



Home Office

## **Criminal casework**

# **Deportation of family members of foreign national offenders**

## Deportation of family members of foreign national offenders

### About this guidance

<a href="#">Considering evidence of family ties and deportation eligibility</a>	<p>This guidance tells you about deportation of family members of foreign national offenders (FNOs) and the considerations undertaken by caseworkers when managing such cases.</p>	<b>In this section</b>
<a href="#">Deporting the child of an adult deportee</a>	<p>Section 3(5)(b) of the Immigration Act 1971 allows the deportation of family members of a person who is or has been ordered to be deported.</p>	<a href="#">Changes to this guidance</a>
<a href="#">Contacting child welfare agencies</a>	<p>The Immigration Rules (HC 395) at paragraph 363(ii) state the circumstances in which a person is liable to deportation includes ‘where the person is the spouse or civil partner or a child under 18 of a person ordered to be deported’.</p>	<a href="#">Contact</a>
<a href="#">Evidence of family ties</a>	<p>Section 5(3) of the 1971 Act states a deportation order (DO) cannot be made against a family member if it is more than eight weeks since the deportee was removed from the UK. However section 37 of the UK Borders Act 2007 gives automatic deportation cases different timing. A DO cannot be made against a family member if it is more than eight weeks since the deportee was considered ‘appeal rights exhausted’. If possible, you must coordinate appeals made by a FNO under the 2007 act and by their family members under the 1971 act.</p>	<a href="#">Information owner</a>
<a href="#">Completing the family welfare form</a>	<p>Changes to this guidance – This page tells you what has changed since the previous version of this guidance.</p>	<b>Related links</b>
<a href="#">Deporting or removing parents that pose a threat to their own children</a>	<p>Contacts – This page tells you who to contact for help if your senior caseworker or line manager can’t answer your question.</p>	<p>Links to staff intranet removed</p>
	<p>Information owners – This page tells you about this version of the guidance and who owns it.</p>	<b>External links</b>
	<p>Safeguard and promote child welfare – This page explains your duty to safeguard and promote the welfare of children and tells you where to find out more information.</p>	<a href="#">Immigration Act 1971</a>
		<a href="#">UK Borders Act 2007</a>

## Deportation of family members of foreign national offenders

### Changes to this guidance

<p><a href="#">Considering evidence of family ties and deportation eligibility</a></p> <p><a href="#">Deporting the child of an adult deportee</a></p> <p><a href="#">Contacting child welfare agencies</a></p> <p><a href="#">Evidence of family ties</a></p> <p><a href="#">Completing the family welfare form</a></p> <p><a href="#">Deporting or removing parents that pose a threat to their own children</a></p>	<p>This page lists changes to the deportation of family members of foreign national offenders (FNOs) guidance, with the most recent at the top.</p> <table border="1"> <thead> <tr> <th data-bbox="495 392 831 432">Date of the change</th> <th data-bbox="831 392 1532 432">Details of the change</th> </tr> </thead> <tbody> <tr> <td data-bbox="495 432 831 507">07 January 2019</td> <td data-bbox="831 432 1532 507">Data Protection Act 1998 changed to Data Protection Act 2018</td> </tr> <tr> <td data-bbox="495 507 831 810">13 November 2014</td> <td data-bbox="831 507 1532 810"> <p>Change request</p> <p>The following sections have been removed as the information is covered in other guidance:</p> <ul style="list-style-type: none"> <li>• Managing the returns of family</li> <li>• Human rights and other key considerations.</li> </ul> </td> </tr> <tr> <td data-bbox="495 810 831 1145">29 July 2014</td> <td data-bbox="831 810 1532 1145"> <p>Change request:</p> <ul style="list-style-type: none"> <li>• Various changes made to ensure accordance with the Immigration Act 2014 provisions which took effect on 28 July 2014</li> <li>• Amendment to approach for contacting local authority children's services in children cases.</li> </ul> </td> </tr> <tr> <td data-bbox="495 1145 831 1401">30 January 2014</td> <td data-bbox="831 1145 1532 1401"> <p>Change request:</p> <ul style="list-style-type: none"> <li>• Article 8 and the Immigration Rules: <ul style="list-style-type: none"> <li>○ this page has been deleted.</li> </ul> </li> <li>• Article 8 rules on criminality: <ul style="list-style-type: none"> <li>○ this page has been deleted.</li> </ul> </li> <li>• Article 8 rules on children under 18:</li> </ul> </td> </tr> </tbody> </table>	Date of the change	Details of the change	07 January 2019	Data Protection Act 1998 changed to Data Protection Act 2018	13 November 2014	<p>Change request</p> <p>The following sections have been removed as the information is covered in other guidance:</p> <ul style="list-style-type: none"> <li>• Managing the returns of family</li> <li>• Human rights and other key considerations.</li> </ul>	29 July 2014	<p>Change request:</p> <ul style="list-style-type: none"> <li>• Various changes made to ensure accordance with the Immigration Act 2014 provisions which took effect on 28 July 2014</li> <li>• Amendment to approach for contacting local authority children's services in children cases.</li> </ul>	30 January 2014	<p>Change request:</p> <ul style="list-style-type: none"> <li>• Article 8 and the Immigration Rules: <ul style="list-style-type: none"> <li>○ this page has been deleted.</li> </ul> </li> <li>• Article 8 rules on criminality: <ul style="list-style-type: none"> <li>○ this page has been deleted.</li> </ul> </li> <li>• Article 8 rules on children under 18:</li> </ul>	<p><b>Related links</b></p> <p><b>See also</b></p> <p><a href="#">Contact</a></p> <p><a href="#">Information owner</a></p> <p>Links to staff intranet removed</p>
Date of the change	Details of the change											
07 January 2019	Data Protection Act 1998 changed to Data Protection Act 2018											
13 November 2014	<p>Change request</p> <p>The following sections have been removed as the information is covered in other guidance:</p> <ul style="list-style-type: none"> <li>• Managing the returns of family</li> <li>• Human rights and other key considerations.</li> </ul>											
29 July 2014	<p>Change request:</p> <ul style="list-style-type: none"> <li>• Various changes made to ensure accordance with the Immigration Act 2014 provisions which took effect on 28 July 2014</li> <li>• Amendment to approach for contacting local authority children's services in children cases.</li> </ul>											
30 January 2014	<p>Change request:</p> <ul style="list-style-type: none"> <li>• Article 8 and the Immigration Rules: <ul style="list-style-type: none"> <li>○ this page has been deleted.</li> </ul> </li> <li>• Article 8 rules on criminality: <ul style="list-style-type: none"> <li>○ this page has been deleted.</li> </ul> </li> <li>• Article 8 rules on children under 18:</li> </ul>											

