

s 22(1)(a)(ii)

From: s 22(1)(a)(ii) @ag.gov.au >
Sent: Wednesday, 29 March 2023 4:51 PM
To: s 22(1)(a)(ii)
Cc: s 22(1)(a)(ii)
Subject: Proposal to send letters to young adults regarding eligibility for an Australian passport [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]
Attachments: Letter to child RE Australian passport - Final Cleared.docx

**OFFICIAL: Sensitive
Legal Privilege**
**OFFICIAL: Sensitive
Legal Privilege**

Dear s 22(1)(a)(ii)

Thank you for your email.

You have sought our input on a proposal to issue letters to Australian citizens (or individuals who are entitled to Australian citizenship) either just prior to or after their 18th birthday.

You note the following, and seek our clarification:

s 42(1)

s 42(1)

I hope that is helpful, please let me know if you would like to discuss.


s 22(1)(a)(ii)

Co-Director

International Family Law Section

Australian Central Authority for the 1980 *Hague Convention on the Civil Aspects of International Child Abduction* and the 1996 *Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children*

 s 22(1)(a)(ii) | @ag.gov.au | www.ag.gov.au | s 22(1)(a)(ii) | 1800 100 480 | Ngunnawal Country

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s 22(1)(a)(ii)

I acknowledge the traditional custodians of Country throughout Australia and pay my respects to Elders past and present. I acknowledge and celebrate the continuing connection of Aboriginal and Torres Strait Islander people to Country and culture.

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From: s 22(1)(a)(ii) <@dfat.gov.au>
Sent: Monday, 27 March 2023 2:51 PM
To: s 22(1)(a)(ii) <@ag.gov.au>
Cc: s 22(1)(a)(ii) <@dfat.gov.au>; s 22(1)(a)(ii) <@dfat.gov.au>
Subject: RE: URGENT: Response required by COB Thurs 23 March [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]

**OFFICIAL: Sensitive
Legal privilege**

Hi s 22(1)(a)(ii)

We will advise Consular that we are unable to get a full response until Wednesday.
 Thanks for your assistance with this.

Kind Regards

s 22(1)(a)(ii)

A/g Assistant Director Policy
 Passport Policy, Legislation & Knowledge Management Section (PCX)
 Strategy and Modernisation Branch | Australian Passport Office
 Department of Foreign Affairs and Trade
Ph. s 22(1)(a)(ii)



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From: s 22(1)(a)(ii) <@ag.gov.au>
Sent: Monday, 27 March 2023 2:07 PM
To: s 22(1)(a)(ii) <@dfat.gov.au>
Cc: s 22(1)(a)(ii) <@ag.gov.au>; s 22(1)(a)(ii) <@ag.gov.au>;
 s 22(1)(a)(ii) <@ag.gov.au>; s 22(1)(a)(ii) <@ag.gov.au>; s 22(1)(a)(ii) <@ag.gov.au>;
 s 22(1)(a)(ii) <@ag.gov.au>; s 22(1)(a)(ii) <@ag.gov.au>; s 22(1)(a)(ii) <@dfat.gov.au>;
Subject: RE: URGENT: Response required by COB Thurs 23 March [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]

**OFFICIAL: Sensitive
Legal Privilege**

Hi s 22(1)(a)(ii) – no worries. Any chance we can push it to Wednesday please? s 42(1)

**OFFICIAL: Sensitive
Legal Privilege**

From: s 22(1)(a)(ii) @dfat.gov.au>
Sent: Monday, 27 March 2023 12:11 PM
To: s 22(1)(a)(ii) @ag.gov.au>
Cc: s 22(1)(a)(ii) @ag.gov.au>; s 22(1)(a)(ii) @ag.gov.au>;
s 22(1)(a)(ii) @ag.gov.au>; s 22(1)(a)(ii) @ag.gov.au>; s 22(1)(a)(ii) @dfat.gov.au>;
s 22(1)(a)(ii) @dfat.gov.au>
Subject: RE: URGENT: Response required by COB Thurs 23 March [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]

**OFFICIAL: Sensitive
Legal privilege**

Hi s 22(1)(a)(ii)

Thanks for your quick response.

We only have a copy of the letter (attached) that was originally proposed to us which we have not approved sending out in its current form.

s 42(1)

Perhaps if we could have something by tomorrow afternoon, s 42(1)

Kind Regards

s 22(1)(a)(ii)

A/g Assistant Director Policy
Passport Policy, Legislation & Knowledge Management Section (PCX)
Strategy and Modernisation Branch | Australian Passport Office
Department of Foreign Affairs and Trade
Ph. s 22(1)(a)(ii)



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From: s 22(1)(a)(ii) @ag.gov.au
Sent: Monday, 27 March 2023 11:11 AM
To: s 22(1)(a)(ii) @dfat.gov.au
Cc: s 22(1)(a)(ii) @ag.gov.au>; s 22(1)(a)(ii) @ag.gov.au>; s 22(1)(a)(ii) @ag.gov.au>; s 22(1)(a)(ii) @ag.gov.au>
Subject: RE: URGENT: Response required by COB Thurs 23 March [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]

**OFFICIAL: Sensitive
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Hi ^{s 22(1)(a)(ii)}

^{s 42(1)}

Is the draft text of the proposed letter available?

^{s 42(1)}

Finally, can you let me know what sort of deadline you are looking at please?

Kind regards

^{s 22(1)(a)(ii)}

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From: ^{s 22(1)(a)(ii)} @dfat.gov.au>

Sent: Monday, 27 March 2023 11:10 AM

To: ^{s 22(1)(a)(ii)} @ag.gov.au>

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From: ^{s 22(1)(a)(ii)}

Sent: Monday, 27 March 2023 10:38 AM

To: ^{s 22(1)(a)(ii)} @dg.gov.au

Cc: ^{s 22(1)(a)(ii)} @dfat.gov.au>; ^{s 22(1)(a)(ii)} @dfat.gov.au>

Subject: FW: URGENT: Response required by COB Thurs 23 March [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]

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Dear ^{s 22(1)(a)(ii)}

We have been provided with your contact details from our International Law Branch to seek further clarification on the below query re: Hague Convention.^{s 42(1)}

s 42(1)

s 42(1)

Kind Regards

s 22(1)(a)(ii)

 A/g Assistant Director Policy
 Passport Policy, Legislation & Knowledge Management Section (PCX)
 Strategy and Modernisation Branch | Australian Passport Office
 Department of Foreign Affairs and Trade
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From: s 22(1)(a)(ii) @dfat.gov.au>
Sent: Friday, 24 March 2023 3:37 PM
To: s 22(1)(a)(ii) @dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au>
Cc: s 22(1)(a)(ii) @dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au>
Subject: RE: URGENT: Response required by COB Thurs 23 March [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]

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Dear s 22(1)(a)(ii)

Apologies for the multiple emails. The relevant contact at AGD is: s 22(1)(a)(ii) Director International Family Law section – s 22(1)(a)(ii) @dg.gov.au.

