



Home Office

**Immigration Returns, Enforcement and Detention
General Instructions**

Family separations

Version 4.0

Guidance and the operational process for the separation of family members who no longer have any right to remain in the UK and are liable to be removed.

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About this guidance

This guidance details Immigration Enforcement's policy on decisions to separate family members as a consequence of detention or removal. It takes into account the need to safeguard and promote the welfare of children ([section 55 of the Borders, Citizenship and Immigration Act 2009](#)).

This guidance covers both non-foreign national offender (non FNO) cases **and** FNO cases. It applies to immigration and compliance and enforcement (ICE) officers and any case worker considering the separation of family members as a consequence of detention or removal.

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 Enforcement Policy.

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 Guidance Rules and Forms team.

Clearance

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

- version 4.0
- published for Home Office staff on 11 December 2017

Changes from last version of this guidance

New guidance on [Completing the family separations form \(ICD.5025\)](#).
Minor housekeeping changes.

Related content

[Contents](#)

Family separation: definitions and principles

This page provides guidance for caseworkers and Immigration Compliance and Enforcement (ICE) officers on the principles for separation of family members as a consequence of detention or removal.

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[Separation: family definition](#)

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Separation: family definition

For the purposes of separation, a family is defined as those who have a **genuine and subsisting** relationship which is recognised as established ‘**family life**’ under the meaning of [article 8 of the European Convention on Human Rights \(ECHR\)](#), where removal would not be a breach of the Convention.

In line with those recognised under the [Immigration Act 2014](#) as a family member of someone liable to removal, this will include genuine and subsisting relationships on the basis of being:

- the individual’s partner
- the individual’s child or children
- any other child who is living in the same household and under the care of the individual
- the parents of the individual, where the individual is a child

It also includes genuine and subsisting relationships based upon **exceptional** elements of dependency which are recognised as established ‘family life’, for example:

- an individual caring for their adult sister who has significant caring needs
- a child who is not living in the same household, but for whom the individual has exceptional caring responsibilities for (for example, a grandparent, aunt, or uncle who maintains frequent contact and has responsibility for that child’s upbringing)

In these cases, the elements of dependency **must** be exceptional, and go beyond normal emotional ties, to amount to ‘family life’. See [assessing dependencies and exceptional circumstances](#).

When immigration powers are used to detain or remove a family, the underpinning principle within [article 8 of the European Convention on Human Rights \(ECHR\)](#), is that **members of the family remain together wherever possible**.

Separation: principles

Separation of individuals from their family unit may sometimes be required, when it is necessary and proportionate to do so, to enable the Home Office to carry out immigration functions effectively. However, separating families for detention and removal purposes must always be justified as being necessary and proportionate, and must have regard to the need to safeguard and promote the welfare of any children concerned.

You must **not** separate family members in the following circumstances:

- nursing mothers must not be separated from the child they are nursing, for immigration purposes
- a child must not be separated from both adults for immigration purposes (or from one, in the case of a single-parent family, if the consequence of that decision is that the child is taken into care)

Where children are involved, your primary consideration must be their best interests. You must fully document this to demonstrate you have fully considered all factors when deciding whether to separate or not.

The following non-exhaustive list provides examples of when family separation may be justified:

- for safeguarding reasons - to prevent children from being at risk of, or witnessing, disruptive or violent behaviour
- where a family member is frustrating the removal process through non-compliance or absconding
- where there has been threatened or actual violence to:
 - Home Office staff
 - other family members
 - themselves
- where there is an unexpected medical emergency of a family member, but it is decided it is necessary and proportionate to continue with the removal of the rest of the family
- when a reactive decision to separate is made at the point of arrest, for example, if part of the family is not at home or has absconded during the operation
- to safeguard children by preventing them from witnessing disruptive or violent behaviour
- where, in cases involving at least one child aged under 18, the Independent Family Returns Panel (IFRP) advises that a separation is in a child or the children's best interests

Planned or reactive

Wherever possible, family separations should be **planned** for in advance by the caseworker prior to tasking, either:

- as proposed action

- within a contingency plan for removal or detention, and authorised (see [Levels of authority for family separation](#)) at the appropriate level

However, where the Home Office needs to respond to unforeseen events during an operation, for example, disruption at the point of arrest or a medical emergency, a **reactive** separation may be appropriate. Reactive decisions will be made by the officer in charge (OIC) initially, and OICs must ensure they are familiar with the family history, prior to operational planning / visits, to allow for informed decisions should the need for any reactive separations arise.