		<ul style="list-style-type: none"> <li>○ this page has been deleted.</li> <li>● Article 8 rules on spouses or partners: <ul style="list-style-type: none"> <li>○ this page has been deleted.</li> </ul> </li> <li>● Article 8 rules on private life: <ul style="list-style-type: none"> <li>○ this page has been deleted.</li> </ul> </li> <li>● Scenarios not covered by the article 8 rules: <ul style="list-style-type: none"> <li>○ this page has been deleted.</li> </ul> </li> <li>● Article 8 and exceptional cases: <ul style="list-style-type: none"> <li>○ this page has been deleted.</li> </ul> </li> <li>● Article 8 and non criminal family members: <ul style="list-style-type: none"> <li>○ this page has been deleted.</li> </ul> </li> <li>● Article 8 rules and decisions: <ul style="list-style-type: none"> <li>○ this page has been deleted.</li> </ul> </li> <li>● Minor housekeeping changes.</li> </ul>		
		<p>For previous changes to this guidance you will find earlier versions in the archive. See related link: <a href="#">Children and family members – Archive.</a></p>		

## Deportation of family members of foreign national offenders

### Evidence of family ties

<p><a href="#">Considering evidence of family ties and deportation eligibility</a></p> <p><a href="#">Deporting the child of an adult deportee</a></p> <p><a href="#">Contacting child welfare agencies</a></p> <p><a href="#">Evidence of family ties</a></p> <p><a href="#">Completing the family welfare form</a></p> <p><a href="#">Deporting or removing parents that pose a threat to their own children</a></p>	<p>This page tells a criminal casework caseworker what evidence they must see when considering deportation of foreign national offenders (FNOs) and their family members.</p> <p><b>The Immigration Rules and deportation</b></p> <p>Immigration Rules relating to article 8 of the European Convention on Human Rights (ECHR) were originally introduced on 9 July 2012, and further enhanced on 28 July 2014 following commencement of the section 19 of the Immigration Act 2014, which inserted section 117A-D in the Nationality, Immigration and Asylum Act 2002 and clarified how article 8 claims from FNOs must be considered by law.</p> <p>The right to respect private and family life in article 8 of the European Convention on Human Rights (ECHR) is covered by paragraphs 396 to 400 of the Immigration Rules. These cover the circumstances when a grant of leave would be more appropriate than deportation. Paragraph 398 affirms that the public interest in deportation of a FNO will only be outweighed by other factors where there are very compelling circumstances over and above those specified in paragraphs 399 to 399A.</p> <p>For more information on the Immigration Rules and deportation, see related link.</p> <p>For more information on Article 8 considerations, see related link.</p> <p><b>Consideration of evidence</b></p> <p>You must consider any evidence to suggest the family functions as a subsisting unit. This helps you to consider any claim to family life under article 8 of the ECHR made by a FNO and whether they satisfy the requirements of the law and the rules. For more detail on what defines a genuine and subsisting relationship with a partner and children, see related link: IDI chapter 8: Appendix FM (sections 2 and 3).</p> <p>You can gather evidence to support family connections over a period of time and must take any opportunity to get up to date information.</p>	<p><b>External links</b></p> <p><a href="#">Immigration Rules Part 13 - Deportation</a></p> <p><a href="#">Section 117A-D Nationality Immigration &amp; Asylum Act 2002 (as amended)</a></p> <p>Links to staff intranet removed</p>
--	--	---

Sources of up to date information might include, but are not limited to:

- replies to the questionnaire attached to the ICD.0350 notice of liability to deportation
- local authority children's services (LACS) department
- Prison Service or Youth Offending Team, for example:
  - visitation reports
  - letters
  - telephone call records
  - staff reports covering the FNOs time in custody
- immigration removal centre (IRC) if the FNO is detained under immigration powers
- Children and Family Court Advisory and Support Service (CAFCASS)
- family members.

You must use the evidence available to consider both deportation and the safeguarding welfare needs of any children involved.

You must also consider:

- the level of contact between the parent(s) and their children
- if the parents are legally married or cohabiting:
  - if unmarried, is the male deportee recognised as a legal parent of the child
- if the child is in the care of a local authority, particularly if this is by order of a family court.

You must find out if contact with the child was limited before the parent started their custodial sentence. If so, you must find out why by contacting the relevant local authority children's services. You may be able to find further information from the other sources listed above.

A record must be maintained using the family welfare form ICD.3629. For more information on completing the family welfare form, see link on left.

