



Home Office

# Family reunion: for refugees and those with humanitarian protection

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# About this guidance

This guidance tells you about our refugee family reunion policy, which allows a spouse or partner and children under the age of 18 of those granted refugee status or humanitarian protection in the UK to reunite with them here, providing they formed part of the family unit before the sponsor fled their country of origin or habitual residence. It must be used by caseworkers considering whether to grant entry clearance or leave to enter or remain for the purpose of family reunion in accordance with paragraphs 352A to 352FJ of [Part 11 of the Immigration Rules](#).

This guidance does not cover applications for entry clearance or leave to remain in the UK on the basis of family life under [Appendix FM](#) of the Immigration Rules. For more information, caseworkers should refer to [Immigration Directorate Instruction on Appendix FM: Family Members](#).

## Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors then email the Asylum Policy team.

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email the Guidance Rules and Forms team.

## Clearance

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

- version 2.0
- published for Home Office staff on **29 July 2016**

## Changes from last version of this guidance

This guidance replaces the following instructions:

- Family reunion Asylum Instruction (AI)
- Family reunion / leave in line interim AI
- Settlement (entry clearance) guidance (SET10)

These older versions have been archived.

This version of the guidance contains changes to the section on [arrival in the UK with family reunion entry clearance](#).

## Related content

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# Introduction

## Purpose of instruction

This guidance explains how caseworkers must consider applications for family reunion from family members of those granted refugee status or humanitarian protection in the UK. It sets out the process for entry clearance and in-country applications. The term 'caseworker' applies to both caseworkers processing in-country applications and entry clearance officers dealing with applications from overseas.

Caseworkers must read this guidance in conjunction with other key guidance products, in particular the [Immigration Directorate Instruction on Appendix FM: Family Members](#), and Asylum Policy Instructions on [Revocation of refugee status](#) and [Revocation of Indefinite Leave](#).

## Background

This policy recognises that families can become fragmented because of the nature of conflict and persecution and the speed and manner in which those seeking asylum are often forced to flee their country of origin.

The policy is intended to allow those currently recognised as refugees or granted humanitarian protection in the UK to sponsor pre-flight, immediate family members to join them here. Immediate family members are defined in the Immigration Rules as a spouse or partner and children under the age of 18, who formed part of the family unit before their refugee sponsor fled their country of origin or former habitual residence to claim asylum in the UK.

For the purposes of family reunion the sponsor is the individual who has refugee status or humanitarian protection, including those resettled under the Gateway Protection Programme, Mandate Refugee Programme or the Syrian Vulnerable Persons Resettlement (VPR) scheme. Family reunion applications can be made from abroad by making an entry clearance application or from within the UK. Those granted under family reunion provisions are granted leave in line with their sponsor and are entitled to the same rights and benefits.

## Policy intention

The policy objective is to deliver a fair and effective family reunion process, which supports the principle of family unity by:

- acknowledging the speed and manner in which families may become separated by conflict and persecution, recognising the stress this may cause and providing a means for immediate family members to reunite in the UK
- allowing a spouse or partner and children under the age of 18 of those granted refugee status or humanitarian protection, to reunite with them in the UK, providing they formed part of the family unit before their sponsor fled their country of origin

- ensuring applications are properly considered in a timely and sensitive manner on an individual, objective and impartial basis, acknowledging the vulnerable situation that applicants (particularly women and children) may find themselves in and where possible, expediting claims without unnecessary delay
- preventing abuse of the process by carefully reviewing applications where fraudulent documents are submitted or there is evidence that the sponsor obtained leave by deception, and refusing such applications where appropriate
- preventing those who would otherwise be excluded from the Refugee Convention obtaining leave under the family reunion Rules by subjecting them to the same security checks as asylum seekers

## Application in respect of children

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 children in the UK means that consideration of the child's best interests is a primary, but not the only consideration, in immigration cases. This guidance and the Immigration Rules it covers form part of the arrangements for ensuring that this duty is discharged.

Although Section 55 only applies to children in the UK, the statutory guidance, [Every Child Matters - Change for Children](#) provides guidance on the extent to which the spirit of the duty should be applied to children overseas. Caseworkers considering overseas applications must adhere to the spirit of the Section 55 duty and make enquiries when they suspect that a child may be in need of protection, or where there are safeguarding or welfare needs that require attention. In some instances international or local agreements are in place that permit or require children to be referred to the authorities of other countries. Caseworkers must abide by these arrangements and work with local agencies in order to develop arrangements that protect children and reduce the risk of trafficking and exploitation.

Caseworkers must carefully consider all of the information and evidence provided as to how a family member in the UK who is a child will be affected by a decision and this must be addressed when assessing whether an applicant meets the requirements of the rules. The decision notice or letter must demonstrate that all relevant information and evidence provided about the best interests of a child in the UK have been considered. Caseworkers must carefully assess the quality of any evidence provided. Original documentary evidence from official or independent sources must be given more weight in the decision-making process than unsubstantiated statements about a child's best interests.

Where it is relevant to a decision, caseworkers dealing with overseas applications must make it clear in their decision letter that the child's welfare has been considered in the spirit of section 55 without stating that it is a duty to do so.

Where an applicant does not meet the requirements of the rules for entry clearance or leave to remain, caseworkers must, in every case, consider the [family exceptional circumstances guidance](#) or consider whether there are any [compassionate factors](#) which may warrant a grant of leave outside the Immigration Rules.

For further guidance see section 14 of the [Immigration Directorate Instruction on Family Migration: 5 year routes](#) and sections 9 and 10 of the [Immigration Directorate Instruction on Family Migration: 10 year routes](#).

For more information on the key principles to take into account, see:

- Section 55 Children's Duty Guidance
- [Every Child Matters – Change for Children](#)
- [United Nations Convention on the Rights of the Child](#)
- [Victims of human trafficking – guidance for frontline staff](#) (where appropriate)

### **Related content**

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# Relevant legislation

## Refugee Convention

The 1951 United Nations Convention relating to the Status of Refugees and the 1967 Protocol (the 'Refugee Convention') is the primary source of the framework for international refugee protection. However, it does not refer explicitly to family reunion as one of the rights and benefits refugees should receive in the country of refuge. The principle of family unity is referred to in the [UNHCR Handbook](#) (chapter VI, paragraphs 181-188), which sets out that as a minimum requirement a spouse and minor children of a refugee should benefit from family unity provisions where family life has been temporarily disrupted due to conflict or persecution.