Temporary or permanent

In all cases, any separation must be for as short a time as possible, and you must inform the family why the separation is necessary.

By their nature, there should be the intention that separations will be either:

- **permanent** - where part of the family remains in the UK (regardless of immigration status) whilst the other part is returned to their country or territory of origin, or to a third country, and it is not considered to be in the family's control to reunite themselves, nor do we have intentions of reuniting the family due to barriers preventing family life from continuing overseas
- **temporary** - where part of the family is separated from the family group, but we have intentions to reunite the family, or it is considered to be within the family's control to be reunited, as soon as reasonably practical within either:
 - the UK
 - their country or territory of origin
 - a third country

As such, temporary separations include those where a part of the family is removed from the UK, but it is considered to be within the family's control to reunite themselves because, for example:

- it is considered that there are no barriers to family life continuing overseas
- it is considered reasonable for the removed family member or members, to obtain the required entry clearance required to rejoin their family group

If plans to reunite family members who have been temporarily separated, are deliberately frustrated by factors outside of the control of the Home Office, for example if a family member absconds or is deliberately non-compliant; reunification must be considered again as soon reasonably practical (for example, once the individual has been re-encountered). The separation must not be re-classed as permanent.

In temporary separations, you must also inform the family when, where and under what circumstances they can expect to be reunited.

Separation: process

The 3 key stages (Family separations process: key stages) of family separations are:

- [Separations stage 1: identifying family life](#)
- [Separations stage 2: lawful, necessary and proportionate](#)
- [Separations stage 3: responsibilities, review points, and authorities](#)

If it is not already apparent, you must determine if there is a genuine and subsisting 'family life' first. Where family life is present, you must go on to consider whether it would be lawful, necessary and proportionate to interfere with that family life through separation of family members.

Where a temporary separation is being proposed, you must also consider identifying the earliest opportunity to re-unite the family.

Related content

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Separations stage 1: identifying family life

Separations stage 2: lawful, necessary and proportionate

Separations stage 3: responsibilities, review points, and authorities

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Download: family separations - impact consideration framework

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Separations stage 1: identifying family life

This page provides guidance for caseworkers and Immigration Compliance and Enforcement (ICE) officers on stage one of the family separation process – identifying family life.

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[ECHR article 8 and appendix FM](#)

[Assessing dependencies and exceptional circumstances](#)

[Decision: is family life established?](#)

Under [article 8 of the European Convention on Human Rights \(ECHR\)](#), the term ‘family life’ extends from the legally acknowledged ties between persons related by blood or marriage, and is established where there are sufficiently close family ties and dependencies.

In many cases ‘family life’ will be readily apparent, particularly for cases already within the family returns process with straightforward parent and child relationships, or those who have had article 8 applications considered already.

In cases where ‘family life’ is claimed but not readily identifiable, you may need to exercise discretion when considering evidence to determine if there is ‘family life’ under the meaning of article 8.

You must consider of **all** of the circumstances and evidence available, focusing on 3 key areas:

- [ECHR article 8 and appendix FM issues](#)
- strength of ties and the level of dependency between the family members (see [Assessing dependencies and exceptional circumstances](#))
- any known discretionary factors or exceptional circumstances

ECHR article 8 and appendix FM

Cases being considered for separation for removal or detention purposes should already have had an ECHR article 8 assessment undertaken by a caseworker.

When considering separation of the family, you do not need to repeat the ECHR consideration unless there have been significant changes to the family circumstances since that assessment was made.

In all cases the onus is on the individual to provide evidence or demonstrate there is a genuine and subsisting relationship, with sufficiently close family ties and dependencies to constitute ‘family life’, and that separation for detention and/or removal will interfere with that family life.

You, the caseworker, must consider all of the available information. Any changes in circumstances must be assessed and processed by the case working unit within which they occur rather than returning cases to the original unit (unless the changes were identified by non-caseworking ICE teams during a reactive separation).