I've also corrected an error in red below.

Many thanks,
 s 22(1)(a)(ii)

 Legal Officer
 International Law Branch | Legal Division
 s 22(1)(a)(ii)

From: s 22(1)(a)(ii)
Sent: Friday, 24 March 2023 3:58 PM
To: s 22(1)(a)(ii) @dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au>
Cc: s 22(1)(a)(ii) @dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au>
Subject: RE: URGENT: Response required by COB Thurs 23 March [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]

**OFFICIAL: Sensitive
 Legal privilege**

Dear s 22(1)(a)(ii)

Please find relevant updates to our input below in red as a result of AS clearance. s 42(1)

Many thanks,
 s 22(1)(a)(ii)

Legal Officer
 International Law Branch | Legal Division
 s 22(1)(a)(ii)

From: s 22(1)(a)(ii)
Sent: Friday, 24 March 2023 2:34 PM
To: s 22(1)(a)(ii) @dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au>
Cc: s 22(1)(a)(ii) @dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au>
Subject: RE: URGENT: Response required by COB Thurs 23 March [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]

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 Legal privilege**

Dear s 22(1)(a)(ii)

s 42(1)

s 42(1)

We will confirm once we've received AS clearance.

Kind regards,

s 22(1)(a)(ii)

Legal Officer | International Law: Advising, Human Rights and Treaties Section
International Law Branch | Legal Division

T s 22(1)(a)(ii)

From: s 22(1)(a)(ii) [@dfat.gov.au](mailto:dfat.gov.au)>

Sent: Tuesday, 21 March 2023 2:28 PM

To: s 22(1)(a)(ii) [@dfat.gov.au](mailto:dfat.gov.au)>

Cc: s 22(1)(a)(ii) [@dfat.gov.au](mailto:dfat.gov.au)>; s 22(1)(a)(ii) [@dfat.gov.au](mailto:dfat.gov.au)>; s 22(1)(a)(ii)

[@dfat.gov.au](mailto:dfat.gov.au)>

Subject: URGENT: Response required by COB Thurs 23 March [SEC=UNOFFICIAL]

Hi team,

s 42(1)

We would appreciate if someone could get back to us by **COB Thursday 23rd March** so we can prepare our assessment by the due date of 24 March.

Thanks and Kind Regards

s 22(1)(a)(ii)

A/g Assistant Director Policy
Passport Policy, Legislation & Knowledge Management Section (PCX)
Strategy and Modernisation Branch | Australian Passport Office
Department of Foreign Affairs and Trade

s 22(1)(a)(ii)

www.passports.gov.au APO Call Centre 131 232
www.dfat.gov.au



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s 22(1)(a)(ii)

From: s 22(1)(a)(ii) @homeaffairs.gov.au <[s 22\(1\)\(a\)\(ii\)@homeaffairs.gov.au](mailto:s 22(1)(a)(ii)@homeaffairs.gov.au)>
Sent: Thursday, 30 March 2023 4:59 PM
To: s 22(1)(a)(ii)
Cc: s 22(1)(a)(ii)
Subject: RE: Engagement with consular clients in Japan approaching 18 applying for their first adult passport [SEC=[REDACTED] ACCESS=Legal-Privilege]
Attachments: Citizenship FAQ from Parents Affected by Child Custody and Abduction - FINAL 06042022.docx

[REDACTED]
Legal-Privilege

s 22(1)(a)(ii)

Citizenship Policy and Legislation Section's response to your enquiry is below, cleared at the AS level. Apologies for the delay in responding.

Also attached is a document we previously sent to DFAT to share with Australian parents who had consular cases in Japan at the time relating to child custody issues, which might be of assistance.

s 42(1)

s 42(1)

Please let me know if there are any issues or further questions.

Regards,

s 22(1)(a)(ii)

Citizenship Policy and Legislation Section
Citizenship Policy Branch | Citizenship and Multicultural Affairs Division
Social Cohesion and Citizenship Group
Department of Home Affairs

E: s 22(1)(a)(ii) [@homeaffairs.gov.au](mailto:homeaffairs@dfat.gov.au) | P: s 22(1)(a)(ii)

Legal-Privilege



From: s 22(1)(a)(ii) @dfat.gov.au
Sent: Tuesday, 21 March 2023 1:17 PM
To: Citizenship Policy <citizenshippolicy@homeaffairs.gov.au>; s 22(1)(a)(ii) @homeaffairs.gov.au
Cc: s 22(1)(a)(ii) @dfat.gov.au>; Alison Duncan (DFAT) <Alison.Duncan@dfat.gov.au>

Subject: RE: Engagement with consular clients in Japan approaching 18 applying for their first adult passport
[SEC= [REDACTED] ACCESS=Legal-Privilege]

[REDACTED]
Legal privilege

s 22(1)(a)(ii)

One last query, possibly a bit out of Home Affairs scope, but could you please also:

- Advise on whether Australian children living in Japan must take action to retain their Australian citizenship at 18 years.