## International obligations and EU legislation

The [European Convention on Human Rights](#) (ECHR) provides the framework for ensuring the rights and fundamental freedoms of individuals in European signatory states. The UK is also signed up to and bound by the EU [Qualification Directive 2004/83/EC](#) which came into effect on 9 October 2006. These set out the criteria which Member States must apply when considering matters relating to refugees and those with subsidiary protection (referred to as humanitarian protection in the UK).

Article 23 covers maintaining family unity and sets out that qualifying family members are entitled to claim certain benefits set out in Articles 24 to 34, where appropriate. These are broadly the same rights and benefits as recognised refugees and those granted humanitarian protection. These provisions are reflected in [Part 11 of the Immigration Rules](#).

The [Dublin Regulation \(EU\) No. 604/2013](#) is an EU Regulation that determines the State responsible for deciding an asylum claim lodged in an EU Member State, Iceland, Norway, Switzerland or Liechtenstein. This obliges Member States to keep or bring together close family members, such as spouses and minor children. There are also specific provisions to unite unaccompanied minors with parents or siblings where this is in their best interests or with other relatives where they can take care of the child and it is in their best interests to bring them together. The relatives must be legally present in the Member State concerned, but this can also include asylum seekers awaiting a decision on their claim.

## Domestic legislation

[Section 15 of the Immigration Act 2014](#) reduced the rights of appeal so that an appeal can only be brought against a decision to refuse a human rights, protection claim or a decision to revoke protection status.

The right of appeal is subject to the exceptions and limitations set out in [Part 5 of the Nationality, Immigration and Asylum Act 2002](#), including the place from where an appeal may be brought or continued. See [Rights of appeal](#) guidance for further information.



An appeal under section 82(1)(b) of the Nationality, Asylum and Immigration Act 2002 (refusal of human rights claim) must be brought on the ground that the decision is unlawful under section 6 of the [Human Rights Act 1998](#). The refusal of an application for leave to enter or remain on the basis of the family reunion rules (or on an exceptional basis) is a human rights claim for the purposes of section 82(1)(b).

Section 92(4) specifies that in the case of an appeal under section 82(1)(b) (human rights claim appeal) where the claim to which the appeal relates was made while the appellant was outside the UK, the appeal must be brought from outside the UK.

## Immigration Rules

[Part 11 of the Immigration Rules](#) sets out the criteria for family reunion. It may also be appropriate to consider other provisions in parts 8 and 9 of the rules. The following are of particular relevance to this instruction:

- paragraphs 352A to 352FJ set out the requirements for granting family reunion and covers spouse or partner and children under the age of 18 of those currently with refugee status or humanitarian protection in the UK
- paragraphs 344A(i) to 344A(ii) cover the circumstances for dealing with applications for a Convention Travel Document (CTD) for refugees and those with humanitarian protection and Certificate of Travel (CoT) for those unable to obtain a national passport
- paragraphs 319L to 319WB (which have been closed to new applications since July 2012 and incorporated into Appendix FM) apply only to those with limited leave granted before the 9 July 2012 and those who applied before 9 July 2012 and have not been decided
- paragraphs 319X to 319XB set out the requirements for leave to enter or remain as the child under the age of 18 of a relative who has refugee status or humanitarian protection in the UK
- paragraphs 320 to 322 set out the general grounds for refusal and also apply to family reunion applications. See [General grounds for refusal](#) for more information.
- paragraphs 339A to 339AC and 339BA set out when refugee status granted under paragraph 334 may be revoked or renewed and paragraphs 339G to 339GD set out similar provisions for those granted humanitarian protection

### Related content

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# Family reunion application process

The family reunion provisions allow [qualifying family members](#) (spouse or partner and children under the age of 18, who formed part of the family unit before their sponsor fled their country) to be reunited with a family member who has been granted refugee status or humanitarian protection in the UK, unless the applicant and/or the family member should be excluded from protection or criminality thresholds apply. See [General grounds for refusal](#) for more information.

Family reunion applications should ordinarily be made from outside the UK. However, the Immigration Rules also allow for in-country applications.

There are no application charges or biometric enrolment fees for such applications under [Part 11 of the Immigration Rules](#). Biometric data can be provided at a participating Post Office in the UK or one of UK Visas and Immigration's (UKVI's) global network of [Visa Application Centres](#) (VACs). There is no charge for family reunion applicants to use the Post Office or VAC.

## Applications made outside the UK

Those who wish to join family members in the UK under family reunion provisions should apply for entry clearance using the [on-line application system](#). As the online service is not available in the Democratic People's Republic of Korea, [all visa applicants from the Democratic People's Republic of Korea](#) must complete an application form and attend the British Embassy in Pyongyang.

Successful applicants should be aware that family reunion entry clearance visas are only valid for 30 days and they must travel to the UK within this 30 day validity period or the visa will expire. If an applicant needs longer to make travel preparations, they should make clear on the application form the earliest date they intend to travel to the UK so that the visa can be issued to start on that day. Applicants should give themselves enough time to make travel arrangements when completing the application form.

## Applications made in the UK

Applications for family reunion made in the UK should be made by writing to UKVI and the letter should include the following information:

- the sponsor's full name, date of birth, nationality and Home Office reference number
- 2 passport sized photographs of each applicant
- valid passport for each applicant (where possible)
- a statement from the sponsor, setting out who is in their family, giving names and dates of birth, how they came to leave their family behind, what contact they have had with their family whilst separated, what contact they have with their family currently and what circumstances their family is living in
- any supporting documentary evidence available – see the section in this guidance on '[Evidence](#)'

- contact details in the UK of the sponsor and any representative

All applications made in the UK must be sent to:

UKVI Family Reunion Team  
Admin Team  
7th Floor, Capital Building  
Liverpool  
L3 9PP

There is no fee payable for a Refugee Family Reunion application.

## Family reunification under Dublin Regulation

There is provision under the [Dublin Regulations](#) for family reunification (the section in this guidance on '[International obligations and EU legislation](#)' refers). This only applies where an individual has lodged an asylum claim in a State that participates in the Dublin Regulation; that is a Member State of the European Union, Iceland, Norway, Switzerland and Liechtenstein. The provisions respecting family unity in the Dublin Regulation operate separately and distinctly from the family reunion provisions under Part 11 of the Immigration Rules. Further information is available in the guidance Third Country Cases: Referring and Handling and the [Official Journal of the European Union](#).

