistent with the approach taken by the Court of Appeal in the case of AB Jamaica - Secretary of State for the Home Department v AB (Jamaica) & Anor [2019] EWCA Civ 661. The assessment must look at what is reasonable based on the child's current circumstances. This refers to the present state of affairs and not to the future. The starting point is that we would not normally expect a qualifying child to leave the UK.

The assessment must be specific to the child's situation. You must consider:

- the age of the child
- whether the child has ties to the UK including relationships with other family and friends whose lives are established in the UK
- who the child would be expected to leave the UK with – it is normally in the best interests of the child for the family to remain together
- whether they have family and friends in their country of return
- whether they have ever visited the country of return, for how long and when

A grant of permission to stay to a child on private life grounds does not mean any parental permission to stay will be of the same duration.

Useful caselaw is: KO (Nigeria) and Others v Secretary of State for the Home Department [2018] UKSC 53.

In this case the Supreme Court found that 'reasonableness' is to be considered in the real-world context in which the child finds themselves. And so, if the circumstances of a child's parents are that both are going to leave the UK, it is reasonable for the child to be treated as likely to leave with them, unless there is a reasonable basis, supported by evidence, for not taking that view.

Young adult who arrived in the UK as a child

Residence requirements for a young adult

An applicant aged 18 years or over and under 25 years must have arrived in the UK as a child and have lived continuously in the UK for at least half their life at the date of application.

You must check the date of the permission to stay application, the age of the applicant at the date of application and whether they had lived in the UK for at least half their life.

For example, a person who is 24 years old and 6 months at date of application must have arrived in the UK by the age of 12 years and 3 months old. If the applicant is over 25 at the date the case is being considered, the application must not be refused on this basis as it is only the age at date of application that is relevant.

The rationale for the half of life test is that the greater the proportion of a child or young person's life has been spent in the UK, the more likely it is that the child or young person can be said to have established their own private life in the UK. Under these rules if the residence requirement is not met as set out, then paragraph PL 8.1. of Appendix Private Life requires an Article 8 consideration to take place.

Further information on continuous residence can be found in the Continuous residence section.

Applications for extension of permission to stay as a young person

A person applying for an extension of permission on the private life route who was initially granted permission under either Appendix Private Life or paragraph 276ADE in Part 7 may no longer be in the young person age bracket (for example, they may be 25 or over) at the date of application. The applicant will be eligible to extend their permission to stay under PL 10.2. if they were initially granted as a person who was 18 or over but under 25 years old and met the half of life test when first granted permission to stay on the private life route.

Further consideration

Those individuals who arrived as children and are applying over the age of 18, but do not meet the requirement of having lived in the UK for at least half of their life may still qualify. They may wish to apply as an adult who has lived continuously in the UK for less than 20 years and will need to demonstrate there would be very significant obstacles to their integration into the country where they would have to live if required to leave the UK. They will not be eligible though if they have lodged a protection or asylum claim which has been declared inadmissible.

Related content
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Adult private life applications

Residence requirements for an adult

Private life is normally established over a period of time in a particular country and means that the majority of a person's important relationships are in that country. Since private life is normally established over a period of time, the period of residence in the UK is particularly important as a measure of that private life.

An applicant over 18 years of age, who does not meet the half-life test, must have lived continuously in the UK for at least 20 years at the date of application (subject to the below).

Further information on continuous residence can be found in the Continuous residence section.

Less than 20 years residence

Where an adult applicant has been resident in the UK for less than 20 years (and is not a young adult who meets the half of life test) there must be very significant obstacles to the applicant's integration into the country where they would have to live if required to leave the UK in order for them to qualify under the private life route.

Assessing whether there are 'very significant obstacles to integration' into the country of return

This guidance explains how this applies to an individual who is an adult and then how to take account of an adult who arrived in the UK as a child.

When assessing whether there are 'very significant obstacles to integration into the country to which they would have to go if required to leave the UK', the starting point for someone who has lived outside the UK as an adult is to assume that the applicant will be able to integrate into their country of proposed return. In such a case the burden of proof is on the applicant to demonstrate that in his or her case there are now very significant obstacles to that integration.

A 'very significant obstacle to integration' means something which would prevent or seriously inhibit the applicant from integrating into the country of return. You are looking for more than the usual obstacles which may arise on relocation (such as the need to learn a new language or obtain employment). You are looking to see whether there are 'very significant' obstacles, which is a high threshold. Very significant obstacles will exist where the applicant demonstrates that they would be unable to establish a private life in the country of return, or if establishing a private life in the country of return would entail very serious hardship for the applicant.

You should expect to see independent and verifiable documentary evidence of any claims made in this regard and must place less weight on assertions which are

unsubstantiated. Where it is not reasonable to expect corroborating evidence to be provided, you must consider the credibility of the applicant's claims.

The assessment of whether there are very significant obstacles to integration will generally consider the proposed country of return, unless there is information to suggest that the applicant might have a choice about where they choose to relocate to, such as where they have a right to reside in a country other than the country of proposed return, or where they have more than one nationality. In that case you can take account of whether there are very significant obstacles to integration continuing in any of the relevant countries.