Thanks very much,

s 22(1)(a)(ii)

Director | Consular Policy Section
Consular Communications and Policy Branch | Consular and Crisis Management Division
Department of Foreign Affairs and Trade
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From: s 22(1)(a)(ii)
Sent: Tuesday, 21 March 2023 1:09 PM
To: s 22(1)(a)(ii) @homeaffairs.gov.au; s 22(1)(a)(ii) @homeaffairs.gov.au
Cc: s 22(1)(a)(ii) @dfat.gov.au; Alison Duncan <Alison.Duncan@dfat.gov.au>
Subject: Engagement with consular clients in Japan approaching 18 applying for their first adult passport
[SEC= [REDACTED] ACCESS=Legal-Privilege]

[REDACTED]
Legal privilege

s 22(1)(a)(ii)

You may have seen there was a 60 minutes special on Japanese child custody on Sunday night. There were some associated articles in The Age and SMH, one of which (attached) referred to the issue of us potentially sending a letter to Japanese children as they approach 18 advising them they may be eligible to apply for an Australian passport and be entitled to consular assistance. This is similar in nature to the form letters US citizens send out as a matter of course advising minors who are due to turn 18 that they can apply for an adult passport.

The Foreign Minister's Office is very keen for a decision to be made on this question. The decision primarily is one for the Australian Passports Office, but they suggested we reach out to you given the issue does include a citizenship angle (given some of the children we seek to advise may not be aware they are entitled to citizenship).

s 42(1)

Any letter we did issue would of course be heavily caveated advising that they would need to meet all eligibility requirements (both to prove their citizenship and meet passport eligibility requirements).

Appreciate it if could get back to me as soon as possible given the high level interest in this question.

Kind regards,

s 22(1)(a)(ii)

Director | Consular Policy Section
Consular Communications and Policy Branch | Consular and Crisis Management Division
Department of Foreign Affairs and Trade

s 22(1)(a)(ii) [@dfat.gov.au](mailto:dfat.gov.au)

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s 22(1)(a)(ii)

From: s 22(1)(a)(ii)
Sent: Thursday, 30 March 2023 5:36 PM
To: s 22(1)(a)(ii) Warren Macilwain
Cc: s 22(1)(a)(ii)
Subject: RE: RESPONSE: For information - proposal to send letters to Australian children overseas with advice on applying for an Australian passport [SEC=[REDACTED]]
Attachments: RE: Engagement with consular clients in Japan approaching 18 applying for their first adult passport [SEC=[REDACTED] ACCESS=Legal-Privilege]
Categories: Child Abduction

[REDACTED]

Hello ^{s 22(1)(a)(ii)}

The advice from Home Affairs have just come in with some comprehensive advice (attached). It is quite lengthy but the most relevant points to our questions appear to be:-

s 42(1)

I am also away tomorrow, look forward to discussing next steps next week.

Kind regards,

s 22(1)(a)(ii)

Director | Consular Policy Section
Consular Communications and Policy Branch | Consular and Crisis Management Division
Department of Foreign Affairs and Trade

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From: s 22(1)(a)(ii)

Sent: Thursday, 30 March 2023 3:59 PM

To: s 22(1)(a)(ii) @dfat.gov.au; Alison Duncan <Alison.Duncan@dfat.gov.au>; Warren Macilwain <Warren.Macilwain@dfat.gov.au>

Cc: s 22(1)(a)(ii) @dfat.gov.au; Tori Lamb <tori.lamb@dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au

Subject: RE: RESPONSE: For information - proposal to send letters to Australian children overseas with advice on applying for an Australian passport [SEC=OFFICIAL:Sensitive]

OFFICIAL: Sensitive

Ok thank you ^{s 22(1)(a)(ii)}

We'll wait for you to brief Tori and arrange a time for us to meet and discuss next steps. Please note Alison's last day is tomorrow, Warren, copied in will take over her role.

Nothing yet from Home Affairs. They have confirmed receipt and said they would get back to us shortly. I'll send them a follow up again now.

Kind regards,

s 22(1)(a)(ii)

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Consular Communications and Policy Branch | Consular and Crisis Management Division
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Sent: Thursday, 30 March 2023 3:55 PM

To: s 22(1)(a)(ii) @dfat.gov.au; Alison Duncan <Alison.Duncan@dfat.gov.au>

Cc: s 22(1)(a)(ii) @dfat.gov.au; Tori Lamb <tori.lamb@dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au

Subject: RE: RESPONSE: For information - proposal to send letters to Australian children overseas with advice on applying for an Australian passport [SEC=OFFICIAL:Sensitive]

OFFICIAL: Sensitive

s 22(1)(a)(ii) and Alison,

s 42(1)

Upon Tori's return to work I have scheduled time with her on Monday to share the latest updates and confirm next steps.

This supports Tori's request that she brief Lucelle before progressing further.

Once completed I will organise a time for us all to meet and discuss further.

s 22(1)(a)(ii) did you have any success securing information from Home Affairs that we can add to the picture of what we know?

I am out of office tomorrow, s 22(1)(a)(ii) for any urgent assistance.

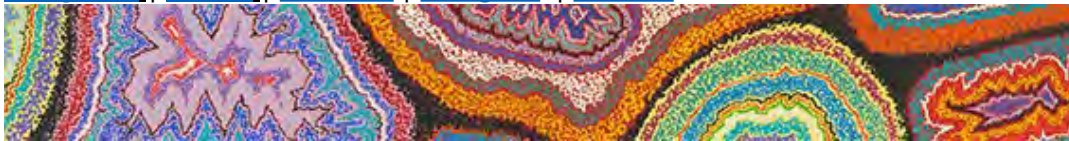
Yours sincerely

s 22(1)(a)(ii)

A/g Director | Passport Policy, Identity, Legislation and Knowledge Management
Strategy and Modernisation Branch | Australian Passport office
Department of Foreign Affairs and Trade

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To: s 22(1)(a)(ii) <[s22\(1\)\(a\)\(ii\)@dfat.gov.au](mailto:s22(1)(a)(ii)@dfat.gov.au)>; Alison Duncan <Alison.Duncan@dfat.gov.au>

Cc: s 22(1)(a)(ii) <[s22\(1\)\(a\)\(ii\)@dfat.gov.au](mailto:s22(1)(a)(ii)@dfat.gov.au)>; Tori Lamb <tori.lamb@dfat.gov.au>; s 22(1)(a)(ii)

<[s22\(1\)\(a\)\(ii\)@dfat.gov.au](mailto:s22(1)(a)(ii)@dfat.gov.au)>

Subject: RE: RESPONSE: For information - proposal to send letters to Australian children overseas with advice on applying for an Australian passport [SEC=OFFICIAL:Sensitive]

OFFICIAL: Sensitive

s 22(1)(a)(ii) Alison,

As an update.