### Related content

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# Considering family reunion applications

All family reunion applications must be carefully considered by applying paragraphs 352A to 352FJ of the Immigration Rules in accordance with this guidance. Where an application does not meet the requirements of the Immigration Rules, caseworkers must consider the [family exceptional circumstances guidance](#) or whether there are any [compassionate factors](#) which may warrant a grant of leave outside the rules. Applications should be progressed without unnecessary delay, particularly given some applicants may be in vulnerable situations whilst awaiting a decision.

Most family reunion applications are considered on the information provided in the application form, the supporting evidence that the applicant submits and the results of other checks and enquiries about the sponsor and applicant. However, in some cases it may be appropriate to interview the applicant or sponsor either by telephone or in person, depending on the circumstances of the case.

Security and identity checks must be completed on the applicant and their sponsor before considering the application.

## Proof of identity

In all cases, caseworkers must be satisfied that the applicant is who they claim to be. All applicants in-country and overseas are required to give their biometrics. For applicants over 5 years of age, this will be a scan of their fingerprints and a digital photograph. Applicants who are under 5 are not required to provide their fingerprints, but must still provide a photograph. Caseworkers must refer to the Operating Mandate for details of the business as usual biometric checks to be carried out.

Applicants must submit all original documents that they are able to provide to establish their identity and to support their claim to be related to the sponsor, this could be:

- a passport
- national identity cards
- other official documents, including, for example, school ID cards or letters, UNHCR attestations or identity cards

Where original documents are not available to submit with an application, such as a passport or marriage certificate, because they have been lost or they could not be issued due to there being no authority to issue in the country the sponsor and their family have left, the onus will be on the applicant to provide a reasonable alternative and explanation of their absence, including any attempts to obtain them, and to satisfactorily demonstrate they are related as claimed to their sponsor. The [Evidence](#) section of this guidance provides further information.

Submitting false documents or evidence, whatever the motives for so doing, will lead to refusal and this is covered in the [General grounds for refusal](#) section of this guidance.

## Confirm the sponsor's status

In all cases caseworkers must be satisfied that the sponsor currently has refugee status or humanitarian protection in the UK. Caseworkers must check that:

- the sponsor's refugee status or humanitarian protection leave is not under reconsideration and has not been revoked
- there is no reason to consider reviewing the sponsor's refugee or humanitarian protection status (see [Revocation of refugee status](#))

## Revocation of the sponsor's status

Where a family reunion application is made, the information submitted will be reviewed against any information provided by the sponsor as part of their original asylum claim or any subsequent application for further leave or settlement. Where this gives rise to evidence of deception by the sponsor this will lead to a review of their entitlement to refugee status or humanitarian protection in the UK, although caseworkers should be mindful that applicants may not always know the full details of the sponsor's asylum claim due to, for example, prolonged separation or security reasons. See [Revocation of refugee status](#) for more information.

## General grounds for refusal

The Home Office is responsible for maintaining effective immigration control. This includes preventing abuse of the system. The general grounds for refusal in [part 9 of the Immigration Rules](#) apply to family reunion applications. Caseworkers must consider all the general grounds for refusal but the ones highlighted in this section are of particular relevance.

As part of a family reunion application it is important that individuals provide supporting evidence to establish their identity and evidence that they are related to their sponsor as claimed.

Where the applicant has submitted false documents with the application caseworkers must refuse it under:

- paragraph 320(7A) of the Immigration Rules for entry clearance or leave to enter applications
- paragraph 322(1A) of the Immigration Rules for leave to remain applications

These rules provide that an entry clearance, leave to enter or remain application is to be refused where false representations have been made or false documents or information is submitted (whether or not material to the application, and whether or not to the applicant's knowledge), or material facts have not been disclosed, in relation to the application or in order to obtain documents from the Secretary of State or a third party required in support of the application.

Before deciding an application, caseworkers must check if the applicant has been convicted of a criminal offence and been sentenced. Caseworkers must refer to the general grounds for refusal guidance on exclusion and deportation for further information.

Caseworkers must consider refusing a person where there is evidence that their background, behaviour, character, conduct or associations shows they should not be granted entry clearance or leave to enter or remain in the UK for one or more of the grounds set out in paragraphs 320 and 322 of the Immigration Rules. This includes considering whether refusal on conduct grounds may be appropriate where false documents or evidence/information are submitted as part of the application.

For further guidance see [General grounds for refusal](#).

## Definition of an eligible sponsor for family reunion

[Paragraphs 352A-FJ](#) of the Immigration Rules define a sponsor as a person who is lawfully resident in the UK, has not yet obtained British citizenship, and falls into one (or more) of the following categories:

- currently has refugee status
- currently has humanitarian protection status
- was admitted under the [Gateway Protection Programme](#)
- was admitted under the [Mandate Refugee Programme](#)
- was admitted under the Syrian Vulnerable Person Resettlement (VPR) scheme

Sponsors who have indefinite leave to remain and refugee status or humanitarian protection, but have not yet obtained British citizenship, are eligible to sponsor family reunion applications.

Family reunion applicants do not have to satisfy the family Immigration Rules under Appendix FM, including the financial, accommodation or English Language requirements. Applicants are also exempt from the '[Knowledge of language and life in the UK](#)' requirement at the settlement stage.

## Gateway, Mandate and Syrian VPR scheme

Applications to join a sponsor who was resettled to the UK under the [Gateway Protection Programme](#), [Mandate Refugee Programme](#) or Syrian Vulnerable Person Resettlement scheme must be considered under the family reunion policy.

Caseworkers must be satisfied that the sponsor declared the dependant on their resettlement application and must be satisfied that they are related as claimed.

Where a sponsor has not declared the dependant on their resettlement application the onus will be on the applicant to provide a reasonable explanation for the omission and to satisfactorily demonstrate they are related as claimed to the individual seeking entry or leave to remain.