**Circumstances where deportation may not be ordered**

	<p>The Secretary of State may decide not to deport the spouse or civil partner of a deportee if they have:</p> <ul style="list-style-type: none"><li>• qualified for settlement in the UK in their own right, and/or</li><li>• been living apart from the deportee (other than when in custody or detention).</li></ul> <p>The child of a deportee will not normally be deported if they:</p> <ul style="list-style-type: none"><li>• are living apart from the deportee with their mother or father</li><li>• have left the family home and established themselves on an independent basis, and/or</li><li>• were in a marriage or civil partnership before deportation became a prospect.</li></ul>	
--	---	--

## Deportation of family members of foreign national offenders

### Deporting the child of a deportee

<p><a href="#">Considering evidence of family ties and deportation eligibility</a></p> <p><a href="#">Deporting the child of an adult deportee</a></p> <p><a href="#">Contacting child welfare agencies</a></p> <p><a href="#">Evidence of family ties</a></p> <p><a href="#">Completing the family welfare form</a></p> <p><a href="#">Deporting or removing parents that pose a threat to their own children</a></p>	<p>This page tells you about the specific issues that apply when you consider the deportation of a child of a foreign national offender (FNO) who is subject to deportation.</p> <p>The Home Office's immigration departments have a legal duty under section 55 of the 2009 Borders, Citizenship and Immigration Act for the need to safeguard and promote the welfare of children in the discharge of its functions. In most cases, keeping the family unit together will be in the interests of the child, but not necessarily in all cases. The Secretary of State will not decide to deport the child together with the deportee if:</p> <ul style="list-style-type: none"><li>• The child is living apart from the deportee, with their mother or father, but not as a result of deportation action itself, or they are in the care of the local authority children's services (LACS).<ul style="list-style-type: none"><li>○ There must be clear evidence the relationship no longer subsists, either before or since the offence. Documentary evidence must be obtained, such as proof of legal separation or divorce proceedings, and/or evidence of care proceedings from the LACS. For more information, see related link: GOV.UK - LACS.</li><li>○ If a child is in the temporary care of LACS, they can be removed with the parent(s), if LACS have no objections.</li><li>○ If a child is in the permanent care of LACS, you can accept this as proof the relationship between the child and parents does not involve any direct dependency. However, you must consider the full circumstances of each individual case before this conclusion is drawn.</li><li>○ Deportation or otherwise removing the child can involve negotiations with the family court. It is possible the care plan for the child includes contact arrangements with the prospective adult deportee. This must be carefully assessed on a case-by-case basis, it may be arguable that it remains proportionate to suggest such contact needs to be by other means than the deportee remaining in the UK.</li></ul></li><li>• The child has spent most of their life in the UK and is nearing the age of 18.<ul style="list-style-type: none"><li>○ The longer a child has been in the UK (regardless of the legality of their stay), the more settled they are likely to be and it is less likely they will have a meaningful basis for a private life in another country, particularly if they have spent most of their</li></ul></li></ul>	<p><b>Related links</b></p> <p><b>See also</b></p> <p>Links to staff intranet removed</p> <p><b>External links</b></p> <p><a href="#">GOV.UK - LACS</a></p>
--	---	---

formative years (broadly this means age 0 to 10) in the UK.

- If the child is not already registered or in the process of applying for British citizenship, they may have an entitlement to it. If in doubt, the case must be escalated for advice. For more information, see related link: Escalation process.
- The child has left home and established themselves on an independent basis, and/or the child married before their deportation as a dependant of a deportee came into prospect.

You must also take into account the following:

- The ability of the spouse to maintain themselves and any children in the UK, or to be maintained by relatives or friends without reliance on public funds, for the foreseeable future, not just a short period.
- The practicalities of any plans for the child's care and maintenance in the UK if one or both of the parents were deported.
- Any representations made by or on behalf of the spouse or child.
- Any other considerations that may apply in that specific case and which might reasonably delay removal (for example, imminent public examinations).

## Deportation of family members of foreign national offenders

### Contacting child welfare agencies and their refusal to provide information

<p><a href="#">Considering evidence of family ties and deportation eligibility</a></p> <p><a href="#">Deporting the child of an adult deportee</a></p> <p><a href="#">Contacting child welfare agencies</a></p> <p><a href="#">Evidence of family ties</a></p> <p><a href="#">Completing the family welfare form</a></p> <p><a href="#">Deporting or removing parents that pose a threat to their own children</a></p>	<p>This section tells you how criminal casework caseworkers contact child welfare services when considering deporting children of foreign national offenders (FNOs).</p> <p>For more information, see links below:</p> <ul style="list-style-type: none"><li>• Local authority children’s services</li><li>• Requests to local authority children’s services</li><li>• Local authority children’s services refusal to provide information</li><li>• Children and Family Court Advisory and Support Service</li></ul>	<p><b>In this section</b></p> <p><a href="#">Local authority children’s services</a></p> <p><a href="#">Requests to local authority children’s services</a></p> <p><a href="#">Local authority children’s services refusal to provide information</a></p> <p><a href="#">Children and Family Court Advisory and Support Service</a></p> <p><a href="#">Insufficient evidence of family ties</a></p>
--	--	---