Relevant country information (internal link) should be referred to when assessing whether there are very significant obstacles to integration. You should consider the specific claim made and the relevant national laws, attitudes and country situation in the relevant country or regions. A very significant obstacle may arise where the applicant would be at a real risk of prosecution or significant harassment or discrimination as a result of their sexual or political orientation or faith or gender, or where their rights and freedoms would otherwise be so severely restricted as to affect their fundamental rights, and therefore their ability to establish a private life in that country.

You should consider whether the applicant has the ability to form an adequate private life by the standards of the country of return – not by UK standards. You will need to consider whether the applicant will be able to establish a private life in respect of all its essential elements, even if, for example, their job, or their ability to find work, or their network of friends and relationships may be differently constituted in the country of return.

The fact the applicant may find life difficult or challenging in the country of return does not mean that they have established that there would be very significant obstacles to integration there. You must consider all relevant factors in the person's background and the conditions they are likely to face in the country of return in making their decision as to whether there are very significant obstacles to integration.

You will need to consider any specific obstacles raised by the applicant. These obstacles will need to be assessed individually as well as accumulatively. While individual factors may be insufficient alone, several factors considered together "in the round" may create a very significant obstacle to integration outside the UK.

When considering relevant obstacles or factors, those in favour of an individual's integration on return should be balanced against those factors raised as obstacles in order to make a complete assessment in the individual case. Relevant factors to consider include the following.

Cultural background

It will be important to consider any evidence of the applicant's cultural ties and familiarity with the country of return. Where the person has spent time in the UK living amongst a diaspora community from that country, then it may be reasonable to

conclude they have cultural ties with that country even if they have never lived there or have been absent from that country for a lengthy period. If the applicant has cultural ties with the country of return, then it is likely that it would be possible for them to establish a private life there. Even if there are no cultural ties, the cultural norms of that country may be such that there are no barriers to integration.

Length of time spent in the country of return

Where the applicant has spent a significant period of time in the country of return it will be difficult for them to demonstrate there would be very significant obstacles to integration into that country. You must consider the proportion of the person's life spent in that country and the stage of life the person was at when in that country.

Family, friends and social network

An applicant who has family or friends in the country of return should be able to turn to them for support to help them to integrate into that country. You must consider whether the applicant or their family have sponsored or hosted visits to the UK by family or friends from the country of return, or whether the applicant has visited family or friends in the country of return. You must consider the quality of any relationships with family or friends in the country of return, but they do not have to be strong familial ties and can include ties that could be strengthened if the person were to return.

Faith, political or sexual orientation or gender identity

You must consider the relevant country information when considering whether an applicant would face very significant obstacles integrating or re-integrating into the country of return as a result of their faith, political or sexual orientation or gender identity. You must consider the degree of difficulty that would be faced as a result of the applicant's faith, political or sexual orientation or gender identity based on the situation in practice in the country of return and not necessarily solely what is provided for in law. The applicant's previous experience of life in that country and any difficulties the applicant claims to have experienced as a result of their faith, political or sexual orientation or gender identity must also be considered.

Common claims

Applicant has no friends or family members in the country of return:

- where there are no family, friends, or social networks in the country of return that is not in itself a very significant obstacle to integration - many people successfully migrate to countries where they have no existing ties
- if there are particular circumstances in the applicant's case which mean they would need assistance to integrate it will also be relevant to consider whether there are any organisations in the country of return which may be able to assist with integration

Applicant has never lived in the country of return or only spent early years there:

- if an applicant has never lived in the country of return, or only spent their early years there, this will not necessarily mean that there are very significant obstacles preventing them from integrating particularly if they can speak a language of that country, for example if the country of return is one where English is spoken or if a language of the country was spoken at home when they were growing up - for these purposes, fluency is not required – conversational level language skills or a basic level of language which could be improved on return, would be sufficient - the cultural norms of the country and how easy it is for the person to adapt to them will also be relevant

Applicant cannot speak any language spoken in the country of return:

- where there is credible evidence that an applicant cannot speak any language which is spoken in the country of return, this will not in itself be a very significant obstacle to integration, especially if the applicant will be returning with or joining family members, unless they can also show that they would be unable to learn a language of that country, for example because of a mental or physical disability

Applicant would have no employment prospects on return:

- lack of employment prospects is very unlikely to be a very significant obstacle to integration - in assessing a claim that an absence of employment prospects would prevent an applicant from integrating in the country of return, their circumstances on return should be compared to the conditions that prevail in that country and to the circumstances of the general population, not to their circumstances in the UK

Less weight should be given to generalised claims about country conditions that have not been particularised to take account of the applicant's individual circumstances.