## Ineligible sponsors for the purpose of family reunion

The following persons cannot sponsor a family member under the family reunion rules. Their family members must apply under a relevant category of the Immigration Rules in their own right or as a dependent partner, parent, child or adult dependent relative:

- an asylum seeker whose claim has not been determined
- a British citizen (even if previously granted refugee status or humanitarian protection)
- a person granted Discretionary Leave (DL), Exceptional Leave to Enter or Remain (ELTE/R)
- a person who has settled (been granted indefinite leave to enter or remain) following 6 years DL (those granted DL pre-9 July 2012) or 10 years DL (those granted DL on or after 9 July 2012)
- a person refused asylum and subsequently granted leave to remain, Indefinite Leave to Enter or Remain (ILE/R) outside the Immigration Rules
- a minor (under 18 years of age) with leave in any category, including refugee status – if a minor holds refugee status, they cannot sponsor relatives under the rules (even parents)
- a family member of a refugee or a person granted humanitarian protection who has not qualified for refugee status or humanitarian protection in their own right
- a same-sex or unmarried partner granted refugee status or humanitarian protection status pre-9 October 2006 (see [Definition of an unmarried or same-sex partner](#))

## Definition of an eligible applicant for the purpose of family reunion

[Paragraphs 352A-FJ](#) of the Immigration Rules define a person who may apply for leave to enter or leave to remain for the purposes of family reunion. When considering paragraph 352A or 352FJ, the caseworker must be satisfied [to the required standard of proof](#), that:

- the applicant and sponsor are related as claimed
- the applicant formed part of the family unit prior to the sponsor having fled their former country of habitual residence to claim asylum in the UK

## Definition of a spouse or civil partner

The requirements for entry clearance or leave to remain as a spouse or civil partner for the purpose of family reunion are set out in paragraphs [352A](#) or [352FA](#) of the Immigration Rules. When considering an application under these rules the caseworker must be satisfied, [to the required standard of proof](#), that all the following criteria are met:

- the applicant and partner have a valid marriage or civil partnership
- the spouse or civil partner has met the sponsor
- the [evidence](#) produced establishes that the relationship between the sponsor and the applicant is genuine



- each of the parties intends to live together permanently with the other and that the relationship is subsisting

When assessing whether or not a relationship is subsisting, caseworkers must be mindful that those fleeing conflict or persecution may become separated from their families and may even lose contact for periods of time due to circumstances beyond their control. Applicants may also have difficulties in maintaining regular contact, particularly if they are in refugee camps for periods of time. It is important to carefully consider all evidence available and any explanations for a lack of evidence to reach an informed decision. For further guidance, see Immigration Directorate Instruction Chapter 8 Section FM2.1 [Eligibility, registration, dissolution & glossary of terms - civil partnerships](#).

### Definition of an unmarried or same-sex partner

The requirements for entry clearance or leave to remain as an unmarried or same-sex partner for the purpose of family reunion are set out in [paragraph 352AA of the Immigration Rules](#). This rule was introduced on 9 October 2006 to include same-sex or unmarried partners. Unmarried and same-sex partners are therefore only eligible for family reunion if their sponsor was granted refugee status or humanitarian protection status on or after 9 October 2006. See [Statement of changes in Immigration Rules](#) for further information.

When considering paragraph 352AA the caseworker must be satisfied that all the following criteria are met:

- that the parties have met
- that the parties have been living together in a relationship akin to marriage or a civil partnership which has subsisted for 2 years or more
- that the [evidence](#) produced establishes that the relationship between the sponsor and the applicant is genuine
- that each of the parties intends to live together permanently with the other and that the relationship is subsisting

Where the applicant applies for family reunion as a same-sex or unmarried partner of someone with refugee or humanitarian protection status and does not meet the requirements in 352AA of the Immigration Rules, the application must be refused under the rules. Consideration must then be given to the [family exceptional circumstance guidance](#) or any [compassionate factors](#) which may warrant a grant of leave outside the rules, including whether the requirement to live together would have put a same-sex or unmarried couple in danger.

Where the applicant's sponsor was granted refugee status or granted humanitarian protection status on or before 9 October 2006, a family reunion application as an unmarried or same-sex partner does not meet the requirements of paragraph 352AA of the Immigration Rules and it should therefore be refused under the rules. Consideration must then be given to the [family exceptional circumstance guidance](#) or any [compassionate factors](#) which may warrant a grant of leave outside the rules, including whether the requirement to live together would have put an unmarried or same-sex couple in danger, and whether the date that refugee status or



humanitarian protection status was granted is the only reason that the application does not meet the requirements of the Immigration Rules.

## Definition of a child

The requirements for entry clearance or leave to remain as a child for the purpose of family reunion are set out in paragraphs [352D or 352FG](#) of the Immigration Rules. When considering applications under these rules caseworkers must be satisfied that all the following criteria are met:

- the sponsor is the child's parent
- the child is under the age of 18 at the time of the application – where a child reaches the age of 18 after such an application has been lodged, but before it has been decided, the caseworker must consider the applicant's eligibility under paragraph 352D of the Immigration Rules as if the applicant was still under 18
- the child is not leading an independent life
- the child is not married, in a civil partnership or formed an independent family unit

## Adopted children

Where a sponsor has requested family reunion for a child adopted pre-flight, the sponsor must be able to demonstrate that they hold an adoption order, and that it was granted either by the administrative authority in the third country, or by a court which has the legal power to decide such applications.

The adoption order should have been issued in the child's country of origin, or where the child is living. Caseworkers should ensure that the adoption order issued overseas is recognised as valid for the purposes of UK law.

## Cases where a dependant's age is disputed

The requirement for family reunion as a child is that they must be under the age of 18 and not leading an independent life. In cases where caseworkers see the child and they have little or no evidence to support their claimed age or there is doubt as to whether they are a child, an initial assessment of the child's age must be made. The applicant claiming to be a child will be considered an adult if their physical appearance and/or general demeanour very strongly suggests that they are significantly over 18 years of age. In overseas cases, if there is any doubt about the child's age, consideration should be given to interviewing them to make an initial assessment of their age.

In such cases, all available sources of relevant information and evidence should be considered since no single assessment technique, or combination of techniques, is likely to determine the applicant's age with precision.