## Deportation of family members of foreign national offenders

### Local authority children's services

<p><a href="#">Considering evidence of family ties and deportation eligibility</a></p> <p><a href="#">Deporting the child of an adult deportee</a></p> <p><a href="#">Contacting child welfare agencies</a></p> <p><a href="#">Evidence of family ties</a></p> <p><a href="#">Completing the family welfare form</a></p> <p><a href="#">Deporting or removing parents that pose a threat to their own children</a></p>	<p>This page tells criminal casework caseworkers when and how to contact the local authority children's services (LACS) to obtain further information about child welfare.</p> <p><b>When to contact LACS</b></p> <p>If a foreign national offender (FNO) liable to deportation has family living in this country which includes children, you are not required to seek LACS input in every case. However, where there is evidence that LACS had, have or might have involvement in the care of any child in that unit, you must contact the relevant LACS department to obtain information about the family's circumstances and issues that might affect deportation action.</p> <p>You must contact LACS before you consider whether to refer the case to the office of the children's champion (OCC) for additional advice, especially if there is evidence or suspicion of maltreatment of a child.</p> <p><b>Referring to LACS</b></p> <p>When you make a referral to LACS you must complete a template, available through the OCC, and include all relevant issues around a family's circumstances.</p> <p>The form aims to identify issues such as:</p> <ul style="list-style-type: none"><li>• health</li><li>• welfare and education, and</li><li>• special needs which might affect deportation or removal.</li></ul> <p>For more information, see related link: Office of children's champion (OCC).</p> <p><b>Information to include in a referral</b></p> <p>The referral form must include, where relevant:</p> <ul style="list-style-type: none"><li>• indicators of harm<ul style="list-style-type: none"><li>○ for more information see 2.22 of related link: Statutory duty to safeguard promote the welfare of children</li></ul></li></ul>	<p><b>In this section</b></p> <p><a href="#">Requests to local authority children's services</a></p> <p><a href="#">Local authority children's services refusal to provide information</a></p> <p><a href="#">Children and Family Court Advisory and Support Service</a></p> <p><a href="#">Insufficient evidence of family ties</a></p> <p><a href="#">Contacting child welfare agencies</a></p> <p><b>Related links</b></p> <p><a href="#">Dealing with local authority children's services refusals to provide information</a></p> <p><a href="#">Children and Family Court Advisory and Support Service</a></p> <p>Links to staff intranet</p>
--	--	--

	<ul style="list-style-type: none"> <li>• if the local authority is unaware that a child appears to have no responsible adult to care for them</li> <li>• where there is a private fostering arrangement and it is unclear whether or not the local authority is aware</li> <li>• if a child has been a potential victim of human trafficking</li> <li>• if a child is believed to have gone missing.</li> </ul> <p><b>How to contact LACS</b></p> <p>To find the correct contact details for LACS use related link GOV.UK - LACS. The criminality policy guidance team also hold a hard copy of the current directory.</p> <p>If you contact LACS by telephone it can be difficult to establish contact with the right team or individual because social workers often work away from the office. Be patient when waiting for responses. An alternative is to use email.</p> <p>When you contact LACS you must explain the Home Office immigration department's statutory duty under Section 55 of the Borders, Citizenship and Immigration Act 2009 to safeguard and promote the welfare of children, which mirrors LACS duty under section 11 of the Children Act 2004. For more information on this duty see related links.</p> <p>For more information on what to do if the LACS refuse to provide information see related link.</p>	<p>removed</p> <p><b>See also</b></p> <p>Links to staff intranet removed</p> <p><b>External links</b></p> <p><a href="#">GOV.UK - LACS</a></p> <p><a href="#">Statutory duty to safeguard and promote the welfare of children</a></p>
--	--	---

## Deportation of family members of foreign national offenders

### Requests to local authority children's services

<a href="#">Considering evidence of family ties and deportation eligibility</a>	<p>This page tells criminal casework caseworkers what to include in a request for information to local authority children's services (LACS).</p>	<p><b>In this section</b> <a href="#">Local authority children's services</a></p>
<a href="#">Deporting the child of an adult deportee</a>	<p>If the family concerned are known to LACS you must find out why because this may be relevant to the case. For example, if LACS have information that a parent has a history of abandoning their children this must be taken into account but evidence of financial difficulties should not.</p>	<p><a href="#">Requests to local authority children's services</a></p>
<a href="#">Contacting child welfare agencies</a>	<p><b>LACS plan for a child of a FNO deportee</b> You must find out the LACS plan for a child who remains in local authority care in the UK because the deportation of the foreign national offender (FNO) could greatly impact on the care plan for the child.</p>	<p><a href="#">Local authority children's services refusal to provide information</a></p>
<a href="#">Evidence of family ties</a>	<p>You must inform LACS that the FNO will be, or has been deported, where the care plan involves adoption or if the child has already been adopted. This allows LACS to arrange annual contact with the birth parent where necessary.</p>	<p><a href="#">Children and Family Court Advisory and Support Service</a></p>
<a href="#">Completing the family welfare form</a>	<p>For further information on identifying abuse and making referrals see related link: <a href="#">Guidance on referring children to welfare agencies</a>.</p>	<p><a href="#">Insufficient evidence of family ties</a></p>
<a href="#">Deporting or removing parents that pose a threat to their own children</a>		<p><a href="#">Contacting child welfare agencies</a></p>
		<p>Links to staff intranet removed</p>