We have received a response from the International Law Division, who recommended seeking further advice from AGD's Private International Law team.

s 42(1)

Please note Tori is on training this week and s 22(1)(a)(ii) is acting in Tori's role.

Yours sincerely

s 22(1)(a)(ii)

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Strategy and Modernisation Branch | Australian Passport office
Department of Foreign Affairs and Trade
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Sent: Friday, 24 March 2023 5:31 PM
To: Alison Duncan <Alison.Duncan@dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au
Cc: s 22(1)(a)(ii) @dfat.gov.au; Tori Lamb <tori.lamb@dfat.gov.au>
Subject: FW: RESPONSE: For information - proposal to send letters to Australian children overseas with advice on applying for an Australian passport [SEC=OFFICIAL:Sensitive]
Importance: High

OFFICIAL: Sensitive

Thanks s 22(1)(a)(ii)

s 42(1)

I'll follow up with Home affairs and try to get an answer out of them too.

Thanks,

s 22(1)(a)(ii)

Director | Consular Policy Section
Consular Communications and Policy Branch | Consular and Crisis Management Division
Department of Foreign Affairs and Trade
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Sent: Friday, 24 March 2023 12:30 PM
To: s 22(1)(a)(ii) <[s22\(1\)\(a\)\(ii\)@dfat.gov.au](mailto:s22(1)(a)(ii)@dfat.gov.au)>
Cc: s 22(1)(a)(ii) <[s22\(1\)\(a\)\(ii\)@dfat.gov.au](mailto:s22(1)(a)(ii)@dfat.gov.au)>; Tori Lamb <tori.lamb@dfat.gov.au>
Subject: FW: RESPONSE: For information - proposal to send letters to Australian children overseas with advice on applying for an Australian passport [SEC=OFFICIAL:Sensitive]
Importance: High

OFFICIAL: Sensitive

s 22(1)(a)(ii)

s 22(1)(a)(ii)

We are mindful of supporting your deadline of cob today and, in her absence, Tori requested that I forward the information that we have on hand - s 42(1)

- a risk assessment

We have also provided a s 42(1) and suggested next steps below.

s 22(1)(a)(ii) with both Tori and Lucelle travelling today, Tori would not have had the opportunity as yet to brief Lucelle on this content.

We are providing the content to support the deadline, provide visibility of progress and if required seek further clarification from your perspective on the extensive content.

Yours sincerely

s 22(1)(a)(ii)

A/g Director | Passport Policy, Identity, Legislation and Knowledge Management
 Strategy and Modernisation Branch | Australian Passport office
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From: s 22(1)(a)(ii) [@dfat.gov.au](mailto:dfat.gov.au)>

Sent: Friday, 24 March 2023 11:18 AM

To: s 22(1)(a)(ii) [@dfat.gov.au](mailto:dfat.gov.au)>

Subject: RESPONSE: For information - proposal to send letters to Australian children overseas with advice on applying for an Australian passport [SEC=OFFICIAL:Sensitive]

Importance: High

OFFICIAL: Sensitive

Morning ^{s 22(1)(a)(ii)}

s 42(1)

NEXT STEPS:

s 42(1)

Thanks and Kind Regards

s 22(1)(a)(ii)

A/g Assistant Director Policy
Passport Policy, Legislation & Knowledge Management Section (PCX)
Strategy and Modernisation Branch | Australian Passport Office
Department of Foreign Affairs and Trade
Ph. s 22(1)(a)(ii)

www.passports.gov.au APO Call Centre 131 232

www.dfat.gov.au



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From: s 22(1)(a)(ii) [@dfat.gov.au](mailto:dfat.gov.au)>

Sent: Monday, 20 March 2023 6:13 PM

To: s 22(1)(a)(ii) [@dfat.gov.au](mailto:dfat.gov.au)>; s 22(1)(a)(ii)

[@dfat.gov.au](mailto:dfat.gov.au)>

Subject: FW: For information - proposal to send letters to Australian children overseas with advice on applying for an Australian passport [SEC=OFFICIAL]

OFFICIAL

Hi both,

Here is the background to the issue. s 42(1)

To get you started, I've attached an email trail with Japan post ~18 months ago where we outlined our reasons for not doing this.

s 42(1)

We need to honestly consider whether we can mitigate these risks (and any others you think of). We'll then present an assessment to Craig Mac (through Lucelle) for a decision on whether the dept is willing to accept those risks.

We can engage CCD if we need more info or want to flesh out some of the risks or mitigants. I'd recommend reaching out to CCD or post in Japan as they're obviously dealing with this as a live issue.

Can you please give me an update COB Wednesday so we can go back to Lucelle and CCD with progress?

And call me if you want to chat!

Thanks

T

From: Tori Lamb

Sent: Monday, 20 March 2023 6:36 PM

To: Craig Maclachlan <Craig.Maclachlan@dfat.gov.au>

Cc: Lucelle Veneros <Lucelle.Veneros@dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au; s 22(1)(a)(ii) @dfat.gov.au; s 22(1)(a)(ii) @dfat.gov.au; Troy Kaizik <Troy.Kaizik@dfat.gov.au>

Subject: For information - proposal to send letters to Australian children overseas with advice on applying for an Australian passport [SEC=OFFICIAL]

OFFICIAL

Hi Craig,

For information only

Today we met with Alison Duncan and s 22(1)(a)(ii) from CCD to discuss a proposal for the department to send letters to Australian children inviting them to apply for an Australian passport. This proposal was most recently brought to us as a result of a [media report](#) on 19 March and relates specifically to children residing in Japan, however we have fielded similar proposals in the past. I understand Alison discussed this matter with you in an earlier meeting this afternoon.

As there are several risks related to this proposal and implications to consider for the child and the department, APO will conduct a risk assessment to articulate these risks and allow for an informed decision. We aim to have this

completed by the end of this week. We will work with CCD to bring a recommendation to you based on that assessment.

We have suggested CCD engage with Home Affairs on the issue of citizenship, as we understand from our meeting today with CCD the child may need to take action to retain their right to Australian citizenship. If the child cannot prove their Australian citizenship or identity, we cannot issue an Australian passport. We have provided ^{s 22(1)(a)(ii)} with the contact details of the Citizenship policy team at HA.