If a reactive separation (see [Recording reactive separations](#)) occurs on a case where:

- an article 8 assessment was not available as part of the pre-operation planning
- significant changes to the family circumstances have occurred since the article 8 assessment

the ICE officer in charge (OIC) must indicate this on the form (ICD.5025) to alert the authorising officer, and so that a caseworker can conduct an assessment after the case is transferred. See [Completing the family separations form \(ICD.5025\)](#).

If you are a caseworker who is considering a separation of a family where the article 8 assessment hasn't yet been completed, or where there has been a significant change in circumstances, you must assess if there is currently any 'family life' as part of your consideration:

- non-foreign national offender (non FNO) caseworkers must refer to the family rules set out in (Appendix FM and 276ADE (family members and private life): On or after 9 July 2012, and assessing genuine and subsisting relationships, for additional guidance (in non FNO cases), and by [assessing any strength of ties, dependencies, and exceptional circumstances](#)
- foreign national offender (FNO) caseworkers must follow the specific ECHR article 8 consideration for FNO cases guidance (see Criminality guidance for Article 8 ECHR cases) - as appendix FM generally does not apply in FNO cases

If you identify any article 8 issues raised that indicate a grant of leave may be likely, you must transfer the cases to the relevant case working unit for consideration and action.

In all cases where you are proposing a separation, you must:

- update the 'article 8 consideration' section on the form (ICD.5025), see [Section 2a of the ICD.5025 form](#)
- enter the consideration date
- summarise the details of the consideration
- document any safeguarding, welfare or vulnerability considerations you have identified

Once you have completed your family life assessment, including assessment of any exceptional circumstances ([see assessing any strength of ties, dependencies, and exceptional circumstances](#)), proceed to [decision: is family life established?](#)

Assessing dependencies and exceptional circumstances

Article 8 is not usually engaged in relationships between adult family members such as parents and their adult children, or in relationships with wider family members such as grandparents and grandchildren or adult siblings, **except in cases of unusual or exceptional dependency**.

You must consider any available information regarding the extent and level of dependency and interaction between claimed family members to decide if, on balance, these exceptional factors constitute genuine and subsisting 'family life'.

You can find additional guidance on assessing exceptional circumstances in section 9 of appendix FM (family and private life) guidance.

The following list of possible dependency factors is not exhaustive, you must not consider it as a checklist.

Adult dependent relatives - consider whether any family members:

- provide long-term personal care to another family member, as a result of age, illness or disability
- are solely maintained, accommodated, and cared for by other family members in circumstances that are not incidental to the individual's situational circumstances (for example, they are financially dependent on a relative because the individual is not allowed to work lawfully in the UK)

Adult siblings - consider whether:

- any adult siblings have a significant role with minor siblings care, or do elements of dependency exist between adult siblings that go beyond normal emotional ties, suggesting strong dependencies as a family group
- adult siblings are not yet independent from the family unit due to age, educational status, religious, cultural, or other reasons - for example:
 - there are obvious differences between an 18/19 year old who is clearly dependent on the family unit for financial support, arriving and living together, to a case where the adult siblings arrive separately claiming in their own right

Non-resident parents, family members, or care givers - consider whether:

- evidence suggests they maintain close contact and a strong bond that may constitute a level of family life, despite the fact the individuals are not cohabiting
- there are circumstances, beyond the family's control, that prevent them from residing together
- there is anyone else outside of the core family grouping, dependent on the family for maintenance, accommodation, or day-to-day care - if so, to what extent

Children and contact - consider:

- whether there are any court orders such as contact orders, parental responsibility orders, or other orders in place that would establish responsibility for or contact with a child - and whether the individual is complying with those orders
- whether you have taken into account any court orders within the proposed separation or removal
- in cases where there is a recent parental separation - whether a lack of very recent contact may only indicate parental tension over contact arrangements, rather than a lack of family life
- who the primary caregiver is - even if a child has lived with an alternative caregiver for a short time, a child may have significant ties with their primary caregiver

Religious and cultural practices - consider:

- in some cultures, marriage marks the start of a commitment to a lifelong partnership and not the affirmation of a pre-existing partnership - couples in an arranged marriage may have spent little, if any time, together prior to the marriage
- evidence of pre-marital co-habitation and joint living arrangements can be a factor associated with a genuine relationship - equally, their absence can be too
- in some cultures, it is traditional for the household accounts, bills etc to be in the name of the male head of the household (who could be the male partner or their father or grandfather) - the lack of documentation of a secondary, or non-resident parent's residence, such as council tax bills or utility bills, is not necessarily an indicator that there is no family life

If you identify **sound issues or discretionary factors** that indicate the family may meet the criteria for their leave to be regularised under ECHR Article 8 under the exceptional circumstances route, you **must** refer the case to the appropriate case working unit.