Private life in the UK

The nature and extent of the private life that an individual has established in the UK is not relevant when you are considering whether there are very serious obstacles to integration into the country of return. However, the existence of a private life in the UK and its strength will be relevant should the applicant fall for refusal under the rules, when you move on to consider whether refusal would breach Article 8 of the Human Rights Convention. See section: Eligibility requirement for private life route relying on Article 8 of the Human Rights Convention in this guidance.

Assessing very significant obstacles into the country of return if the applicant arrived in the UK as a child

If the applicant is over 18 but arrived in the UK as a child (and does not meet the half of life in the UK test) then an assessment of whether there are very significant obstacles to integration in the country in which they might have to live if required to

leave the UK will be necessary. In these cases, you must consider if the individual has lived in that country as an adult which will mean spending a period of employment or study in that country, or other activities consistent with living there as an adult.

Private life applicants who have made a protection or asylum claim that is inadmissible or might be inadmissible

If an applicant has made an asylum claim which has been declared inadmissible under Part 11 of the Immigration Rules before 28 June 2022 or section 80B and 80C of the Nationality Immigration and Asylum Act 2002 and continues to be treated as such, the applicant is excluded from meeting the requirement to show significant obstacles to their integration into the country where they would have to live if required to leave the UK. This is set out at PL 6.1.

You must check both CID and Atlas to determine if the applicant has made an asylum claim and is being caseworked by the Third Country Unit. You must check whether a claim has been refused or recorded as inadmissible on third country grounds or if there are entries showing that action has been taken, is ongoing or awaited.

If the third country claim has been refused or recorded as inadmissible, the applicant cannot be granted private life on the basis that they have very significant obstacles to integration into the country they would have to live if required to leave the UK.

If the third country action is ongoing or a decision is pending, the decision on the private life application should not be made until the third country action has been concluded.

If the caseworking system shows an inadmissibility decision was originally made but the claim has since been admitted, the applicant is not excluded from a grant of leave under private life rules if they meet the eligibility requirements.

You should refer to the Inadmissibility: third country cases (internal link) guidance for information on when a protection or asylum claim has been declared inadmissible.

Related content
Contents

Continuous residence

Continuous residence for permission to stay on the private life route means time spent in the UK for an unbroken period and includes time spent in the UK with or without permission. You must check when the applicant arrived in the UK and how long they have been living in the UK.

Time spent in prison or detention where the applicant was convicted of an offence and sentenced to be imprisoned or detained in another institution (including immigration detention) will not be counted towards the period of continuous residence. However, it will not break continuous residence, so time before and after that imprisonment or detention can be counted. You must check the case working system to see whether the applicant has a criminal history and / or adverse immigration history and, if so, whether they have been sentenced to a period of imprisonment or detention.

Continuous residence has been broken if any of the following apply:

- the applicant has been absent from the UK for more than 6 months at any one time
- the applicant has spent a total of 550 days or more absent from the UK during the period of continuous residence
- the applicant has been removed, deported, or has left the UK having had an application for permission to enter or stay in the UK refused
- the applicant left the UK with no reasonable expectation at the time of leaving that they would lawfully be able to return

Calculating absences for continuous residence

The applicant is asked to list any absences in the Immigration History section of the application form. You must check the copy of the applicant's documentation such as passport pages or travel documents for a record of absences to see if the evidence supports the information on the application form.

If the applicant has not listed all the dates of absence on the form but the passport evidence or other records to demonstrate they were absent, you must ask for more information to clarify this discrepancy.

Follow the missing or inadequate evidence section of this guidance for more information.

It is possible for absences to be overlooked or forgotten so you must give the applicant an opportunity to confirm and rectify the dates with you.

In this case you should ask the applicant if they can confirm their dates of absences. If the applicant insists there was no absence for the dates in question, you can mention that you see documents on record to show they were outside of the country.

You must also check the case working system to see if the applicant has been removed or deported.

Assessing the evidence

This section explains what to consider when assessing evidence of continuous residence.

To demonstrate length of residence in the UK, applicants will be asked to provide documentary evidence as part of the application form.

There is no specified evidence to show continuous residence so you cannot refuse an application for a lack of a particular document but must consider where you are overall satisfied that the applicant has been continually resident for the relevant period.

There is also no set number of documents required to show continuous residence and the evidence submitted will depend on the circumstances of the applicant.

You must carefully consider the information on the application form and other available evidence before deciding whether you are satisfied that the continuous residence requirement is met. Official documentary evidence from official or independent sources, that shows ongoing contact over a period of time, will be given more weight in the decision-making process than evidence of one-off events.

Below is a non-exhaustive list of evidence that may be submitted by an applicant to show continuous residence in the UK. The list is not in order of importance:

- tenancy agreement, mortgage agreement, letter from landlord, documents of ownership deeds or letter from housing trust
- temporary work contracts or employment letters
- letter from a local authority – contact with child or school placements
- utility bills – council tax, electricity, gas, water etc
- other bills – phone, TV licence, cable etc
- other dated UK addressed domestic bills – for example, veterinary bills or home services / repairs
- bank statements
- study course documents
- letters from school or charitable organisations

Although the burden of proof is on the applicant, if they have not yet provided you with sufficient evidence, you should consider whether you should ask them for further information, or you can seek to verify evidence before deciding the application.