Thanks
Tori

Tori Lamb

A/g Assistant Secretary
Strategy and Modernisation Branch | Australian Passport Office
Department of Foreign Affairs and Trade
P s 22(1)(a)(ii) **M** s 22(1)(a)(ii)
Australian Passport Office Call Centre 131 232
www.passports.gov.au



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Australian Citizenship FAQ: Citizenship by Descent

Overview

The Department of Home Affairs (Home Affairs) website provides advice and forms to assist with applications for Australian citizenship by descent:

<https://immi.homeaffairs.gov.au/citizenship/become-a-citizen/by-descent>

Enquiries about the application process can be directed to the Home Affairs' Global Service Centre:

<https://immi.homeaffairs.gov.au/help-support/contact-us/telephone>

Obtaining Australian citizenship by descent on behalf of a child

Can I apply for Australian citizenship by descent on my child's behalf without their signature/consent and/or the other parent's signature/consent?

Only a 'responsible parent' can apply for Australian citizenship on behalf of their child. This can be done without the child's signature/consent. It is the responsibility of the parent to determine if they meet the definition of a responsible parent, which is defined under the *Australian Citizenship Act 2007* (the Act) as:

Section 6 – Responsible parent

(1) For the purposes of this Act, a person is a responsible parent in relation to a child if and only if:

- a) the person is a parent of the child except where, because of orders made under the Family Law Act 1975, the person no longer has any parental responsibility for the child; or*
- b) under a parenting order the child is to live with the person (whether or not the person is a parent of the child); or*
- c) under a parenting order the person has parental responsibility for the child's long-term or day-to-day care, welfare and development (whether or not the person is a parent of the child); or*
- d) the person (whether or not a parent of the child) has guardianship or custody of the child, jointly or otherwise, under an Australian law or a foreign law, whether because of adoption, operation of law, an order of a court or otherwise.*

(1A) In paragraph (1)(a):

parental responsibility has the same meaning as in Part VII of the *Family Law Act 1975*.

(2) Expressions used in paragraphs (1)(b) and (c) have the same meaning as in the Family Law Act.

For the purpose of Part VII of the *Family Law Act 1975* (Family Law Act) 'Parental responsibility', in relation to a child, means 'all the duties, powers, responsibilities and authority which, by law, parents have in relation to children'. Each parent has parental responsibility, subject to court orders or parenting orders.

A responsible parent of a child, whether or not they are a parent of the child, may provide consent to a child's citizenship application or be involved with the child's citizenship application.

The decision-maker assessing an application will also make a determination of whether a person is a responsible parent on a case-by-case basis, in consideration of all the relevant information in the circumstances, including biological, legal and social factors.

What can a parent do if the other parent does not consent?

The documented consent of all responsible parents is not necessary in most cases. The validity of the application, however, depends on whether the person has the appropriate authority to act for the child, as set out in Section 6 of the Act and the Family Law Act. In some instances, decision-makers may become aware through information held on the parent/child's migration files, or through new information received, that the applying parent may not be able to unilaterally make the citizenship application for the child. In these cases, decision-makers may seek further information from the applying parent to ascertain whether they have the appropriate authority to make the citizenship application for the child.

Circumstances where a parent may not have appropriate authority to make an application on behalf of the child without the consent of the other parent include when there is a joint custody arrangement, court order, or parenting order in place. This information may indicate to the decision-maker that the responsible parent does not have *sole* parental responsibility for the child and thus cannot make an application without the agreement of any other responsible parent. If the parent making the application on behalf of the child shares parental responsibility with the other parent, then, depending on the circumstances of the matter, the absence of consent of the other parent may affect the validity of the application.

Can I apply on behalf of my child without the consent of the other parent if they are not contactable?

The same conditions apply as above. The documented consent of all responsible parents is not necessary in most cases. The validity of the application, however, depends on whether the person has the appropriate authority to act for the child, as set out in Section 6 of the Act and the Family Law Act. The decision-maker assesses each application on a case-by-case basis, and may seek further information from the applying parent to ascertain whether they have the appropriate authority to make the citizenship application on behalf of the child.

Do applications without full consent from both parents take longer to process?

The processing time for Australian citizenship by descent applications can be found at: <https://immi.homeaffairs.gov.au/citizenship/citizenship-processing-times>. Applicants should ensure they lodge a complete application. An incomplete application may not be valid, or may take longer to process.

A complete application is one that provides all the information necessary for a decision to be made. Provided the parent making the application meets the definition of a responsible parent under Section 6 of the Act and the Family Law Act as outlined above, documented consent from the other parent is not necessary in most cases. The decision-maker, however, assesses each application on a case-by-case basis, and may seek further information from the applying parent to ascertain whether they have the appropriate authority to make the citizenship application on behalf of the child and this may impact processing time.

What can I do if I cannot get a photo/identity declaration for my child?

The application form for Australian citizenship by descent states that you must provide an identity declaration completed by a person with the correct authority. An endorsed photograph must be provided as part of this declaration. High quality scanned copies of

original identity documents are required, and for applicants under 16 years of age, documents must show a birth name and date of birth.

Applying for Australian citizenship by descent for oneself

Can my child apply on their own for Australian citizenship by descent without consent from their parents? From what age?

A child of 16 or 17 years of age may lodge an application without parental consent.

It is preferable for an application by a minor (15 years of age and under) to have the consent of a responsible parent. A child of 15 years of age and under is able to lodge an application for Australian citizenship by descent without consent from their parents – however, the decision maker will consider the minor's individual circumstances to be satisfied that the minor has capacity to act for themselves. Factors that a decision-maker may take into account include the minor's age, whether the minor understands the nature of the application including any potential impacts of the application (e.g. on foreign citizenships they may hold), or whether the minor has mental capacity.

Is there an age limit/an age by which one must apply for Australian citizenship by descent?

Under current legislation, there is no age limit. From 1 July 2007, the Act came into force and removed the age limit to enable anyone born overseas who had a parent who was an Australian citizen at the time of his or her birth to apply to become an Australian citizen by descent.