For in-country cases, guidance on dealing with age disputed claims in the UK can be found in the Asylum Instruction on [Assessing Age](#) and in the [Joint Working Guidance on Age Assessment](#) for front line practitioners. Although this only applies to in-country cases, the guidance on the weight to be applied to evidence relating to age

can be used to inform decisions in overseas cases but caseworkers must be mindful of the in-country context of the guidance. For example, as the claimant will not be in the care of a UK local authority, there will be no duty on a local authority to conduct an age assessment.

## Children conceived before the refugee fled their country

A child conceived before the sponsor fled to seek asylum in the UK but born post-flight should be treated as part of the pre-flight family of the sponsor. [Proof of relationship](#) will be required. If the caseworker is satisfied that the sponsor is the child's parent, then leave in line, but not refugee status, may be granted. For further guidance see [Dependants and former dependants: asylum policy instruction](#).

## Definition of an ineligible applicant for the purpose of family reunion

The following persons do not meet the criteria under the family reunion rules:

- a person who falls within the terms of one of the [exclusion clauses](#) listed under Article 1F of the Refugee Convention
- a post-flight family member, including those who formed a relationship with the sponsor in a third country, after the sponsor fled their country of origin or former habitual residence to seek asylum
- a fiancée or fiancé (unless they meet the civil, unmarried or same-sex partner criteria under [paragraph 352A or 352AA](#))
- a family member to a consanguineous relationship (relationship by blood) – see [Marriage \(Prohibited Degrees of Relationship\) Act 1986](#) and [Civil Partnership Act 2004](#)
- de facto adoption cases
- family members of children granted refugee status or humanitarian protection
- a child born in the UK after the grant of asylum or grant of humanitarian protection (see [UK born children](#)), unless conceived pre-flight (see [Children conceived before the refugee fled their country](#))
- a child over the age of 18 (unless they were 17 at the point of initial application)
- or any other dependent relatives who are over 18, for example a sister, brother, parent, grandparent, uncle or aunt

## UK born children

For further guidance on dealing with children born in the UK see [Dependants and former dependants: asylum policy instruction](#).

## Parents and siblings of a child recognised as a refugee

The parents and siblings of a child who have been recognised as refugees are not entitled to family reunion under the Immigration Rules. Where an application does not meet the requirements of the Immigration Rules, the caseworker must consider the [family exceptional circumstances guidance](#) or consider whether there are any [compassionate factors](#) which may warrant a grant of leave outside the rules. Each case must be considered on its individual merits and include consideration of the best interests of the child in the UK. As the Immigration Rules are specifically

designed to meet our obligations under the European Convention on Human Rights (ECHR) in respect of family or private life, it is not expected there will be significant numbers granted outside the rules. However, it is important that evidence relating to exceptional circumstances is carefully considered on its individual merits.

## De facto adopted children

A de facto adoption is one where a child has been incorporated into another family than the one into which they were born, and has been cared for in that family. Unlike formal adoptions which can be established on the basis of documentary evidence, de facto adoptions are likely to require an assessment of the overall picture of the circumstances surrounding the 'adoption', often with little or no documentary evidence. The onus to establish a de facto adoption is on the applicant.

There is no provision in the Immigration Rules to consider a sponsor who has requested family reunion for a child who is the subject of a de facto adoption. Applications involving de-facto adoptions must be refused under the rules and caseworkers must then go on to consider the [family exceptional circumstances guidance](#) or whether there are any [compassionate factors](#) which may warrant a grant of leave outside the Immigration Rules. Also see: [Other applications for those not eligible for family reunion](#).

## Polygamous marriages

The Immigration Rules ([Part 8 – paragraph 278 and 296](#)) on polygamous marriages apply to family reunion applications. For further information see the Immigration Directorate Instructions Chapter 8 Section FM 1.4 [Polygamous and potentially polygamous marriages](#).

## Exceptional circumstances or compassionate factors

Where a family reunion application does not meet the requirements of the Immigration Rules, caseworkers must consider whether there are any exceptional circumstances or compassionate factors which may justify a grant of leave outside the Immigration Rules.

There may be exceptional circumstances raised in the application which make refusal of entry clearance a breach of ECHR Article 8 (the right to respect for family life) because refusal would result in unjustifiably harsh consequences for the applicant or their family. Compassionate factors are, broadly speaking, exceptional circumstances, which might mean that a refusal of leave to remain would result in unjustifiably harsh consequences for the applicant or their family, but not constitute a breach of Article 8.

It is for the applicant to demonstrate as part of their application what the exceptional circumstances or compassionate factors are in their case. Each case must be decided on its individual merits. Entry clearance or a grant of leave outside the Immigration Rules is likely to be appropriate only rarely and consideration should be given to interviewing both the applicant and sponsor where further information is needed to make an informed decision. The following examples may lead to a grant of leave outside the rules:

- an applicant who cannot qualify to join parents under the rules because they are over 18 but all the following apply:
  - their immediate family, including siblings under 18 qualify for family reunion and intend to travel, or have already travelled, to the UK
  - they would be left alone in a conflict zone or dangerous situation
  - they are dependent on immediate family in the country of origin and are not leading an independent life
  - there are no other relatives to turn to and would therefore have no means of support and would likely become destitute on their own
  
- where an applicant is an unmarried or same-sex partner and they meet all the requirements of paragraph 352AA with the exception that the sponsor was granted refugee status or humanitarian protection status before 9 October 2006
  
- where an applicant is an unmarried or same-sex partner and they meet all the requirements of paragraph 352AA except the requirement to live together and the caseworker is satisfied that they have evidenced that this would have put them in danger

Further guidance on considering exceptional circumstances or compassionate factors, and how to set this consideration out in any decision letter, is available via the following links:

### **Entry clearance**

See section 14 of the [Immigration Directorate Instruction on Family Migration: 5 year routes](#). Where a decision is to be made on entry clearance outside the Immigration Rules, the caseworker must refer the case to the Referred Casework Unit (RCU). A full recommendation must be included based on an assessment of the application and all the evidence considered. For details of the referral process and the appropriate referral form see Referral and Deferral guidance for ECOs (internal).

### **In-country**

See sections 9 and 10 of the [Immigration Directorate Instruction on Family Migration: 10 year routes](#).

### **Related content**

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# Evidence

Although there is no requirement in the Immigration Rules for specified evidence to support a family reunion application, the onus is on the applicant and their sponsor to provide sufficient evidence to prove their relationship and satisfy the caseworker that they are related as claimed. The caseworker must consider whether, on the 'balance of probabilities', there is sufficient information to accept that the sponsor and applicant are related as claimed and that the relationship is genuine and subsisting.

