



Bringing children from previous relationships to the UK

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The following information was taken from the UK Visas & Immigration (UKVI) website.

1. What are the immigration rules?

The rules state that a child cannot normally go to live in the UK if one parent is living abroad, unless:

1. the sponsoring parent* in the UK has sole responsibility for the child, or
2. there are serious and compelling family or other considerations which make exclusion of the child undesirable and suitable arrangements have been made for the child's care.

Wishing to bring the child to the UK because it offers a higher standard of living than their own country is not classed as a special reason.

* If the sponsor (i.e soldier) is the step-parent of the child (i.e it is your spouse who is wishing to bring their child to the UK), then you will need to contact the F&C team for further advice.

2. What is sole responsibility?

A parent must be able to show that he/she has been solely responsible for exercising parental care over the child for a substantial period. It must be shown that he/she has had, and still has, the ultimate responsibility for the major decisions relating to the child's upbringing, and provides the child with the majority of the financial and emotional support they require. If the sponsoring parent and child are separated, the child will normally be expected to have been in the care of the sponsoring parent's relatives rather than the relatives of the other parent. However, the parent claiming *sole responsibility* must still be able to show that he/she has retained the ultimate responsibility for the child's upbringing and provides the majority of the emotional and financial support needed. The test is, not whether anyone else has day-to-day responsibility, but whether the parent has continuing control and direction of the child's upbringing including making all the important decisions in the child's life – if not, responsibility is shared and so not 'sole'.

Important** An application should normally be refused if the child has been in the care of the other parent's relatives and the other parent lives nearby and takes an active interest in the child's welfare.

The following factors should be considered in assessing sole responsibility:

- If the parents' marriage / civil partnership is dissolved, which parent was awarded legal custody?
- If the sponsoring parent migrated to the UK, how long has the sponsoring parent been separated from the child?
- If the sponsoring parent migrated to the UK, what were the arrangements for the care of the child before and after the sponsoring parent migrated?
- If the sponsoring parent migrated to the UK, what has been/what is the sponsoring parent's relationship with the child?
- Has the sponsoring parent consistently supported the child, either by direct personal care or by regular and substantial financial remittances?
- By whom, and in what proportions, is the cost of the child's maintenance borne?
- Who takes the important decisions about the child's upbringing, for example where the child lives, the choice of school, religious practice etc?

3. Suggested supporting documents

There is no specific list of documents that are required for such an application. Each case is very individual and will be considered on its own merit by the caseworker who will base their decision on the information that they have before them.

- Statement from you as the sponsor explaining
 - o your relationship with the child
 - o the situation regarding the other biological parent
 - o who looks after the child
 - o why you didn't bring them to the UK previously
 - o when you last saw them
 - o how you have kept in contact
 - o how you have supported them financially.
- Evidence to support all of the claims in the supporting letter
 - o letter from the family member the child is currently living with
 - o custody documents or letter from other biological parent
 - o evidence of continued contact e.g. records of visits, print-outs of messages from Facebook, WhatsApp, etc
 - o evidence of financial maintenance, e.g. bank statements or transfer receipts
 - o school/medical records or letters stating that you are the parent.

4. Will I need a custody order?

UKVI guidance states that 'A custody order should normally be accepted as evidence that the "sole responsibility" requirement of the Rules is met provided that it gives responsibility for the child to the parent who is settled here or being admitted for settlement. The Child Abduction and Custody Act 1985, makes provision for certain overseas custody orders to be recognised under United Kingdom law provided they have been registered with the courts here. However, only certain overseas custody orders are recognised under UK law. A link to the list of approved countries can be found at <https://www.gov.uk/government/publications/custody-orders-valid-in-the-uk>

5. What are serious and compelling considerations?

Where sole responsibility cannot be proven but there are aspects of a child's life that are serious and compelling (for example where an applicant is living in an unacceptable social and economic environment) then the Entry Clearance officer has to consider whether exclusion of the child from the UK is appropriate. The focus needs to be on the circumstances of the child in the light of his or her age, social background and developmental history and will involve inquiry as to whether:

- there is evidence of neglect or abuse;
- there are unmet needs that should be catered for;
- there are stable arrangements for the child's physical care.

The evidence to supply in these cases will be very specific to the case.

6. How do I apply?

- An application for 'settlement' will need to be made online.
- Your child will be eligible for indefinite leave to enter if you have served for 5 years or more.
- You do not need to meet the minimum income requirement to bring your child to the UK.

For all information, please see <https://aff.org.uk/advice/foreign-commonwealth/visas/> and click 'Children's Applications'.

7. How will AFF help me?

The F&C specialist is unable to give detailed advice on these types of applications. Depending on the individual circumstances (for example if there has been a long period of separation or there is little evidence of sole responsibility), it may be advisable to engage a lawyer or advisor to undertake the application on your behalf. Please ensure they are also regulated by the OISC to provide this advice – see www.gov.uk/find-an-immigration-adviser. These applications are often refused due to lack of evidence, leading to long and expensive appeals.