Renouncing Australian citizenship

Can one parent renounce Australian citizenship of a child without the consent of the other parent?

The same conditions apply as above. The documented consent of all responsible parents is not necessary in most cases, however, the validity of the application depends on whether the person has the appropriate authority to act for the child, as set out in Section 6 of the Act and the Family Law Act. The decision-maker assesses each application on a case-by-case basis, and may seek further information from the applying parent to ascertain whether they have the appropriate authority to make the renunciation application on behalf of the child.

Note that a person can only renounce their citizenship if they are a citizen of another country or if immediately after renouncing their Australian citizenship will become the citizen of another country.

After Australian citizenship has been renounced, can it be re-obtained through another application at a later date?

The Act stipulates that if a person has ceased to be an Australian citizen, the Minister must not approve the person becoming an Australian citizen during the period of 12 months starting on the day on which the person ceased, or last ceased, to be an Australian citizen. Not all applicants who have previously renounced Australian citizenship are eligible to resume Australian citizenship. Eligibility to resume Australian citizenship is restricted to those people who renounced Australian citizenship in order to acquire or retain a foreign citizenship; or to avoid significant hardship or disadvantage.

People who renounced their citizenship for reasons other than related to acquiring or retaining a foreign citizenship or significant hardship or disadvantage *may* be eligible to apply for Australian citizenship through other pathways, e.g. by conferral. More information is available on the Home Affairs website: <https://immi.homeaffairs.gov.au/citizenship/become-a-citizen/become-citizen-again#Eligibility>.

Dual citizenship

Australia permits dual citizenship, but Japan does not. If Japan were to investigate whether a dual national still held Australian citizenship, would Australia share that information about citizenship status with Japan?

Background: Currently, the Japanese Ministry of Justice stipulates that if you become a dual national before you reach 20 years old, you must choose one nationality before you reach 22 years old. This will change from April 2022, when Japan will reduce the legal age of adulthood from 20 to 18. Japanese citizens who have dual nationality at the age of 18 will need to choose just one of them by the age of 20. This means that children affected by child custody and abduction will have little opportunity to re-connect with their Australian parent and Australian heritage before they are required to choose one country of citizenship.

How does Home Affairs share information about an individual's citizenship status with third parties or governments of other countries?

The Australian Privacy Principles contained in Schedule 1 of the *Privacy Act 1988* regulate how Home Affairs must handle and manage personal information. Home Affairs must not disclose personal information unless:

- the individual has consented;
- the individual would reasonably expect you to use or disclose the information for the secondary purpose and the secondary purpose is related to the primary purpose (or directly related for sensitive information);
- the use or disclosure is required or authorised by Australian law or court/tribunal order;
- a [permitted general situation](#) exists (such as a serious public health or safety threat); or
- Home Affairs reasonably believes that the use or disclosure is reasonably necessary for one or more enforcement related activities conducted by Home Affairs or an enforcement body (such as the police).

Other

Are children of Australian citizens entitled to Australian citizenship?

Yes, subject to satisfying the legislative requirements for approval. If the child was born overseas to an Australian citizen, they are able to apply for Australian citizenship by descent and if approved, acquire citizenship on the day of approval. If the child was born in Australia to an Australian citizen or permanent resident, they acquire Australian citizenship at birth.

s 22(1)(a)(ii)

From: s 22(1)(a)(ii)
Sent: Thursday, 6 April 2023 12:57 PM
To: Tori Lamb; s 22(1)(a)(ii) ; Warren Macilwain; s 22(1)(a)(ii)
Cc: s 22(1)(a)(ii)
Subject: RE: Australian child overseas letter [SEC=OFFICIAL]
Attachments: Child custody DFAT letter - Risk Assessment- 30 Mar v0.2.xlsx
Categories: Child Abduction

OFFICIAL

Hi Everyone

Apologies for the last notice this content will guide the conversation today.

s 22(1)(a)(ii)

Findings

s 42(1)

Recommendation

- Implement a policy change to allow a letter to be issued to Australian children involved in international custody disputes with advice on passport application processes with the following controls:
 - Sending a letter is a policy exception, applied carefully. On each occasion the policy exception is applied, a letter is sent only after issues raised through consultation have been considered by Post/Consular: – **APO recommendation**
 - s 42(1)
 - The letter is issued by Post or Consular (not APO) – **APO recommendation**
 - If possible within the individual circumstances of each child, the letter is sent after they turn 18 – **APO recommendation**
 - s 42(1)

Background

- Consular has requested APO's advice on a proposal to send a letter to an Australian child living in Japan who is the subject of a custody dispute.
- The letter would notify the child that they can apply for an adult Australia passport when they turn 18.

- This issue is longstanding and APO has previously elected not to allow these letters to be issued. The issue was the subject of media reports late last month which have reinvigorated this request.
- Craig Maclachlan has asked that CCD and APO submit a joint recommendation to him on this proposal.

Consultation (advice from relevant stakeholders is attached FYI)

- Consular and Crisis Management Division
- Diplomatic, Consular and Security Law Section (DFAT)
- s 42(1)
- s 42(1)
- s 42(1)
- Consular engaged with Home Affairs.

s 22(1)(a)(ii)

Assistant Director | Melbourne
 Australian Passport | Department of Foreign Affairs and Trade
 Level 12 | Collins Place | 55 Collins Street Melbourne

s 22(1)(a)(ii)

dfat.gov.au | [Twitter](#) | [Facebook](#) | [Instagram](#) | [LinkedIn](#)



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-----Original Appointment-----

From: Tori Lamb <tori.lamb@dfat.gov.au>

Sent: Monday, 3 April 2023 2:12 PM

To: Tori Lamb; s 22(1)(a)(ii) ; Warren Macilwain; s 22(1)(a)(ii)

Cc: s 22(1)(a)(ii)

Subject: Australian child overseas letter [SEC=OFFICIAL]

When: Thursday, 6 April 2023 1:00 PM-1:30 PM (UTC+10:00) Canberra, Melbourne, Sydney.