Caseworkers must be mindful of the difficulties that people may face in providing documentary evidence of their relationship or the fact that it is subsisting. Those fleeing conflict zones or dangerous situations may not have time to collect supporting documents and may not realise they would be required.

Genuine documentation may not be readily available for a number of reasons:

- applicants may have needed to leave their home under duress and without the time or capacity to collect documents
- there may not have been a functioning administrative authority to issue documents such as birth and marriage certificates or even passports
- the applicant may also be reluctant to approach authorities through fear of persecution, which may have prevented what would otherwise be a standard administrative process, for example the registration of marriage or the birth of a child
- refugees or those with humanitarian protection may not have any evidence, for example, of the existence of a same-sex relationship, where having photographs in the country from which the sponsor has fled may have put them in danger
- documents may have been lost or destroyed in the conflict or on the journey to safety

In addition to individual accounts given by the applicant, [Country Information and Guidance](#) (CIG) will give some insight into challenges that they may face in acquiring documents or providing credible documentation and providing evidence that their relationship started before their sponsor left to support their application.

Where original documents are not available to submit with any application, such as a passport or marriage certificate, the onus is on the applicant to provide a reasonable alternative or an explanation of their absence and to satisfactorily demonstrate that are related to, or in a relationship as, claimed to their sponsor. Applicants and sponsors may not understand the importance or the need to write a statement relating to lack of evidence. See [Requesting further evidence](#).

Careful consideration should be given to how the sponsor came to leave the family behind, any delay between the sponsor being separated from their family when they left to seek protection and being able to contact the applicant, what contact they have had and are having with their family currently and what circumstances their family is currently living in. Caseworkers should bear in mind that had the sponsor's family been able to leave at the same time, they may well be refugees in their own

right or have humanitarian protection. A period of separation may not have been out of choice, with people being forced to spend time apart when the sponsor left to seek protection.

Caseworkers must consider the reasons behind any period of separation as well as intention to live together in the UK before any decision is made to refuse on the basis that a relationship is not subsisting.

## Standard and burden of proof

Any evidence must meet the civil law standard, which is the balance of probabilities. Caseworkers must consider whether, after looking at all the evidence, it is more likely than not that the applicant and their sponsor are in a relationship or related as claimed. It is for the applicant and their sponsor to provide sufficient evidence to show they are related or in a relationship as claimed and satisfy this burden.

## Requesting further evidence

Caseworkers may request further information about the application. Requests for further evidence or documents should be sensible and realistic, bearing in mind the situation which has prompted the refugee to leave their country of origin or habitual residence. For example, the applicant may be residing in a refugee camp without easy access to the internet, telephone or postal services and may have fled their home with few belongings. They may not be in a position to provide further documents or have any safe or regular access to the internet.

If the caseworker considers that an explanation about the lack of documents or further evidence is required to support the claimed relationship, enquiries should be made through either the applicant's representative, by post or by arranging a telephone call to the sponsor or applicant (where appropriate). If the caseworker is still not satisfied with the evidence they may, if they think necessary, arrange an interview with the sponsor in the UK and or with the applicant overseas.

## Proof of relationship

The evidence produced must establish that the relationship between the sponsor and the applicant exists and that it is genuine. It must also establish that the relationship existed prior to the sponsor having fled the country of origin to seek asylum in the UK, if that was permitted in the country of origin, and that they intend to live together in the UK. Applicants and sponsors in family reunion cases may not be able to provide the level of evidence that would be required for other applications under the Immigration Rules, due to the nature of refugee journeys. The onus is on the applicant to provide a plausible explanation and establish that they are in a relationship or related as claimed to their sponsor.

Where the application is made in-country, the evidence must establish that the sponsor and applicant have lived together since the applicant's arrival in the UK, or provide a reasonable explanation as to why they have not been living together and their future intentions.



Applicants could include any number of documents to support their claim that they are related as claimed, this could be:

- marriage certificates
- traditional marriage ceremony documents
- documents relating to accommodation or joint purchases
- DNA tests (at the applicant's expense and from an organisation [accredited by the Ministry of Justice – HM Courts and Tribunal Service](#))
- birth certificates
- adoption orders
- original letter from UKVI or Immigration Enforcement (IE) confirming the sponsor has leave and status as claimed in the UK
- family photographs
- wedding photographs
- wedding invitations
- witness statements (from the sponsor and applicant, wedding guests, family members, or person who conducted the ceremony)
- communication records (telephone records, emails and letters for the period they have been apart, or social media messages)
- any other evidence indicating the relationship is as claimed

Caseworkers must take into account any other evidence previously available to the Home Office as part of any other application. For example, evidence submitted as part of the asylum claim (statement of evidence form (SEF), witness statements, asylum interview or evidence from any appeal hearing). The fact that family members have been mentioned in the asylum claim is a strong indication that they formed part of the pre-flight family unit.

If there is no reference to dependants as part of the previous asylum claim, this may be related to factors such as security concerns for family overseas. Where there are other factors that undermine the credibility of the application, caseworkers must consider refusing the application on papers alone.

In cases where an application cannot be decided based on the information provided, caseworkers may ask for further evidence by contacting the applicant's legal representative or if unrepresented the applicant or sponsor. In some cases it may be appropriate to arrange an interview. During an interview caseworkers must ask appropriate questions in a sensitive manner to carefully test the evidence and put any discrepancies to the applicant or the sponsor. Caseworkers may defer the application and make further enquiries to the Evidence and Enquiries Unit for evidence that the relationship is as claimed.

Where the sponsor is in the UK on the Syrian Vulnerable Person Resettlement (VPR) Programme, [Gateway Protection Programme](#) or [Mandate Refugee Programme](#) the caseworker must be satisfied that the sponsor declared the dependant on their resettlement application form to confirm they are related as claimed. As above, there may be legitimate reasons why the sponsor did not mention a dependant at an earlier stage and any explanation provided must be carefully considered.

Caseworkers may defer the application and make further enquiries to the Refugee Resettlement Programmes Unit (RRPU) for evidence that the relationship is as claimed. Caseworkers should include the sponsor's name, date of birth, Home Office reference number (if known) and specify which programme the sponsor has arrived in the UK under (Syrian VPR Programme, Gateway Protection Programme or Mandate Refugee Programme) when contacting RRPU.