Burden and standard of proof

The applicant must show that they meet the continuous residence requirement. If you do not consider that a period in the UK counts as continuous residence the

burden of proof is on the Home Office. The standard of proof is the balance of probabilities (it is more likely than not).

If the applicant provides evidence which you do not accept is genuine, the burden of proof is then on you to show that it is more likely than not that the evidence is not genuine. In such cases, you should also consider the Suitability: false representations guidance (internal link).

Format of evidence

There is no specific format requirement for most documents. This doesn't mean that format is irrelevant – it will help you assess if a piece of evidence is genuine and if it provides the information you need to be satisfied requirements are met. But it does mean you must not refuse an application because the evidence is not in a particular format.

If evidence does not include the information you would normally expect, you should consider whether to take further action to verify it.

Where evidence is missing or inadequate

The applicant will be told what evidence to provide as part of the application process. However, sometimes evidence is missing or inadequate.

If evidence is missing or inadequate, but you do not need the information because you can get it elsewhere, for example, from a previous application, you do not need to contact the applicant.

If evidence is missing or inadequate but receiving it would make no difference to your decision (for example because they would still be refused for other reasons) you do no need to contact the applicant.

If the evidence is missing or inadequate and you think receiving it would make a difference to your decision, you should consider asking for further information or making verification checks. For example, you may want to ask for evidence in the following situations:

- evidence is missing that you believe the applicant has or could obtain
- evidence is inadequate but could be clarified

You may decide to ask for further information from the applicant or make verification checks. For more information see the Evidential flexibility guidance (internal link).

Eligibility requirement for private life route relying on Article 8 of the European Convention on Human Rights

If the applicant does not meet the suitability requirements (see Grounds for refusal - suitability) or the eligibility requirements for a child, young person or adult, you must go on to consider whether refusal would breach Article 8 (the right to respect for

private and family life) of the European Convention on Human Rights (ECHR) on the basis of private life.

In conducting this assessment, you must have regard to all of the information and evidence provided by the applicant. You must take into account, as a primary consideration, the best interests of a relevant child.

You must consider whether refusal would result in a harsh outcome or outcomes for the applicant, which is not justified by the public interest, including in maintaining effective immigration controls, preventing burdens on the taxpayer, promoting integration, and protecting the public and the rights and freedoms of others:

- the impact on the applicant if the application is refused must be considered and an assessment made as to whether this produces an unduly harsh outcome when the factors in the preceding paragraph are taken into account - it is expected that an individual applying on their own under the private life rules will be assessed on that basis without wishing for the impact on family life or family members to be taken into account
- if family members are included in the application, then the other family members must be taken into account and the application considered so as to produce the same result as if considered under GEN.3.2. of Appendix FM

Relevant factors include:

- **serious cultural barriers to relocation overseas** - this might be relevant in situations where a person would be so disadvantaged by the social, religious, or cultural situation in a particular country that they could not be expected to live there - such a barrier must be one which affects their fundamental rights, cannot reasonably be overcome, and would present a very serious obstacle
- in so doing, you should consider the situation in practice and not just what is provided for in law - so, the fact that a country has a law which criminalises same sex sexual acts would not be sufficient to show that a homosexual applicant would face very significant hardship living in that country if the authorities in practice do not prosecute cases and there is no real risk of prosecution or persecution
- **the impact of a mental or physical disability or of a serious illness which requires ongoing medical treatment** - living in or moving to another country may involve a period of hardship for any person as they adjust to their new surroundings, whether or not they have a mental or physical disability or a serious illness which requires ongoing medical treatment - but independent medical evidence could establish that a physical or mental disability, or a serious illness which requires ongoing medical treatment, would lead to very serious hardship: for example, due to the lack of adequate health care in the country where the applicant would be required to continue or resume living - as such, refusal of permission to stay could result in a breach of Article 8
- **the absence of governance or security in another country** - in some circumstances, for example where civil society has broken down as a result of conflict or natural disaster (and such breakdown extends to the country as a whole), requiring an individual to commence living there may give rise to very serious hardship that renders refusal unjustifiably harsh - Foreign Office travel

advice should not normally be referred to, as that is generally aimed at tourists choosing to visit a country for specific purposes and a limited period - rather, you should consider the relevant country information and guidance in relation to the country or countries in which the applicant could lawfully reside
- **the immigration status of the applicant** - you should take into account the circumstances of the applicant's entry to and stay in the UK and the proportion of the time they have been in the UK legally as opposed to illegally - did they establish their right to an Article 8 consideration at a time when they were in the UK unlawfully? Article 8 rights formed in the knowledge that a person's stay here is unlawful should be given less weight (when weighed against the public interest in their removal) than rights formed by a person lawfully present in the UK. Is the applicant in the UK as a visitor, meaning that they have undertaken to leave the UK at the end of their visit as a condition of their visit visa or leave to enter?
- **suitability** - you should take into account any failure of mandatory or discretionary suitability requirements when determining whether refusal is unjustifiably harsh - where a person fails SUI 2.1., SUI 3.1., SUI 4.1., or SUI 5.1. they must be refused under Appendix Private Life

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 breach Article 8 for the applicant.