Where: Microsoft Teams Meeting; and; CHCH RGC S4 CCD [Speak up to ██████████]

OFFICIAL

Kind regards,

s 22(1)(a)(ii)

Executive Assistant
 Lucelle Veneros | Executive Director APO
 Tori Lamb | A/g Assistant Secretary | Strategy and Modernisation Branch (SRB)

Australian Passport Office
 Department of Foreign Affairs and Trade
 s 22(1)(a)(ii)

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Microsoft Teams meeting

Join on your computer, mobile app or room device

[Click here to join the meeting](#)

Meeting ID: s 22(1)(a)(ii)

Passcode: s 22(1)

(a)(ii)
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Join with a video conferencing device

dfat@m.webex.com

Video Conference ID: s 22(1)(a)(ii)

[Alternate VTC instructions](#)

Or call in (audio only)

s 22(1)(a)(ii)

Australia, Sydney

Phone Conference ID: s 22(1)(a)(ii)

[Find a local number](#) | [Reset PIN](#)



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Ref.	Event What can happen	Sources of the Risk Cause, contribution to severity, influence how risk is to be managed	Impact What will the impact/s be if it happens?	Key Contact Most commonly the director	Risk Severity without controls implemented			Existing Controls in Place Descending order from most critical to least with assigned ownership to staff member	Risk Severity with controls implemented			Proposed Treatments (proposed additional controls) Assigned ownership and responsibility. If no further treatment required or available, please explain why
					Consequence (refer to risk matrix)	Likelihood (refer to risk matrix)	Risk Rating (refer to risk matrix)		Consequence (refer to risk matrix)	Likelihood (refer to risk matrix)	Risk Rating (refer to risk matrix)	
1	Promotes solicitation for Australian passports	DFAT raising eligibility is seen as soliciting passport applications.	Sets a precedent of contacting children to invite passport application. Perceived as a revenue raising initiative.		Major	Possible	High	Legislation does not prevent DFAT from issuing a letter to Australian citizens.	Moderate	Unlikely	Medium	Send letter to the customer requesting consent to provide advice on Australian passport application processes. Apply as a policy exception, only at request of Post and with appropriate level of approval. s 42(1)
2	Safety or wellbeing of the child or younger sibling/s is impacted	The child may not know they are an Australian citizen. The child may not have accurate information about their family model (e.g. may understand the other parent to be intentionally absent, deceased). If the child has escaped family violence, a letter could be a psychological trigger. Inadvertent release of personal details (i.e. home address) to non-custodial parent. The Hague Convention may apply to a younger sibling/s (under 16 years), the parent may raise concerns in the context of the Hague Convention.	Harm to the child. Perception that DFAT has contributed to psychological damage to child. s 42(1) Damage to Australia's/DFAT reputation.		Major	Possible	High	The APO has a well established Specialised Case Unit trained to process these cases. All Australian citizens have a right to apply for a passport. The APO maintains strict privacy policies limiting provision of information to a third party without consent from the lodging party. The APO Fraud Controls - Applying Passport Policy Change Process (C-126) and Compass Systems Controls (C-127).	Major	Unlikely	Medium	Require staff at Post/CCD to have sufficient information about the case to inform a risk based decision about sending a letter. s 42(1)
3	s 42(1)											
4	Damage to Australia's reputation and relationship with Japan and possibly other allied countries	Perception of 'special treatment' or 'targeting' -- no other Australian citizen receives a letter of invitation. Child does not have access to the supporting evidence required for application (consent, evidence of identity and citizenship, application fee, photos). The APO cannot establish eligibility until an application is lodged. The child's application may be rejected.	Could create the perception that Australia is interfering in local legal or custody matters. Expectation that all 18 year old Australian's are advised of their eligibility for a passport within parental consent. DFAT/ Australian Government faces criticism (forcing government/media)for inviting an application and then refusing to issue. Parent may complain that something implicitly has been disclosed about them that ought not have been.		Moderate	Possible	Medium	Eligibility criteria is published on passports.gov.au. Processing and policy guides for staff.	Moderate	Unlikely	Medium	Letter contains generic information and asks whether the individual consents to further contact for the purpose of learning about passports. s 42(1) Contact foreign (local) government before sending the letter to field concerns and prevent local issues. Consult with other like minded countries to determine whether the provision of a letter of this kind has had any adverse impacts. Don't mention recipient's age in letter.

s 22(1)(a)(ii)

From: Tori Lamb
Sent: Tuesday, 16 May 2023 2:15 PM
To: Warren Macilwain; s 22(1)(a)(ii) ; Madeleine Casey;
 s 22(1)(a)(ii)
Cc: s 22(1)(a)(ii) ; lan Gerard
Subject: RE: s 22(1)(a)(ii) : Writing to Australian children involved in international custody disputes [SEC=OFFICIAL:Sensitive]

OFFICIAL: Sensitive

Hi all,

s 42(1)

It's open to the department to consider alternative controls.

Thanks

Tori

From: Warren Macilwain <Warren.Macilwain@dfat.gov.au>
Sent: Tuesday, 16 May 2023 1:21 PM
To: s 22(1)(a)(ii) @dfat.gov.au; s 22(1)(a)(ii) @dfat.gov.au; s 22(1)(a)(ii) @dfat.gov.au; Madeleine Casey <Madeleine.Casey@dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au
Cc: s 22(1)(a)(ii) @dfat.gov.au; s 22(1)(a)(ii) @dfat.gov.au; s 22(1)(a)(ii) @dfat.gov.au; lan Gerard <lan.Gerard@dfat.gov.au>; Tori Lamb <tori.lamb@dfat.gov.au>
Subject: RE: s 22(1)(a)(ii) : Writing to Australian children involved in international custody disputes [SEC=OFFICIAL:Sensitive]

OFFICIAL: Sensitive

s 22(1)(a)(ii)

Yes, agree there could be a resource/operational impact for post that will have to be worked through in due course I expect depending on the uptake and complexity in those individual cases.

