

## 7 Year Child Rule

2015

Conversation between a refused asylum seeking woman, and legal rep, remember there are many different points of view out there, we will be publishing another one on this question soon.

My daughter is 7, and I heard that she can get the right to stay in UK now, is this right?

Legal rep: It matters if your daughter was born in UK,

Woman: She was brought in 6 months old.

Legal rep: No resolution until your daughter turns 11...

Legal rep: Then apply under 276 ade (private life in UK) immigration rules

Legal rep: Point v) is about children under the age of 18 years who have lived continuously in the UK for at least 7 years (discounting any period of imprisonment) and it would not be reasonable to expect the applicant to leave the UK.

Woman: U mean my daughter cannot regularise until she's 11 yes old?

Legal rep: Yes.

Legal rep: *Azimi-Moayed and others (decisions affecting children; onward appeals) [2013] UKUT 197 (IAC)*, in which it is suggested that residence from birth for a child is less significant than residence later on.

Woman: Wow.

Legal rep: 7 years should be informative years, i.e. years child was in education in UK, 4 till 11.

Woman: What if she was born here. I've heard some people said they were given once their child reaches the age of 7. And even some solicitors said something about it under immigration law. Am now confused.

Legal rep: If she was born here when she's 10 she can naturalise British.

Legal rep: Solicitors tell you what you want to hear for £££.

Woman: OK. Thanks for the information

## Alternative view on the 7 year rule for children in the UK:

Law is full of interpretation, the government (house of commons and lords) make the law, then the judges interpret the meaning of the law in relation to particular cases, taking into account what previous precedence says. An alternative point of view on the 7 year rule question from [Dave Stamp at ASIRT](#) (contact him if you want advice or more info on this) suggests:

*'There's a right to remain in the UK for families with children resident in the UK for seven years-plus, as that's what paragraph 276ade(iv) of the Immigration Rules says.*

*The caveat is that the Rules say that such leave should be granted unless it is 'reasonable' not to do so. But there's no definition of what is or isn't reasonable, so that the Home Office essentially uses the circular argument that it is reasonable for children to return because the Home Office says that it is reasonable for them to return!*

*The waters are further muddied by the [Court of Appeal EV Philippines judgement](#), which essentially says that the best interests of the child are not sufficient consideration to override the state's prerogative to maintain immigration control.*

*So it's all a bit of a mess at present, with no clarity about the actual meaning of the Immigration Rules.*

*The question discussed in the [7 year rule rumour summary](#), that this woman cannot make an application now until the child's 11. Azimi-Maoayed does indeed say that the 7 years from 4 until 11 are more pertinent than those from birth to 7, but I think it's probably in this family's interests to have something consideration. Even if refused- and the situation's so inconsistent at the moment that it might well succeed- the Tribunals are so overwhelmed that the odds are no appeal will get heard until 6 months-1 year after that actual refusal, prolonging the child's UK residence and potentially bringing those Azimi-Moayed considerations into play either at appeal or else in a new application.*

*What I find interesting/infuriating here is that paragraph 27 of the [Home Office's own guidance](#) on Article 8 cases says this: 'The Rules deal clearly with how to treat British citizen and other children in cases where we would otherwise intend to remove their parent(s) and how countervailing factors should weigh in the decision.*

*There are some circumstances where children may be allowed to stay on a permanent or temporary basis on best interest grounds. The key test for remaining on a permanent basis is around the length of continuous residence of a child in the UK – which we have set at 7 years, subject to countervailing factors. We consider that a period of 7 continuous years spent in the UK as a child will generally establish a sufficient level of integration for family and private life to exist such that removal would normally not be in the best interests of the child. A period of 7 years also echoes a previous policy (known as DP5/9611) under which children who had accumulated 7 years' continuous residence in the UK were not deported, which is still referenced by the Courts on occasion. In policy terms, we would not propose a period of less than 7 years as this would enable migrants who entered the UK on a temporary route (for example a route limited to 5 years in the UK) to qualify for settlement if they had brought children with them. The changes are designed to bring Consistency and transparency to decision-making.'*

*If the guidance is that removal after 7 years won't 'normally' be in a child's best interests, and that they should 'generally' be allowed to remain, allowing consistent and transparent decision making, why do we keep seeing the decisions we do?'*

Other projects working on this in your area, some places online are:

**Legal Projects:**

[United Kingdom Pro Bono Directory](#): Search for legal advice here

[Migrant Rights Network](#): Sources of information and advice

**Blog and ideas:**

[Freemovement Commentary](#): Can children and parents apply to remain after 7 years residence?

**Information on support:**

[NRPF Network](#): Social Service Support to People with NRPF: A National Picture

[COMPASS](#): Safeguarding Children from Destitution: Local Authority Responses to Families with 'No Recourse to Public Funds'