Examples of circumstances which are not likely to bring about a breach Article 8 include:

- lack of knowledge of a language spoken in the country in which the applicant would be required to live - although inability to speak the language of that country may cause difficulties, it is very unlikely to amount to a breach of Article 8 as many people successfully move to a country where, at first, they do not speak the language
- being separated from extended family members, such as where the parents or siblings of the applicant or their partner live in the UK, unless there are particular factors in the case to establish the unusual or exceptional dependency required for Article 8 to be engaged
- a material change in the quality of life for the applicant in the country in which they would be required to live, such as the type of accommodation they would live in, or a reduction in their income or standard of living, unless this would lead to particular hardship or there were particular exceptional factors in the case

The best interests of a relevant child

You must take into account, as a primary consideration, the best interests of any 'relevant child'.

A 'relevant child' is a child in the UK or overseas, who is under the age of 18 years at the date of application, and who it is evident from the information provided by the applicant would be affected by a decision to refuse the application.

The Supreme Court determined, in ZH (Tanzania) [2011] UKSC 4, that the 'best interests of the child' broadly means their well-being and that in undertaking a proportionality assessment under Article 8 those best interests must be a primary consideration. However, they are not necessarily determinative, and they can be outweighed by public interest considerations. The Court also noted that while British citizenship is not a 'trump card', it is of particular importance in assessing the best interests of a child.

In FZ (Congo) [2013] UKSC 74, the Supreme Court said:

> "...The best interests of a child are an integral part of the proportionality assessment under Article 8 of the Convention; in making that assessment, the best interests of a child must be a primary consideration, although not always the only primary consideration; and the child's best interests do not of themselves have the status of paramount consideration...".

How to consider the best interests of a relevant child

In considering the best interests of a relevant child as a primary consideration within the Article 8 decision-making process, what matters is the substance of the attention given to the overall well-being of the child, not the specific order in which the elements of the consideration take place.

It is also essential that the child is not blamed for any failure by their parent or parents to comply with UK immigration controls. The conduct or immigration history of their non-British citizen parent or parents is relevant to the public interest analysis and must be given due weight in determining the overall proportionality of the decision under ECHR Article 8, but it does not affect the assessment of the child's best interests or the need for those best interests to be taken into account as a primary consideration in the Article 8 decision.

The assessment of a child's best interests requires a consideration of all relevant factors in the particular case. You should consider:

- the child's length of residence in the UK
- the family circumstances in which the child is living
- the child's relationships with their parent or parents overseas and in the UK
- how long the child has been in education and what stage their education has reached
- the child's health
- the child's connection with the country outside the UK in which their parents are, or one of their parents is, currently living or where the child is likely to live if their parents leave the UK
- the extent to which the decision will interfere with, or impact on, the child's family or private life
- whether (and, if so, to what extent) the child will have linguistic, medical, or other difficulties in adapting to life in that country
- whether there are any factors affecting the child's well-being which can only be alleviated by the presence of the applicant in the UK

- what effective and material contribution the applicant's presence in the UK would make to safeguarding and promoting the child's well-being. Is this significant in nature?
- support during or following a major medical procedure, especially if this is likely to lead to a permanent change in the child's life

Related content
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Decision

Granting permission to stay on the private life route

If the applicant meets the suitability requirements of PL.8.2. and the eligibility requirements on residence, the applicant will be granted permission to stay.

If the applicant does not meet the suitability requirements under Part Suitability or does not meet the eligibility requirements on residence but refusal would breach Article 8 under PL 8.1., the applicant will be granted permission to stay unless PL 8.2. applies.

Child or young person

If this is the applicant's first grant of permission on the private life route and they are a child (under 18 at the date of application) or a young person (aged between 18 and 24 at date of application and meets the half of life test) the applicant will be able to choose whether they have 30 or 60 months leave.

An applicant who was initially granted permission as a child or young person either under Appendix Private Life or under paragraphs 276BE(1) or 276BE(2) of Part 7 and is extending their permission to stay will also be able to choose whether they are granted 30 or 60 months leave. As the applicant is extending their leave, they may no longer be a child (for example, they may be over 18) or young person (for example, they may be over 25) at the date of application but they must have met the relevant age criteria when they were first granted leave on the private life route.

You must check what length of leave the applicant has requested on the application form and that the applicant is entitled to choose their leave. You must check that Atlas has correctly recorded the expiry date of leave for that applicant on the decision screen, and if not, enter the correct expiry date.

Private life claims – no application required

Children and young adults being granted permission on the private life route following a private life claim for which no application was required (see section Where a private life claim is being made under Article 8 of the Human Rights Convention of this guidance) will be granted leave for 60-months. Children and young adults will be on a 5-year route to settlement.