Providing the caseworker is satisfied that the evidence submitted shows that the dependant is who they claim to be, that the relationship with the sponsor exists, is genuine, they intend to live together in the UK and that the requirements of the Immigration Rules have been met, the caseworker may grant leave – but not refugee status – in line with the sponsor.

## DNA testing

The onus is on the applicant and their sponsor to provide sufficient evidence to prove their relationship and satisfy the caseworker that they are related as claimed. As part of this, they may wish to submit a DNA test at their own expense and from an organisation [accredited by the Ministry of Justice – HM Courts and Tribunal Service](#).

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# Grant or refuse applications

Applications for family reunion that meet the relevant requirements of the Immigration Rules will be granted leave in line with the sponsor but they will not be granted refugee status. This is because an assessment as to whether a person is a refugee is an individual assessment. The family member will be granted the same duration of leave that the sponsor has remaining so that their leave will expire at the same time as the sponsor's leave expires. If the sponsor has indefinite leave to remain (ILR) and refugee or humanitarian protection status, family members will be granted ILR in line but not status in line.

Recognised family members of a refugee under the family reunion policy are eligible for some of the same entitlements as their refugee sponsor, for example access to public funds and a [Convention Travel Document \(CTD\)](#) ([subject to application form criteria](#)). Family members do not automatically become refugees in their own right and, as such, they are not eligible to sponsor other family reunion applications of their own under Part 11 of the Immigration Rules.

## Grant entry clearance

If the application is successful, the issuing post should check the application form for the proposed date of travel. If that date has either passed or is imminent, the post should contact the legal representative, applicant or sponsor to find out what their travel arrangements are and make clear that the visa is only valid for 30 days once issued, but the start date can be deferred for up to 3 months. The vignette (visa attached to applicant's passport) is proof of permission to enter the UK and will allow the applicant to travel to the UK.

The visa (vignette) should be affixed to the applicant's passport. Entry clearance should be endorsed with the sponsor's initial and surname added in the additional endorsement field. In certain circumstances, the applicant will not possess a recognised travel document or a passport. In this situation, entry clearance caseworkers should seek the authority of the entry clearance manager (ECM) to issue the visa (vignette) on a Uniform Format Form (UFF).

In all cases where a visa is to be issued the applicant must be informed without unnecessary delay to make sure they are able to arrange to collect their visa and make the necessary travel arrangements within the 30 day validity period.

Successful applicants should be advised that they will be required to [collect their biometric residence permit \(BRP\)](#) from their chosen Post Office within 10 days of arrival in the UK. The BRP does not confer status in line, only leave in line.

## Grant entry clearance outside the Immigration Rules

In any case where, following referral to the Referred Casework Unit (RCU), the RCU caseworker decides that it is appropriate for entry clearance on the basis of the applicant's ECHR Article 8 family life under the exceptional circumstances policy or

compassionate factors, this should be granted for 33 months, and subject to a condition of no recourse to public funds. See section 14 of the [Immigration Directorate Instruction on Family Migration: 5 year routes](#).

## Refuse entry clearance

If the applicant does not meet the requirements of the Rules, and there are no exceptional or compassionate circumstances, the application must be refused. Where entry clearance is refused the decision notice should indicate the refusal under the relevant paragraph ([Part 11 of the Immigration Rules, paragraphs 352A – 352FJ](#) covers applications for family reunion).

Refusal decisions must make reference to the supporting evidence submitted with the application and a consideration of why the evidence submitted does not satisfy the Immigration Rules to the [required standard of proof](#). The decision must provide reasons why the application does not warrant a grant of leave on the basis of the applicant's ECHR Article 8 family life under the exceptional circumstances policy, or on the basis of compassionate or compelling factors.

## Grant leave to remain under the Immigration Rules

Successful family reunion applicants will be granted leave in line with the sponsor but they will not be granted status in line as they themselves are not necessarily recognised as refugees. This leave will expire at the same time as the sponsor's leave expires. If the sponsor has indefinite leave to remain (ILR) and refugee or humanitarian protection status, the successful applicant will be granted ILR in line but not status in line.

## Grant leave to remain outside the Immigration Rules

In a case where the caseworker decides that it is appropriate to grant leave to remain because exceptional circumstances apply in their case, they should be granted leave outside the Immigration Rules. See section 9.3 of the [Immigration Directorate Instruction on Family Migration: 10 year routes](#).

In a case where the caseworker decides that it is appropriate to grant leave to remain because compassionate factors apply in their case, they should be granted leave outside the Immigration Rules. See section 10.1 of the [Immigration Directorate Instruction on Family Migration: 10 year routes](#).

## Refuse leave to remain

If the applicant does not meet the requirements of the rules, and there are no exceptional or compassionate circumstances, the caseworker must refuse the application.

## Appeals

If the applicant is in the UK when they apply, the appeal will be brought from within the UK.

Those applying for entry clearance will need to lodge any appeal with the Tribunals Service in the UK. For further details on appeal rights see: [Rights of Appeal](#).

Applicants can pay for and lodge an appeal on-line or by post, details can be found in the 'Overview' section on the '[Appeal against a visa or immigration decision](#)' page on GOV.UK.

## Allowed appeals

For in-country applications where an appeal is allowed and there is no further challenge to the decision, the outcome of the appeal will be implemented by the unit that made the original decision in-country. Further guidance on the process in dealing with allowed determinations can be found at: Appeal outcome.

In applications for entry clearance where an appeal is allowed and there is no further challenge to the decision, the outcome of the appeal will be implemented by the entry clearance officer. Guidance on implementing allowed appeals in entry clearance applications see: [Appeals procedures for post APL:02](#) section APL2.15.1.

The only exception to this is where an appeal is allowed on human rights grounds, and the Immigration Rules have not been met. These appeals must be implemented by the Referred Casework Unit. Further guidance is available at [Appeals procedures for post](#) section APL2.16.

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# In the UK

## Arrival in the UK with family reunion entry clearance

On arrival in the UK, a Border Force officer must be satisfied as to the identity of the family member and will examine the individual's entry clearance visa to ensure that the family member is joining family in the UK for the purposes of family reunion.