## Deportation of family members of foreign national offenders

### Local authority children's services refusal to provide information

<p><a href="#">Considering evidence of family ties and deportation eligibility</a></p> <p><a href="#">Deporting the child of an adult deportee</a></p> <p><a href="#">Contacting child welfare agencies</a></p> <p><a href="#">Evidence of family ties</a></p> <p><a href="#">Completing the family welfare form</a></p> <p><a href="#">Deporting or removing parents that pose a threat to their own children</a></p>	<p>This page tells criminal casework caseworkers how to deal with refusals by local authority children's services (LACS) to provide information.</p> <p>In most cases LACS will provide the information about a foreign national offender's (FNO) family circumstances, however, they may refuse to provide information, citing the Data Protection Act (DPA) 2018. There is no legal barrier to stop LACS sharing this information with criminal casework.</p> <p><b>What to do if a request is refused</b> If your request for information is refused you must make a new one by letter and email to the Children's Duty Team Service Manager.</p> <p>You may also print out the refusal to comply with the original request and attach it to the letter or email. You must be careful not to include any onward communications between them and the office of the children's champion, and other parties.</p> <p>You must consider the following:</p> <ul style="list-style-type: none"><li>• The impact deportation will have on children associated with the case:<ul style="list-style-type: none"><li>○ deporting the parent or other carer of the child or children concerned has safeguarding implications.</li></ul></li><li>• Information received from the request will only be used by immigration enforcement to assess the impact of the proposed deportation of the parent or carer on the children.</li></ul> <p>The following points must be included in the request:</p> <ul style="list-style-type: none"><li>• Immigration departments have a statutory duty under section 55 of the Borders, Citizenship and Commonwealth Act 2009 to safeguard and promote the welfare of children:<ul style="list-style-type: none"><li>○ this duty is similar to LACS statutory duty under section 11 of the Children's Act 2004</li></ul></li></ul>	<p><b>In this section</b> <a href="#">Local authority children's services</a></p> <p><a href="#">Requests to local authority children's services</a></p> <p><a href="#">Children and Family Court Advisory and Support Service</a></p> <p><a href="#">Insufficient evidence of family ties</a> <a href="#">Contacting child welfare agencies</a></p> <p><b>Related links:</b> <a href="#">Local authority children's services</a></p> <p><a href="#">Children and Family Court Advisory and Support Service</a></p> <p><b>External links</b> <a href="#">Statutory duty to safeguard and promote the welfare of children</a></p>
--	---	--

- the request must be made in line with section 55 guidance
- provide a link to the section 55 guidance on the statutory duty, see related link (if corresponding by letter rather than email you could print a copy and enclose it), and advise this was issued jointly by the Department for Education and the former UK Border Agency, now UK Visas and Immigration and immigration enforcement
- draw particular attention to section 2.33 of this guidance which explains the position between the statutory duty and the DPA.

Where LACS refuse to provide the information requested and deportation of a FNO would affect the safeguarding of their child, LACS must advise immigration enforcement of any safeguarding concerns. This must be taken into account by criminal casework caseworkers.

If you consider a vital detail is missing which you cannot get through other sources, you must state this in your decision letter to make sure you comply with the statutory duty in section 55.

## Deportation of family members of foreign national offenders

### Children and Family Court Advisory and Support Service

<a href="#">Considering evidence of family ties and deportation eligibility</a>	<p>This page tells criminal casework caseworkers how to contact the Children and Family Court Advisory and Support Service (CAFCASS) to obtain further information about child welfare.</p>	<p><b>In this section</b> <a href="#">Local authority children's services</a></p>
<a href="#">Deporting the child of an adult deportee</a>	<p>CAFCASS look after the interests of children involved in family related legal proceedings. They work with children and their families and advise the courts what they consider to be the best interests of the children.</p>	<p><a href="#">Requests to local authority children's services</a></p>
<a href="#">Contacting child welfare agencies</a>	<p><b>When to contact CAFCASS</b> Immigration enforcement have a statutory duty under section 55 of the Borders, Citizenship and Immigration Act 2009 to consider a child's best interests when considering deportation or removal of families with children. Where CAFCASS are involved with a family you must get their advice on such action.</p>	<p><a href="#">Local authority children's services refusal to provide information</a></p>
<a href="#">Evidence of family ties</a>	<p>When dealing with foreign national offenders (FNOs) with a family, you may need to work with the family courts through CAFCASS to find out if any family members are subject to court proceedings or legal obligations that might affect deportation or removal.</p>	<p><a href="#">Insufficient evidence of family ties</a></p>
<a href="#">Completing the family welfare form</a>	<p>If the family courts are involved it does not always mean deportation can't go ahead. You must consider all known factors in the decision to deport or remove a family. This includes those passed on by CAFCASS which may deal with the level of harm a child is thought to face and if criminal proceedings are proposed against an abusive parent.</p>	<p><a href="#">Contacting child welfare agencies</a></p>
<a href="#">Deporting or removing parents that pose a threat to their own children</a>	<p>Where there are outstanding family court proceedings, you must make decisions on the FNO and related family members as quickly as possible.</p>	<p><b>Related links</b> <b>See also</b> <a href="#">Local authority children's services</a></p>
	<p>For more information, see related link: CAFCASS.</p>	<p><b>External links</b> <a href="#">CAFCASS</a></p>

## Deportation of family members of foreign national offenders

### Insufficient evidence of family ties

[Considering evidence of family ties and deportation eligibility](#)

[Deporting the child of an adult deportee](#)

[Contacting child welfare agencies](#)

[Evidence of family ties](#)

[Completing the family welfare form](#)

[Deporting or removing parents that pose a threat to their own children](#)

This page tells criminal casework caseworkers what action to take if there is not enough evidence of family ties.

If a decision is made to deport a foreign national offender (FNO) and a notice of liability to deport (ICD.0350 or 0350AD) has been served, evidence of family ties from a completed questionnaire attached to the ICD.0350 notice will be on the Home Office file.

Details of family ties must also be noted on CID with the information outlined in the link on the left: Evidence of family ties.