Once you have completed your family life assessment, proceed to [decision: is family life established?](#)

Decision: is family life established?

No family life

If the article 8 assessment concluded that there was no established family life, and:

- there are no significant changes in circumstance since that assessment
- evidence to support claimed strength or ties, dependency or exceptional circumstances is neither forthcoming or available

you will **not** need to complete the form (ICD.5025) or seek authority for a separation, on the basis that there is no family life to separate, **but you must** update CID notes

using the [standardised CID wording](#), including any S55 or vulnerability considerations you have made.

Family life is established

If you conclude that there **is** genuine and subsisting family life within the meaning of article 8, you must update [section 2a of the family separations form \(ICD.5025\)](#) with:

- the date and summary of the article 8 assessment
- a summary of your considerations and any evidence provided

You must then proceed to [separations stage 2: lawful, necessary and proportionate](#)

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Separations stage 2: lawful, necessary and proportionate

This page provides guidance for caseworkers and Immigration Compliance and Enforcement (ICE) officers on stage 2 of the family separation process – ensuring separations are lawful, necessary and proportionate.

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[Decision – would separating be lawful, necessary and proportionate?](#)

After establishing that you are dealing with a family group ([Separations stage 1: identifying family life](#)), you must determine whether it would be **lawful, necessary and proportionate** to interfere with that family life by separating family members for the purpose of detention or removal. A lawful basis for interference with 'family life' **must** exist – ie lawful grounds for detention and/or removal.

You must consider factors such as [length and nature of proposed separation](#), [impact of separation from any sole carers, children and other dependants](#) and [family unity for adult siblings](#) (not an exhaustive list) to determine if a separation would be considered necessary and proportionate.

Section 55 and best interests

[Section 55 of the Borders, Citizenship and Immigration Act 2009](#) and article 8 are different and separate. Article 8 does not need to be engaged before section 55 becomes relevant.

Where minor children or vulnerable adults are involved, you must demonstrate that you have taken into account any safeguarding or welfare (see [External safeguarding and welfare information](#)) issues, and weigh this against the need to separate for detention or removal purposes.

You must consider and document best interests first and foremost, before you consider whether a separation for detention and removal purposes would take precedence.

Where you determine there is no established family life, separation is unlikely to have an effect on the welfare of a child (and therefore less likely to raise best interest

issues). But, if there is **any** evidence of a child being impacted by an immigration decision, you must consider their best interests.

It may be appropriate to request information from external agencies in these cases.

Length and nature of proposed separation

All separations must be for as short a time as possible, and the family must be informed why the separation is necessary.

In the case of temporary separations, you must also inform the family when, where and under what circumstances they can expect to be reunited. You must consider purpose and duration, as well as reunification plans and review points.

Purpose and duration - you must consider:

- how long the separation is expected to last or whether it is considered a permanent separation
- whether the separation is proposed as part of a contingency plan or the preferred method for removal
- whether the proposed separation is for:
 - compliance (for example in reactive separations, or during transportation)
 - detention
 - removal (for example, separate flights to reduce risk of non-compliance)
 - a combination of the above

Reunification and review - in the case of temporary separations, you must consider:

- how it is intended to re-unite the family
- when the earliest opportunity for re-unification may be
- how the family will be informed of these plans
- when the situation will be reviewed

You must update [section 2c of the family separations form \(ICD.5025\)](#) with these details.

Impact of separation: sole carers, children, and other dependants

Impact can be short term or long term. Even if short term impacts are unlikely as a result of a family separation, (such as when there is an infant with no contact with the parent being removed), there can still be long term impacts, including emotional and financial impacts.

Separating a parent, relative or other carer for detention or removal can impact on a number of aspects of family life, including:

- emotional development of any children which results from feelings of sadness, anxiety, or anger

- identity development of any children, particularly when the separated parent is of a different ethnicity to the remaining parent
- financial arrangements
- care arrangements
- educational arrangements

Where dependent children or vulnerable adults form part of the family grouping, it is particularly important to establish who the primary caregiver is (or primary caregivers are). In some cases, family members may each take on different roles for finances, childcare, medical treatment, learning support etc.