The applicant will be required to [collect their biometric residence permit](#) (BRP) from their chosen Post Office within 10 days of arrival in the UK. The BRP does not confer status in line, only leave in line.

If for some reason the visa has been endorsed in error with leave that is different to that held by the sponsor, the applicant, sponsor or their representative can ask to have it amended by contacting UKVI. Details are available on GOV.UK: [Correcting an incorrect endorsement: ECB19](#).

## Travel documents

A person granted entry clearance or leave to remain for family reunion purposes will normally be expected to keep their own national passport valid or obtain a passport from their own country of origin. This is because they have not been recognised as refugees in their own right.

All Convention Travel Documents (CTDs) issued to successful family reunion applicants since 21 February 2011 should contain an endorsement making it clear that the holder cannot be a sponsor under family reunion rules in their own right.

## Apply for further leave to remain

Family members granted limited leave to enter or remain under family reunion rules must apply for further leave to remain no more than 28 days before their leave expires. In most cases the sponsor will be able to include their family members granted under the family reunion rules as part of their application for further leave or settlement. All applications are considered in accordance with the policy on settlement in place at the time of the application. Details of how to apply, including the relevant criteria, are available on GOV.UK. See [Settlement: Refugee or humanitarian protection](#).

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# Other applications for those not eligible for family reunion

Relatives who are ineligible to apply for family reunion may be able to apply under alternative routes, such as those detailed below.

## Post-flight spouse or partner

If an individual becomes the spouse/partner/fiancé/fiancée of a person with refugee leave or humanitarian protection in the UK after they have been given that leave, it is open to them to apply for leave to remain or entry clearance, along with the required fee, on the basis of this relationship. The onus is on the applicant to meet the requirements of the [Immigration Rules](#).

Where the applicant is already in the UK they must submit an application to the Home Office, to be considered under Article 8 of the European Convention on Human Rights (ECHR) using an [FLR\(FP\)](#) form (Further Leave to Remain (Family and Private Life)). See the [Immigration Directorate Instruction on Family Migration: 10 year routes](#).

Where the applicant is overseas they must apply for entry clearance as a spouse/partner/fiancé/fiancée of a person with refugee leave or someone with humanitarian protection leave partner on forms [VAF4A and VAF4A Appendix 2](#). See the [Immigration Directorate Instruction on Family Migration: 5 year routes](#).

## Children over the age of 18

Family reunion as a child is only open to a minor under the age of 18 who is not leading an independent life. The exception to this is where a child reaches the age of 18 after such an application has been lodged, but before it has been decided and is not leading an independent life. In such situations, the caseworker must consider the applicant's eligibility under [paragraph 352D of the Immigration Rules](#) as if the applicant was still under 18.

Where an application for family reunion under [Part 11 of the Immigration Rules](#) is received from a family unit of a refugee or someone with humanitarian protection, and includes a child or children who are over 18, the child or children who are over 18 must be refused under the Immigration Rules. The caseworker must go on in every case to consider whether there are exceptional or compassionate circumstances, including the best interests of other children in the family, which warrant a grant of leave to enter or remain outside the Immigration Rules on Article 8 grounds. These could be that the applicant would be left in a conflict zone or dangerous situation and become destitute on their own; have no other relatives that they could live with or turn to for support in their country; are not leading an independent life and the rest of the family intend to travel to the UK. See [Exceptional circumstances or compassionate factors](#) for further information.

It is open to children of a person with refugee leave or humanitarian protection who are over the age of 18 who are already in the UK to submit an application to the Home Office, to be considered under Article 8 of the ECHR. The application should be submitted on a [FLR\(FP\)](#) form (Further Leave to Remain (Family and Private Life)). See the [Immigration Directorate Instruction on Family Migration: 10 year routes](#).

Where the applicant is overseas it is open to them to apply for entry clearance, along with the required fee, on the basis of this relationship. The onus is on the applicant to meet the requirements of the [Immigration Rules](#).

## **Adult dependent relatives**

Dependants over the age of 18 who are living overseas and require long-term care to do everyday personal and household tasks may apply under the Adult Dependent Relative route if they can demonstrate that, as a result of age, illness or disability, they require a level of long-term personal care that can only be provided in the UK by their relative here and without recourse to public funds. Guidance can be found in the Immigration Directorate Instructions: [Appendix FM – Section FM 6.0 Adult Dependant Relatives](#).

## **Extended family members (parent, grandparent, brother or sister)**

Where the applicant is a parent, grandparent, brother or sister of someone with refugee leave or someone with humanitarian protection leave, they will not qualify under the family reunion provisions.

There are alternative routes of entry into the UK for extended family members of someone with refugee leave and those with humanitarian protection. For example, elderly parents who are living overseas and require long-term care to do everyday personal and household tasks, may apply under the Adult Dependent Relative route if they can demonstrate that, as a result of age, illness or disability, they require a level of long-term personal care that can only be provided in the UK by their relative here and without recourse to public funds. Guidance can be found in the Immigration Directorate Instructions: [Appendix FM – Section FM 6.0 Adult Dependant Relatives](#).

## **Adopted children and de-facto adopted children**

Applications can be made on behalf of a child seeking to come to the UK as an adopted child under the [Immigration Rules](#). The Immigration Rules for an adopted child require the sponsoring parent to be settled in the UK. If an individual who has been granted refugee status or humanitarian protection in the UK does not have Indefinite Leave to Remain and wishes to sponsor an adopted child, the application will be considered under paragraph 319X. This allows a child who is not an immediate family member to come to the UK to join a relative with leave as a refugee, or humanitarian protection if there are serious and compelling family or other considerations which make exclusion of the child undesirable.

Applications from children on the basis that they are de-facto adopted children may be made under the provisions for de-facto adopted children in the Immigration Rules. However, if the sponsor is in the UK, a de-facto adoption application under the

Immigration Rules is bound to fail because the Immigration Rules define a de-facto adoption in a specific way and require the parent to be living with the de-facto adopted child at the time of the application. Such cases must then be considered under paragraph 319X as set out above. The requirement to consider Article 8 and compassionate factors also applies. If the separation of the de-facto adopted child and the sponsoring parent has been due entirely to the need to flee persecution that specific fact should be properly taken into account and need not weigh against the applicant if all the other evidence points to a genuine de-facto adoption.

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