#### Interview for further evidence

You must consider a request for interview with the FNO and the family where there is not enough evidence of family ties, or you need more information to show the family still functions as a unit. Usually the family members will be resident in the community.

Requesting to interview	Contact for assistance
FNO	criminal casework's prison operations and removals team (PORT)
Non-detained family members	the relevant immigration compliance and engagement (ICE) team (previously known as local immigration team (LIT))

#### Making a request to interview

You must use the tasking request form ICD.4448 and include the essential details about the FNO and each family member to enable PORT or an ICE team to provide the appropriate facilities for the interview.

You must include in the 'additional information' section any extra information including:

- specific questions
- information you would like to raise at interview, or

#### Related links See also

Links to staff intranet removed

[Human Rights and other key considerations](#)

**External links**  
[Immigration Rules Part 13 - Deportation](#)

[Section 117A-D Nationality Immigration & Asylum Act 2002 \(as amended\)](#)

- information that will be useful for operational staff.

**Process following interview**

If you now have enough evidence of family ties, deportation can go ahead in the relevant category either under the Immigration Act 1971 or the UK Borders Act 2007 if evidence of family ties does not outweigh the case for the deportation of the FNO.

**Deporting family members**

If criminal casework decide to deport the family members under section 3(5)(b) of the Immigration Act 1971, having regard to paragraphs 365, 366, and 396 to 400 of the Immigration Rules, and section 117A-D of the Nationality, Immigration and Asylum Act 2002 (as amended – see related link) you must serve the following to them:

- decision to make a deportation order (ICD.1070)
- reasons for deportation letter (ICD.1914)
- notice of appeal (ICD.1041), and
- appeal disclaimer (ICD.3066).

How to serve the documents:

<b>Circumstances</b>	<b>Method of service</b>	<b>Place of service</b>
Reporting restrictions apply	In person	Reporting centre
Reporting restrictions cease to apply	Posted to the individual or for the attention of the: <ul style="list-style-type: none"> <li>• parent or responsible adult if the child is under 18</li> <li>• social worker if the child is in care.</li> </ul>	Individual's last known address: <ul style="list-style-type: none"> <li>• send recorded delivery</li> <li>• get a signature of proof of delivery where possible.</li> </ul>

To establish if there is a genuine intention to comply without the need for enforcement action you must make it clear to family members at the earliest opportunity that they can leave the UK voluntarily if they do not wish to appeal, or their appeal is dismissed.

### **Removing family members**

Removals and compliance casework (RCC) have responsibility for managing decisions to remove the family members either:

- administratively under section 10(1)(a) or (b) of the Immigration and Asylum Act 1999, or
- as illegal entrants under section 24(1)(a) of the Immigration Act 1971.

RCC will act in line with the instructions given in the enforcement instructions and guidance, for more information see related link.

The procedures for the service of relevant notices apply as described above. Where direct contact for interviews is required, RCC will liaise with the ICE team responsible for the area where the family members reside.

You must work closely with your RCC equivalent to make sure the deportation of the FNO and removal of their family are coordinated where practical.

After an appeal is dismissed it is necessary to manage the deportation of a FNO and removal of family members.

You must act in line with the four-stage family returns process ('voluntary', 'assisted', 'required', 'ensured') and in tandem with RCC, who will in turn liaise with the relevant ICE team. If the family decide not to depart voluntarily, different measures must be explored.

For more information on managing the return of families with children, see related link.

## Deportation of family members of foreign national offenders

### Completing the family welfare form

<p><a href="#">Considering evidence of family ties and deportation eligibility</a></p> <p><a href="#">Deporting the child of an adult deportee</a></p> <p><a href="#">Contacting child welfare agencies</a></p> <p><a href="#">Evidence of family ties</a></p> <p><a href="#">Completing the family welfare form</a></p> <p><a href="#">Deporting or removing parents that pose a threat to their own children</a></p>	<p>This page tells criminal casework caseworkers how to complete the family welfare form (ICD. 3629).</p> <p><b>When to complete a family welfare form</b> You must complete a family welfare form before you start deportation or removal proceedings for a family unit that includes children.</p> <p>The form shows an audit trail for each stage of the decision-making process. It starts with the initiation of deportation or removal action and ends in either the deportation or removal of the foreign national offender (FNO) and their family or, if appropriate, not pursuing such action.</p> <p><b>What to include</b> You must complete the form thoroughly based on the information you have from various sources, see related link: Escalation process and link on left: Evidence of family ties.</p> <p>The form must:</p> <ul style="list-style-type: none"><li>• be updated as knowledge about the circumstances of the family’s case changes, and</li><li>• stay with the family throughout the deportation, removal, detention, and management process.</li></ul> <p>This makes sure the deportation or removal process can be managed appropriately in a way that is sensitive to the family’s needs where possible and safeguard and promote the welfare of children.</p> <p>The key stages for completing the ICD.3629 are as follows. You must:</p> <ul style="list-style-type: none"><li>• Decide:<ul style="list-style-type: none"><li>○ if there is enough evidence the family are functioning as a unit, and</li><li>○ whether to deport or remove family members alongside the FNO deportee.</li></ul></li></ul>	<p><b>Related links</b> <b>See also</b></p> <p>Links to staff intranet removed</p>
--	--	--

- Liaise with:
  - the prison operations and removals team (PORT)
  - removals and compliance casework (who will liaise with the relevant immigration compliance and engagement (ICE) team as required), or
  - immigration removal centre (IRC)if further action on the case is needed and to inform them they are completing the first version of the form and saving it on CID.
- Complete the ICD.3629 on the CID document generator with as much information as they can. This includes any advice obtained from the office of the children's champion (OCC). Separation of a family requires the authorisation of a grade 7 within criminal casework, and this must be noted on the form. For more information on this process see related link: How to process a family separation referral.
- Save the form to CID, which allows PORT, RCC, the ICE team and/or IRC to access it, and be forewarned of all relevant issues that might affect their operational handling of the case. These areas will add to and amend the form as they progress the family's case towards conclusion.