Adults

All other applicants granted permission on the private life route will be granted leave for 30-months.

Extension of stay

If the applicant is being granted further permission to stay on the private life route, any remaining period of permission to stay on the basis of private life at the date of application, up to a maximum of 28 days, will be added to the period of leave being granted under paragraph PL 10.1., PL 10.2. or PL 10.3.

Choice on duration of leave and the Immigration Health Surcharge

Children and young adults who meet the half of life test have a choice on the duration of leave granted. They can choose either 30 or 60 months leave. The applicant will have self-identified as part of the application process whether they are currently a child or young person or were a child a young person when first granted leave on the basis of their private life. The cost of an application under the private life rules is the same irrespective of the length of permission required but the cost of the immigration health surcharge is different based on the length of leave requested. The applicant will have paid the relevant immigration health surcharge cost at point of application.

Only children and young adults are entitled to choose the duration of leave under the private life rules. The Immigration Health Charge portal will allow any applicant in the UK applying on the private or family life routes to select the duration of their leave. Whilst there is clear messaging on GOV.UK on which cohorts are eligible to select their leave, some applicants will wrongly self-select.

Approach where the applicant has wrongly self-identified they are entitled to choose their duration of leave

If the applicant has requested 60 months leave but they are not entitled (as they are not a child or young person who met the half of life test or were not a child or young person who met the half of life test when first granted leave on the private life route), they are entitled to a refund of a proportion of the immigration health surcharge. The applicant only needs to pay the Immigration Health Charge for the period of leave they are granted.

The Immigration Health Charge portal and the caseworking system needs to be updated to process and record the refund. The applicant will then receive an automatic refund.

You must read the Immigration health surcharge guidance (internal link) and follow instructions on processing a refund where a person has been granted a lesser period of leave.

Approach where a child or young person has requested 60 months leave but not paid the required fee

If a child or young person has selected that they would like 60 months leave on the application form but has only paid the immigration health surcharge fee for 30 months, you must write out to ask the applicant to make an immigration health surcharge top-up payment within 2 weeks in order to be granted 60 months. If they do not make the payment within the 2 weeks, they should be granted 30 months leave.

Approach where a child included in a family application is to be granted leave on the private life route

Family life applicants pay the immigration surcharge (or are given a fee waiver) for 30 months permission to stay. If a child is to be granted leave on the private life route, you must write out to inform the applicant that they are eligible for 60 months and ask them for an immigration health surcharge top-up payment in order to be granted 60 months. If they do not make the payment within the 2 weeks, they should be granted 30 months leave.

Requests for longer periods of permission (or settlement)

Settlement in the UK is a privilege, not an automatic entitlement. Unless there are truly exceptional reasons, the expectation is that applicants should serve a probationary period of permission before being eligible to apply for settlement.

However, there may be rare cases in which either a longer period of permission or an early grant of settlement is considered appropriate, because there are other particularly exceptional or compelling reasons to grant permission for a longer period (or settlement).

You must consider any request made by an applicant for a longer period of permission or settlement in accordance with the policy on ‘Longer or shorter periods of leave’ in the family life guidance (internal link).

Refusing permission to stay on the private life route

If the applicant does not meet all the suitability and eligibility requirements and refusal would not breach Article 8 of the Human Rights Convention, the application on the private life route must be refused.

If the applicant falls for refusal under Part Suitability but refusal would breach Article 8 under PL 8.2., the application on the private life route must be refused.

You should refer to the suitability guidance when considering each suitability paragraph:

- Part Suitability (internal link)

- Grounds for refusal (external link)

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 ECHR 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 SUI 4.1. and SUI 5.1. The conditions of stay are the same as those for a grant of permission to stay on the basis of private life.

For applicants falling for refusal under SUI 2.1 and SUI 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.

Right of appeal

If the application is refused the person can exercise their right of appeal against that decision under Part 5 of the Nationality, Immigration and Asylum Act 2002. See Rights of Appeal guidance (internal link).

Conditions of stay

Employment

Persons granted permission to stay on the basis of private life can take any kind of employment or self-employment. The work can be full-time or part-time, paid, or unpaid and they do not need any additional permission or endorsement from the Home Office to work.

Study

Subject to the Academic Technology Approval Scheme (ATAS) condition below, persons granted permission to stay on the basis of private life are allowed to study in the UK. There is no limit on the number of hours they can study or level of course they can do.

If the person intends to study a discipline listed in Immigration Rules: Appendix ATAS and they are not a national of an exempt country, they must obtain an Academic Technology Approval Scheme (ATAS) clearance certificate from the Counter-Proliferation and Arms Control Centre of the Foreign, Commonwealth and Development Office in relation to this course before beginning their study.

Access to public funds

Where you are granting on the basis of private life, you must consider whether to grant permission to stay with access to public funds.