You must consider if any person who has taken on the role as primary carer for a temporary period will be able to continue to provide care if the usual carer is separated from the family unit, or if the local authority or other care giver may be required to take over care and accommodation for a child or vulnerable adult.

Even if a child or vulnerable adult has lived with an alternative caregiver for a short time, they may have significant ties with their primary caregiver.

Previous conflict within the family should not automatically equate to a lack of impact of the proposed separation on a child. Children who have been neglected or who have witnessed domestic violence or family conflict may still have positive feelings about the parent from whom they would be separated. Even in the absence of positive feelings, children can want contact with a parent who has been part of a family conflict and can suffer an emotional impact if that contact is not possible in the future.

Where a child has not had regular contact with a parent being removed, the separation may still result in an emotional impact, particularly when the child is older. You may wish to seek advice on welfare implications in these cases, see [external safeguarding and welfare information](#).

To assist family engagement managers (FEMs) and case-workers, the Family separations: Family engagement manager impact consideration framework lists a number of factors to consider when investigating the level of impact caused by a proposed separation from sole carers, children and other family members.

Family unity for adult siblings

The family returns process is designed to minimise impact upon children under the age of 18, by accepting and processing any dependent **adult siblings** as part of the family unit, wherever possible. In these cases, you must make a referral to the Independent Family Returns Panel (IFRP) prior to any separation occurring.

See the Family returns process (FRP) for details of making a referral.

External safeguarding and welfare information

When you make a decision to separate a family you must consider the possible impact of your decision on the welfare of **any** child who may be affected by an immigration decision in accordance with section 55 of the Borders, Citizenship and Immigration Act 2009.

The officer in charge (OIC) must be familiar with the family history on file prior to operational planning and visits, to allow informed section 55 decisions on any **reactive separations** that may occur.

However, in **planned separations**, you may need to request or gather evidence from external agencies and establishments, on the extent and depth of dependencies that may raise safeguarding issues, such as:

- family history
- parenting capacity
- basic and self-care skills, and safety of children or vulnerable adults
- extended family and support systems
- health and educational needs
- emotional and behavioural development issues

This is not an exhaustive list.

Information relating to safeguarding issues for each family may be available from areas such as:

- [Local authority children's services \(LACS\)](#)
- [Children and Family Court Advisory and Support Service \(CAFCASS\) and the family court](#)
- other family members
- schools
- medical professionals
- the child or adult themselves

You must also gather information from social services if there is any indication of adult vulnerability within the family group.

You must then consider this information to determine the impact any safeguarding issues may have on family members if a separation occurs, such as which parent may be the most suitable to care for the child or vulnerable adult, to determine if the proposed separation would be necessary and proportionate.

Although the [Office of the Children's Champion \(OCC\)](#) prefer to give their advice at the decision stage of the process, if you have a complex case involving children and you feel a more in-depth consideration is required, you can approach the OCC earlier for advice on possible impacts of a decision to separate.

Local authority children's services (LACS)

Where there is evidence that LACS have had involvement in the care of any child in that unit, you must contact them to obtain information about the family's circumstances and issues that might be relevant when considering a family separation.

You must contact LACS before you consider whether to refer the case to the OCC for additional advice, especially if there is evidence or suspicion of maltreatment of a child.

For additional details of what to include, and how to make a request for information from LACS, please refer to the Criminal Casework (CC) guidance on requests to local authority children's services and contacting child welfare agencies. The referral process is also applicable to non CC cases.

Referrals for safeguarding advice – OCC and IFRP

The following table explains when referrals for safeguarding advice are required from either the [Office of the Children's Champion \(OCC\)](#) or the Independent Family Returns Panel (IFRP):

Refer to	Scenario
IFRP	<p>You must request IFRP advice when a proposed temporary separation falls within an ensured returns plan (even if it is just a contingency option) of the Family returns process (FRP)</p> <p>You must seek IFRP advice in advance of any arrest where the action can be reasonably foreseen.</p>
OCC	<p>You must request OCC advice for the removal or separation of any case involving:</p> <ul style="list-style-type: none"> • a permanent separation where the child will remain in the UK having been separated from the main or sole carer • an unaccompanied child • any circumstances that a safeguarding children coordinator considers appropriate <p>You must carefully consider if a referral is required for any case involving:</p> <ul style="list-style-type: none"> • evidence of maltreatment of a child • detention of a child • a child in care • family court proceedings <p>You may also request OCC advice outside of these categories if you have a complex or unusual case you feel would benefit from safeguarding advice. You must make these referrals at the earliest possible opportunity, but after a senior caseworker has seen it.</p>