For more information, see related link: Chapter 45 Families and children

## Deportation of family members of foreign national offenders

### Deporting parents who pose a threat to their children

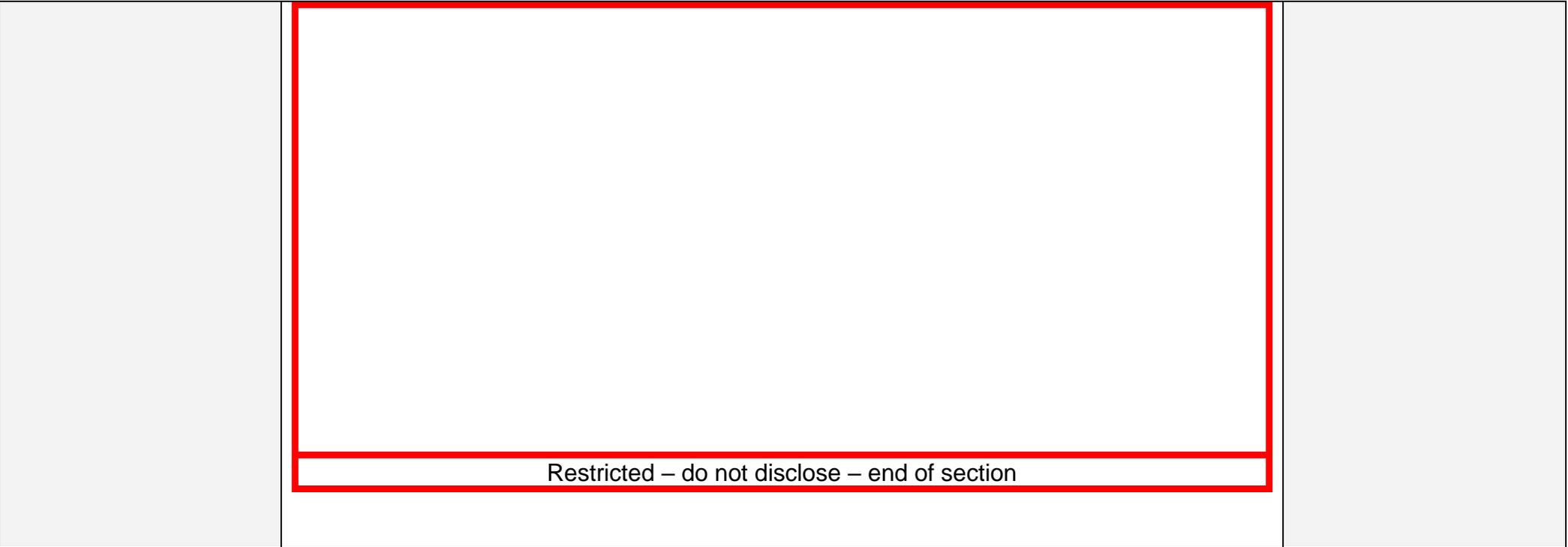
<p><a href="#">Considering evidence of family ties and deportation eligibility</a></p> <p><a href="#">Deporting the child of an adult deportee</a></p> <p><a href="#">Contacting child welfare agencies</a></p> <p><a href="#">Evidence of family ties</a></p> <p><a href="#">Completing the family welfare form</a></p> <p><a href="#">Deporting or removing parents that pose a threat to their own children</a></p>	<p>This section tells criminal casework caseworkers what to take into account when considering the deportation or removal of a foreign national offender (FNO) parent who is known to pose a threat to their own child or children.</p> <div style="border: 2px solid red; padding: 10px;"><p style="text-align: center;">Restricted – do not disclose – start of section</p><p>The information in this page has been removed as it is restricted for internal Home Office use only.</p></div>	<p><b>In this section</b></p> <p><a href="#">Notifying a UK-based parent of a deported foreign national offender</a></p> <p><a href="#">Referring cases to the CCD intelligence unit (CCDIU)</a></p> <p><b>Related links</b> <b>See also</b></p> <p><b>External links</b></p> <p><a href="#">Borders, Citizenship and Immigration Act 2009</a></p> <p><a href="#">The UNCRC (1989)</a></p>
--	--	--

	<p data-bbox="801 539 1435 576">Restricted – do not disclose – end of section</p>	
--	---	--

## Deportation of family members of foreign national offenders

### Referring cases to the CC intelligence unit (CCDIU)

<p><a href="#">Considering evidence of family ties and deportation eligibility</a></p> <p><a href="#">Deporting the child of an adult deportee</a></p> <p><a href="#">Contacting child welfare agencies</a></p> <p><a href="#">Evidence of family ties</a></p> <p><a href="#">Completing the family welfare form</a></p> <p><a href="#">Deporting or removing parents that pose a threat to their own children</a></p>	<p>This page tells criminal casework caseworkers how to refer cases where a foreign national offender (FNO) parent who is known to pose a threat to their own child or children, to the intelligence unit for further investigation.</p> <div style="border: 2px solid red; padding: 10px;"><p style="text-align: center;">Restricted – do not disclose – start of section</p><p>The information in this page has been removed as it is restricted for internal Home Office use only.</p></div>	<p><b>Related links</b> <b>See also</b></p> <p><a href="#">Human rights (Article 8)</a></p> <p><a href="#">Notifying a UK-based parent of a deported foreign national offender</a></p> <p><a href="#">Deporting or removing parents that pose a threat to their own children</a></p> <p><b>External links</b></p> <p><a href="#">Borders, Citizenship and Immigration Act 2009</a></p> <p><a href="#">The UNCRC (1989)</a></p> <p>Links to staff intranet removed</p>
--	---	---