You must grant access to public funds where the applicant has provided satisfactory evidence that:

- they are destitute or at risk of imminent destitution
- there are reasons relating to the welfare of a relevant child which outweigh any reasons for not allowing access
- they are facing exceptional financial circumstances relating to their income or expenditure

You may need to make further enquiries to establish whether the above criteria have been met.

When deciding whether to allow access to public funds, the best interests of a relevant child must be treated as a primary consideration.

A ‘relevant child’ means a person who both:

- is under the age of 18 years at the date of application
- it is clear from the information provided by the applicant, is a child who would be affected by a decision to impose or maintain the no recourse to public funds condition

Where the above criteria have not been met, you must not grant access to public funds.

For detailed guidance on assessing when to grant access to public funds see: Access to public funds within family, private life and Hong Kong BN(O) routes (internal link).

Related content
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Dependent children born in the UK to a person on the private life route

This section tells you how to assess an application for permission to stay as a dependent child born in the UK to a person on the private life route.

For guidance on how to assess an application for settlement on the private life route see: Settlement family and private life.

Validity requirements

Before considering suitability and eligibility, you must check the application is valid.

The validity requirements in paragraphs PL 19.1. to PL 19.3. of Appendix Private Life are that the applicant:

- has completed the specified application form on the GOV.UK website: Application to remain in the UK on the basis of family life or private life
- has paid in full the application fee and the Immigration Health Charge unless the applicant has been granted a fee waiver (internal link) in whole or in part
- has given their biometric information, unless exempt – see Identity checks and biometrics (internal link)
- has provided a passport or other travel document which satisfactorily establishes their identity and nationality
- must be applying as a child of a person on the private life route where one of the following applies - the person:
  - has made a valid application for permission to stay in the UK on the private life route that has not been decided
  - has permission to stay on the private life route
  - is settled or has become a British citizen, providing they had permission to stay on the private life route when they settled, and the applicant was born before they settled
- must be in the UK on the date of application
- must be aged under 18 at the date of application

If you are not satisfied the application meets all the validity requirements, you should consider whether to request more information, reject the application or proceed to consider. See section Validity requirements for permission to stay of this guidance for more information.

A person who makes a private life claim under Article 8 of the European Convention on Human Rights (ECHR) for one of the reasons below is not required to complete the specified application form, pay the application fee and Immigration Health Charge, or provide a passport or other document which satisfactorily establishes their identity and nationality, for consideration under Appendix Private Life.

The validity requirement in paragraph PL 19.4. of Appendix Private Life waives those requirements where the claim is made:

- at the same time as a protection claim or further submission in person after a protection claim has been refused (see Further submissions guidance (internal link) for details of when a further submission is considered)
- during an appeal (subject to the consent of the Secretary of State where applicable)

A valid application is also not required where the Secretary of State decides to determine any Article 8 claim in the absence of such an application, for example under paragraph 400 of Part 13 of the Immigration Rules where the person's removal from the UK is contemplated.

See the Where a private life claim is being made under Article 8 of the Human Rights Convention section of this guidance.

Suitability requirements

Before you grant permission to stay on the private life route, you must check the applicant is suitable. The suitability requirements for dependent children born in the UK to a person on the private life route are set out in paragraphs PL 20.1. and PL 20.2. of Appendix Private Life.

To meet paragraph PL 20.1., you must check the applicant does not fall for refusal under any of the grounds for refusal in Part Suitability. See section Suitability for permission to stay on the private life route of this guidance.

Eligibility requirements

Rules referring to Appendix Children

The applicant must meet the following requirements for a dependent child within Appendix Children:

- independent life requirement
- care requirement
- relationship requirement: entry clearance and permission to stay

Caseworkers should refer to the Appendix Children guidance.

Born in the UK The applicant must have been born in the UK. This can be evidenced by a full UK birth certificate.

If the birth certificate has been accepted on a previous application, it does not need to be provided again.

Decision

Granting permission to stay on the private life route

If the applicant meets all of the suitability and eligibility requirements the applicant must be granted permission to stay.

Duration of leave

The applicant will be granted permission to stay which ends on the same date as whichever of their parents' permission ends first. For example, if the parent on the private life route is being granted permission (or has permission) to 31 December 2024 and the other parent has permission to 13 July 2023, the child will be granted permission to 13 July 2023.

If the applicant's other parent is a British citizen or a person who has a right to enter or stay in the UK without restriction and is or will be ordinarily resident in the UK, the applicant will be granted permission to stay which ends on the same date as the parent on the private life route.

Refusing permission to stay on the private life route

If the applicant does not meet all the suitability and eligibility requirements, the application on the private life route must be refused.

The applicant does not need to be considered against the main private life rules if falling for refusal as a dependent child born in the UK.

Right of appeal

If the application is refused the person can exercise their right of appeal against that decision under Part 5 of the Nationality, Immigration and Asylum Act 2002. See Rights of Appeal guidance (internal link).

Conditions of stay

Employment

Persons granted permission to stay on the basis of private life can take any kind of employment or self-employment. The work can be full-time or part-time, paid, or unpaid and they do not need any additional permission or endorsement from the Home Office to work.