If you establish that the family have been, or are involved in care arrangements, you must forward the OCC or IFRP referral at the decision stage of the process (stage 2: lawful, necessary and proportionate), **after** you have contacted LACS (unless it is a complex case requiring early advice).

If, after you have considered the available information and advice, you decide that separating the family for the purposes of detention or removal is **not** necessary and proportionate, you must:

- not continue to pursue a family separation
- update CID and the [family separations form \(ICD.5025\)](#) to show your considerations

Office of the Children's Champion (OCC) referral process

It is not the role of the OCC to make decisions in respect of individual cases, or to approve or support all decisions made by Immigration Enforcement but to offer an independent view about welfare issues in complex cases.

Please see factors to consider before you request an OCC referral and how to contact the OCC for further details.

The OCC professional advisors require key details of the family, including where and with whom any children currently live, along with parents and relatives already in the UK.

You must update the [family separations form \(ICD.5025\)](#), and ensure you include the following:

- full names, dates of birth, nationalities and immigration status of all involved (fathers, mothers and all children)
- details of parental contact with the children (including step parents), including how often and how long they see each other - for example, if there are step-children, do they have contact with their biological parents
- details of any family members with illnesses, disabilities or other needs
- evidence you have contacted the relevant LACS (there may be more than one to contact when children live in different areas), and their response to whether they have had, or still have, any contact with any members of the family and if so, why

Completed templates must be sent to the Office of the Children's Champion inbox, with a covering email as follows:

- surname, (or Home Office registration name, that is the name which directs the initial letter of the Home Office file reference)
- given name or names
- Home Office file reference (optional)
- any deadline (for example 'RDs set for 1-1-12' or 'to be detained on 1-1-12')
- protective marking, for example 'official - sensitive' marking

Wherever possible you must plan requests in advance. If last minute referrals are unavoidable, you must ring the OCC to advise them of the urgent request, although they cannot guarantee to respond to such requests within a specified time.

Subsequent OCC referrals

Following the initial OCC referral, you must only make further referrals if there are significant changes in a case you feel would benefit from professional advice about child welfare. Such changes might include where:

- the existence of additional children has come to light
- family circumstances have changed
- the LACS have become involved

You must record subsequent referrals as an update on the original [family separations form \(ICD.5025\)](#) and clearly dated to ensure chronology of new information, and sent to OCC.

CAFCASS and children and family court orders

The Children and Family Court Advisory and Support Service is widely known as CAFCASS.

Family court involvement may provide vital information that directly highlights impact factors for family members. For example, either information:

- indicating a child may face a risk of harm from an abusive parent
- relating to residency and contact orders

If there is any indication of family court involvement, you must contact the family courts through CAFCASS who look after the interests of children involved in family related legal proceedings, to find out if any family members are subject to court proceedings or legal obligations that might affect the child in light of the proposed separation.

Please refer to guidance on children and family court cases (see Children and family court advisory and support services) and link to [CAFCASS](#) for further details.

Decision – would separating be lawful, necessary and proportionate?

You must record your considerations by updating both:

- [section 2b of the family separations form \(ICD.5025\)](#) for non FRP cases
- CID notes

If on balance you decide that separating the family **would not** be necessary and proportionate you must **not** continue pursue a family separation.

If on balance you decide that a family separation **would** be necessary and proportionate, you must proceed to [stage 3 – responsibilities review points and authorities](#). In the case of temporary separations you must also update [section 2c of the family separations form \(ICD.5025\)](#) with details on:

- how it is intended to re-unite the family
- when the earliest opportunity for re-unification may be
- how the family will be informed of these plans

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Separations stage 3: responsibilities, review points, and authorities

This page provides guidance for caseworkers and Immigration Compliance and Enforcement (ICE) officers on stage 3 of the family separation of process, including review points, authority levels, and the recording of decisions.