## Deportation of family members of foreign national offenders

### Notifying a UK based parent of a deported FNO

<a href="#">Considering evidence of family ties and deportation eligibility</a>	This page tells criminal casework caseworkers how to tell a UK parent if a foreign national offender (FNO) who is a threat to their children has been deported and the local authority children's services (LACS) no longer have any involvement with the case.	<b>Related links</b> <b>See also</b>						
<a href="#">Deporting the child of an adult deportee</a>	It is usually in the best interests of the child to tell a parent based in the UK and not subject to enforcement action about the deportation of a FNO parent who is considered to be a threat to their child.	<a href="#">Human rights (Article 8)</a>						
<a href="#">Contacting child welfare agencies</a>	Who should notify the parent:	<a href="#">Referring cases to the CCD intelligence unit (CCDIU)</a>						
<a href="#">Evidence of family ties</a>	<table border="1"><thead><tr><th data-bbox="477 659 1115 722">LACS active involvement in the case?</th><th data-bbox="1126 659 1753 722">Who has the duty to notify the UK based parent?</th></tr></thead><tbody><tr><td data-bbox="477 730 1115 762">Yes</td><td data-bbox="1126 730 1753 762">LACS</td></tr><tr><td data-bbox="477 770 1115 802">No</td><td data-bbox="1126 770 1753 802">Immigration enforcement</td></tr></tbody></table>	LACS active involvement in the case?	Who has the duty to notify the UK based parent?	Yes	LACS	No	Immigration enforcement	<b>External links</b>
LACS active involvement in the case?	Who has the duty to notify the UK based parent?							
Yes	LACS							
No	Immigration enforcement							
<a href="#">Completing the family welfare form</a>	<b>Immigration enforcement's duty to notify</b>	<a href="#">Section 55 of the Borders, Citizenship and Immigration Act 2009</a>						
<a href="#">Deporting or removing parents that pose a threat to their own children</a>	Where the duty to notify falls to immigration enforcement you must tell the parent based in the UK of the FNOs deportation in writing.  This disclosure is in line with the duty to safeguard and promote the welfare of children under section 55 of the Borders, Citizenship and Immigration Act 2009. For more information, see related link.  The caseworking team responsible for the original deportation must tell the parent based in the UK if it comes to your attention following deportation of the FNO that: <ul style="list-style-type: none"><li>• they are seeking to return to the UK, or</li><li>• it is believed they have already done so by illegal means.</li></ul> The parent should be informed at the earliest opportunity as it could have obvious safeguarding issues for the children.							

## Deportation of family members of foreign national offenders

### Contact

<p><a href="#">Considering evidence of family ties and deportation eligibility</a></p> <p><a href="#">Deporting the child of an adult deportee</a></p> <p><a href="#">Contacting child welfare agencies</a></p> <p><a href="#">Evidence of family ties</a></p> <p><a href="#">Completing the family welfare form</a></p> <p><a href="#">Deporting or removing parents that pose a threat to their own children</a></p>	<p>This page tells you who to contact for more help with deportation of family members of foreign national offenders (FNO) cases.</p> <p>If you have read this guidance and still need more help with this category you must first ask your senior caseworker or line manager.</p> <p>If they cannot answer your question they, or you, may email criminality policy guidance (CPG) team using the related link: Email CPG queries for guidance on the policy.</p> <p>Changes to this guidance can only be made by the guidance, rules and forms team (GRaFT) team. If you think the policy content needs amending you must contact CPG, who will ask GRaFT to update the guidance, if appropriate.</p> <p>GRaFT will accept direct feedback on broken links, missing information or the format, style and navigability of this guidance. You can send these using the link: Email GRaFT team.</p>	<p><b>Related links</b></p> <p><b>See also</b></p> <p><a href="#">Changes to this guidance</a></p> <p><a href="#">Information owner</a></p> <p><b>External links</b></p> <p>Links to staff intranet removed</p>
--	--	---

## Deportation of family members of foreign national offenders

### Information owner

[Considering evidence of family ties and deportation eligibility](#)

[Deporting the child of an adult deportee](#)

[Contacting child welfare agencies](#)

[Evidence of family ties](#)

[Completing the family welfare form](#)

[Deporting or removing parents that pose a threat to their own children](#)

This page tells you about this version of the 'Deportation of family members of foreign national offenders (FNO)' guidance and who owns it.

Version	12.0
Valid from date	07 January 2019
Policy owner	Official – sensitive: information removed
Cleared by director	Official – sensitive: information removed
Director's role	Official – sensitive: information removed
Clearance date	07 January 2019
This version approved for publication by	Official – sensitive: information removed
Approver's role	Official – sensitive: information removed
Approval date	07 January 2019

Changes to this guidance can only be made by guidance, rules and forms team (GRaFT) team. If you think the policy content needs amending you must contact CPG using related link: Email CPG queries who will ask GRaFT to update the guidance, if appropriate.

GRaFT will accept direct feedback on broken links, missing information or the format, style and navigability of this guidance. You can send these using the link: Email GRaFT team.

**Related links**  
**See also**

[Changes to this guidance](#)

[Contact](#)

**External links**

Links to staff intranet removed