Study

Subject to the Academic Technology Approval Scheme (ATAS) condition below, persons granted permission to stay on the basis of private life are allowed to study in

the UK. There is no limit on the number of hours they can study or level of course they can do.

If the person intends to study a discipline listed in Immigration Rules: Appendix ATAS and they are not a national of an exempt country, they must obtain an Academic Technology Approval Scheme (ATAS) clearance certificate from the Counter-Proliferation and Arms Control Centre of the Foreign, Commonwealth and Development Office in relation to this course before beginning their study.

Access to public funds

In all cases where you are granting on the basis of private life, you must consider whether to grant permission to stay with access to public funds.

You must grant access to public funds where the applicant has provided satisfactory evidence that:

- there are reasons relating to the welfare of a relevant child which outweigh any reasons for not allowing access

You may need to make further enquiries to establish whether this is the case. When deciding whether to allow access to public funds, the best interests of a relevant child must be treated as a primary consideration.

A ‘relevant child’ means a person who both:

- is under the age of 18 years at the date of application
- it is clear from the information provided by the applicant, is a child who would be affected by a decision to impose or maintain the no recourse to public funds condition

Where the applicant has not provided satisfactory evidence to meet the above test, you must not grant access to public funds.

For detailed guidance on assessing when to grant access to public funds see: Access to public funds within family, private life and Hong Kong BN(O) routes (internal link).

Decisions in cases where a valid application is not required

Under Appendix FM and Appendix Private Life a valid application is not required when the Article 8 family or private life claim is raised:

- as part of an asylum claim, or as part of a further submission in person after an asylum claim has been refused
- where a migrant is in immigration detention - a migrant in immigration detention or their representative must submit any application or claim raising Article 8 to a

prison officer, a prisoner custody officer, a detainee custody officer, or a member of Home Office staff at the migrant's place of detention
- in an appeal (subject to the consent of the Secretary of State where applicable)
- by those in the Family Returns Process

A valid application is also not required where the Secretary of State decides to determine any Article 8 claim in the absence of such an application, for example under SUI 41.1. to SUI 44.5 of the Immigration Rules where the person's removal from the UK is contemplated.

Guidance on how to consider such cases is contained in the Family life (as a partner or parent) and exceptional circumstances guidance:

- Family life (as a partner or parent) and exceptional circumstances (internal)
- Family life (as a partner or parent) and exceptional circumstances (external)

Allowed appeals against refusal under the private life rules

You should refer to the Implementing allowed appeals guidance (internal link).

Where a human rights appeal is allowed, and the Tribunal have found that the requirements of the Appendix Private Life rules are met you should grant the leave that the appellant qualified for under the Immigration Rules.

For refusals made under Part 7 of the Immigration Rules, where the Tribunal finds the relevant rules have not been met, but allows the human rights claim purely on the basis of exceptional circumstances private life grounds the appellant should be granted 30 months leave outside the Immigration Rules.

In cases where an appeal has been allowed and leave to remain granted as above, you must consider whether to grant permission to stay with access to public funds.

You must grant access to public funds where the applicant has provided satisfactory evidence that:

- they are destitute or at risk of imminent destitution
- there are reasons relating to the welfare of a relevant child which outweigh any reasons for not allowing access
- they are facing exceptional financial circumstances relating to their income or expenditure

You may need to make further enquiries to establish whether the above criteria have been met.

When deciding whether to allow access to public funds, the best interests of a relevant child must be treated as a primary consideration.

A 'relevant child' means a person who both:

- is under the age of 18 years at the date of application
- it is clear from the information provided by the applicant, is a child who would be affected by a decision to impose or maintain the no recourse to public funds condition

Where the above criteria have not been met, you must not grant access to public funds.

For detailed guidance on assessing when to grant access to public funds see: Access to public funds within family, private life and Hong Kong BN(O) routes (internal link).

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Compelling compassionate factors

Where circumstances do not warrant a grant of permission to stay on the basis of Article 8, you must consider if a grant of leave outside the rules is warranted on compelling compassionate grounds.

Compelling compassionate factors are, broadly speaking, exceptional circumstances that warrant a period of leave for a non-Article 8 reason. An example might be where an applicant or family member has suffered a bereavement and requests a period of stay to deal with their loss or to make funeral arrangements.

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

If any compassionate factors are raised in the application, you should consult the following leave outside the rules guidance:

- Leave outside the Immigration Rules (internal)
- Leave outside the Immigration Rules (external)

You should ensure that where an applicant is granted permission to stay on the basis of compelling compassionate factors, the decision letter must clearly show that the grant has been given outside the Immigration Rules on the basis of compelling compassionate factors and is not being made on the basis of their Article 8 family or private life.

It is unlikely that leave will be granted for a period of 30 months but instead should be a short period of leave to reflect the individual circumstances of the application. For example, it may be appropriate to grant a period of 6 months' leave to enable completion of final examinations taking place within 4 months, to allow for the examinations and to arrange travel.

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