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Once it has been determined that a separation is necessary and proportionate (see [Decision – would separating be lawful, necessary and proportionate?](#)), the third stage of the process focuses on 3 key areas:

- [Responsibilities](#)
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- [Authority: seeking the correct level of authority for each type of separation](#)

Responsibilities

The Family separations: case flow and review point overview provides a summary of how a case progresses through the family separation process, including when each area or unit must:

- consider evidence and update the:
 - [family separations form \(ICD.5025\)](#)
 - CID at any given point
- conduct a review of any separation case that is already within the system

Review points

There are a number of natural points within the family separations process, generally as a case moves from one case-working area to another, that prompt a review of the original separation decision to consider any significant changes and whether the separation is still necessary and proportionate. You must conduct a review if you:

- have received the case following a reactive separation to consider if retrospective authority is to be granted
- have received a separation case from another unit, including when a removal has failed
- become aware of any significant changes to the family circumstances
- are conducting a detention review

these review points have been marked with a star within the Family separations: case flow and review point overview

Depending on case circumstances, you may also identify and suggest review points outside of the natural ones listed above.

You must update [section 2c of the family separations form \(ICD.5025\)](#) with the details of the first proposed review.

Levels of authority for family separations

All family separations must be authorised at the appropriate level, and the authorising officer, or [delegated authority](#), must record their agreement to the separation and their reasons for doing so, on section 4 of the family separation form (ICD.5025).

Authorising planned separations

All planned family separations must be authorised by **no less** than:

- **Her Majesty's Inspector (HMI) or Senior Executive Officer (SEO)** for non-contentious cases without children under 18 years of age
- **a Grade 7 (G7)** for all other cases, including those with children under 18 years of age

Unless you are a caseworker dealing with foreign national offender (FNO) cases, in which case you must refer to Criminal Casework guidance on authorising family separation proposals.

Authorising reactive separations

Reactive separation may be authorised by the **officer in charge (OIC)** initially. The OIC must:

- record their reasons for deciding to separate the family
- request authorisation of the initial decision within 12 hours, or as soon as practicable after the event, from no less than a:

- **Her Majesty's Inspector (HMI) or SEO** for non-contentious cases without children under 18 years of age
- **A Grade 7 (G7)** for all other cases, including those with children under 18 years of age

Wherever possible, the relevant authority must be secured through the ICE on-call system. However, where this is not possible, detention or entry into the FRP must not be delayed solely because ICE authority could not be secured in time. In these cases, the caseworker must request and confirm authority for the separation from an appropriate grade within detention casework before any detention taking place, or from the within family returns for FRP cases.

The officer in charge (OIC) must notify the family returns team, as soon as possible, following reactive separations of FRP cases.

There may be rare occasions where a **permanent** reactive separation occurs. For example:

- part of the family is removed with an unspecified timescale for re-unification of the family
- where there is an unexpected medical emergency involving one member of the family but removal of the other family members is still considered necessary and proportionate

In these cases, removal must **not** take place before G7 authority has been granted for the separation.

Complex and high profile cases

There may be more complex and high profile cases which necessitate referral to more senior levels, but a judgement on these can be taken locally by the authorising officer (HMI or G7) upon review of the case details.

Delegated authority

The authorising officer must consider family separation decisions personally.

When they are on leave or absent, they must ensure that an officer of an equivalent or higher grade is designated to exercise their authority in these decisions.

Temporary cover allowance (TCA) and higher rate allowance (HRA)

Where the minimum grade level to authorise something is a legislative requirement, it must not be delegated any lower. However, the level of authority for family separations is a policy requirement, rather a legislative one.

As such, authorisation may be given by officers receiving TCA or HRA, but only where the officer has been given the appropriate training in undertaking the relevant duties at a higher level.

Recording considerations and authorities

The family separations process requires case owners to record their considerations and decisions at each stage of the separations process, to ensure information is accessible to other business areas that may need to re-assess the separation decision at a later date, as family dynamics may alter as the case moves towards removal.

In all cases where children are involved, you **must** clearly document any best interest considerations, and any welfare and safeguarding considerations made under [section 55 of the Borders, Citizenship and Immigration Act 2009](#). The duty to safeguard and promote the welfare of children, under section 55, requires you to evidence your consideration of the child's best interests. Without this, the decision may be open to legal challenge on that basis alone, even if the right conclusion was reached.

No family life established

Where it is established no 'family life' exists, you must update the CID notes screen, using [standardised wordings](#), and clearly record what you considered to determine that there was no family life between the relevant parties.

Family life established

Where it is established that 'family life' exists, you must update the [family separations form \(ICD.5025\)](#), clearly recording:

- consideration determining there is a family life
- consideration of why separation would be necessary and proportionate
- the purpose of separation
- the earliest opportunity to re-unite
- any professional advice or referrals
- consideration of necessity and proportionality for any contingency planning (for example, moving from a temporary to a permanent separation as a result of non-compliance)
- relevant [levels of authority for family separations](#)

Summary: Recording separation considerations

Case type	Separations form (ICD.5025)	Standardised wording on CID notes
No family life established	No	Yes

Case type	Separations form (ICD.5025)	Standardised wording on CID notes
Family life established	Yes	No

Recording reactive separations

By their nature, reactive separations occur in response to unforeseen situations during an operation. There will sometimes only be limited information based upon known factors presented to OICs within the pre-visiting briefings, or upon on observations and situations ‘in the field’.

Where the OIC considers that family life is established, it is important that they update sections 1, 2, and 3 of the [family separations form \(ICD.5025\)](#) with a brief summary of the relevant factors leading to the decision to separate, as soon as possible after the arrest.

Levels of authority for reactive separations can be found in [levels of authority for family separation](#).

Completing the family separations form (ICD.5025)

You must fully and accurately complete the family separations form (ICD.5025) to record the information used to decide that the family separation is justified as being necessary and proportionate.

Section 2a of the ICD.5025 form

The information you record in section 2a **must** include:

- the article 8 assessment and considerations including safeguarding and welfare issues (see [ECHR article 8 and appendix FM](#))
- any evidence provided
- details of all family members considered to form part of the family life including:
 - if the family member is UK born or British
 - their length of residence in the UK
 - their ties to the UK and overseas
 - any medical conditions
 - if a family member is pregnant

Section 2b of the ICD.5025 form

The information you record in section 2b **must** include:

- safeguarding or welfare considerations when assessing proportionality (see [Section 55 and best interests](#))
- the implications of a separation where an individual is pregnant including:

- acceptance on a flight
- if it is reasonable to expect them to make arrangements to leave the UK especially in the late stages of pregnancy
- likelihood of adverse media attention
- where children are involved, confirmation that the [local authority children's services \(LACS\)](#) have recently been contacted to establish whether the family are known to them
- the date of last contact and evidence of the advice given
- details following contact with the Children and Family Court Advisory and Support Service about any family proceedings
- any advice given by the Office of the Children's Champion (OCC)
- details of any UK born children including:
 - the current position regarding documenting any UK born children (see Country returns guide)
 - when the family were given information on how to document any children
- when and how voluntary departure has been offered to the family including:
 - date
 - method of engagement with the family
 - the assisted voluntary return packages offered
 - the family's response to the offer
- details of the family's non-compliance including:
 - failure to report
 - previous absconding
 - non-compliance with the emergency travel document or other documentation process
 - failure to make a voluntary departure
 - illegal working
 - any Police National Computer trace and criminal convictions

Section 2c of the ICD.5025 form

The information you record in section 2c **must** include reunification plans and review plans (see [Length and nature of proposed separation](#) and [Review points](#)).

Standardised CID wording

Where the individual has made claims regarding a family life in the UK, but you determine that **no family life exists** between the relevant parties, you must update CID notes with the following standardised wording, inserting any case specific details:

Authorisation for a family separation is **not** required on this case. Consideration has been given to the claimed family life of this applicant with **(state claimed relationship)** in regard to article 8 of European Convention of Human Rights (ECHR), and the Immigration Rules under appendix FM. Whilst the applicant claims to have established a relationship, which constitutes family life, in the United Kingdom, it is not accepted that this falls within the meaning of article 8 of the ECHR **(state the summary reason why)**.

In all cases where **minor children** are involved in a proposed separation, you must also update CID notes with the following wording, inserting any case specific details:

Consideration has been given to our obligations under section 55 of the Borders, Citizenship and Immigration Act 2009. It is not accepted that the child's welfare would be adversely affected by the proposed separation because **(state the summary reason why - section 55 requires a qualitative assessment on how we reached our best interest decision).**

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