I think we'll collectively need to work on this (Tokyo, APO, CCD, LGD, AGD) in implementation for individual cases depending on how FMO want to proceed

Cheers

Warren Macilwain

Assistant Secretary
 Consular Communications & Policy Branch | Consular & Crisis Management Division
 Department of Foreign Affairs & Trade

E warren.macilwain@dfat.gov.au

T s 22(1)(a)(ii)

M s 22(1)(a)(ii)

smartraveller.gov.au



From: s 22(1)(a)(ii) @dfat.gov.au>
Sent: Tuesday, 16 May 2023 12:48 PM
To: Warren Macilwain <Warren.Macilwain@dfat.gov.au>
Cc: s 22(1)(a)(ii) @dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au>
Subject: RE: s 22(1)(a)(ii) Writing to Australian children involved in international custody disputes [SEC=OFFICIAL:Sensitive]

OFFICIAL: Sensitive

Thanks Warren

As discussed this morning, please see following post's thoughts on operational considerations for sending the passport letters to children who have been subject to custody/abduction cases in Japan. We look forward to working with you, APO, LGD and others on implementation.

Parameters

From our perspective at post, it was important to first establish our parameters for **not** sending letters at the request of a parent. These would be:

1. If the parent is already in direct contact with the child.
 - *If a parent already has regular contact with their child then they can provide information on passport services directly.*
2. If we don't already have contact details for the child and the parent cannot provide them.
 - *We do not have the information or other resources to locate children – particularly where the taking parent has intentionally sought to conceal the child's location.*
 - *Japan's strict privacy laws mean Japanese authorities are highly unlikely to share contact details with us.*
 - *Our own privacy laws limit how we can use information we may hold, such as in PICS/CIS, and that information may not be current.*
3. If the child does not currently hold Australian citizenship.
 - *See this outlined further below.*
4. If child is over 21 years of age.
 - *To filter requests for sending a letter to adult children in retrospect (e.g. a parent asking us to send a letter to their 30 year old child).*

With these parameters in mind, we discussed two key considerations:

1. Australian citizenship
2. Operational impact on post (Tokyo, but also potentially other posts with similar cases).

Australian Citizenship

Not all of the children involved in child custody and parental abduction cases are Australian citizens. s 47F(1) They may be entitled to Australian citizenship by descent (child of an Australian parent).

This presents the following two complexities:

1. The letters to children who have not yet obtained Australian citizenship would become an invitation to apply for citizenship, as opposed to a passport.
 - Department of Home Affairs manages this process and would need to review the content of the letter and determine its own policy position on soliciting applications for citizenship by descent.
2. Japan does not allow dual citizenship, in principle. Once an individual obtains a new citizenship (becomes a dual citizen) they are required by Japanese law to forfeit their Japanese citizenship.
 - Sending a letter that invites an application for Australian citizenship could be perceived as encouraging renunciation of Japanese citizenship.

However, not sending letters to children who are not Australian citizens could result in unintended, inconsistent outcomes for families. For example, one of our cases is a three-sibling family. Two of the children are Australian citizens, one is not.

Operational Impact

In cases where the above parameters are met, the operational impact of producing a template letter and posting it to an individual child is minimal. [s 42\(1\)](#)

Given post's limited resources, we look forward to working with CCD and APO on how best to streamline the process so that we can respond efficiently and promptly to requests from parents.

Affected parents in Japan (of all nationalities) regularly share their experiences, so news of the Australian Embassy sending such letters would quickly spread. We may find that we receive approaches from parents with whom we have had no previous contact because they have not sought prior consular assistance. There would be a non-quantifiable operational impact resulting from enquiries from parents where we have no prior knowledge of their case. [s 42\(1\)](#)

This would create a disproportionate resource impost if the only thing the parent requests from us is the letter, and no other consular assistance.

We considered whether we could decline to send a letter if we have never had a consular case open for the child, and we would welcome CCD/APO views on this.

Some key operational considerations are:

- There is an unknown number of affected parents who would be interested in the letter.
- Each enquiry from a parent would require a certain amount of due diligence from post.
 - Background of their situation.
 - Determine there is no contact (could require a phone call to the lawyer).
 - PICS/Atlas check to confirm child's citizenship.
- Post would require clear talking points from Canberra to manage phone calls from parents whose child/ren may not be eligible for a letter.
- Post would require clear talking points from Canberra to manage the expectations on the effectiveness of the letter.
- Tokyo does not provide citizenship services, so for letters with a citizenship element this could lead to confusion or create additional hurdles.
 - But this would be mitigated if we decide not to send letters to children who are not Australian citizens.

Other considerations

We also discussed APO's earlier suggestion to send two letters – the first asking for permission to send the second, although we note this was not proposed in the minsub. In the event this is still under consideration, post's view is that sending two letters would create unnecessary additional resource impost and would likely be counter to our intent. The

intention with the letters is to provide information about Australian passports to enable a child, when they turn 18, about how to apply for an Australian passport, so they can make an independent decision whether or not to do so. The taking parent may not pass the letter on, or the child may choose not to take any action on receipt of the information – but at least it will have been conveyed. In our view, requiring a child, or the taking parent, to take action and actively engage with us by first providing consent to receive a second letter would significantly reduce the likelihood of the child ever receiving the passports information. For this reason, post does not support sending two letters.

Subject to the final policy position on the letters, we suggest that we could instead/in addition create a page on the embassy website that contains all the information that we would include in the letter. It could be linked via a title such as “I have an Australian parent I haven’t seen since I was a child” or “Do you have an Australian parent? You may be eligible for an Australian passport. Click here for more information”. We could do a few FAQs with links directly to Home Affairs’ web page about citizenship by descent and APO’s web page about passport eligibility.

Regards

s 22(1)(a)(ii)

Counsellor (Management) and Consul-General | 参事官 兼 総領事

Australian Embassy Tokyo | オーストラリア大使館

2-1-14 Mita, Minato-ku, Tokyo 108-8361 | 〒108-8361 東京都港区三田2-1-14

s 22(1)(a)(ii)

Fax +81 3 5232 4149

From: Warren Macilwain <Warren.Macilwain@dfat.gov.au>

Sent: Monday, 15 May 2023 11:07 AM

To: Kate Logan <Kate.Logan@dfat.gov.au>; s 22(1)(a)(ii) [@dfat.gov.au](mailto:s22(1)(a)(ii)@dfat.gov.au); Ian Gerard <Ian.Gerard@dfat.gov.au>; Madeleine Casey <Madeleine.Casey@dfat.gov.au>

Cc: s 22(1)(a)(ii) [@dfat.gov.au](mailto:s22(1)(a)(ii)@dfat.gov.au)

Subject: FW:s 22(1)(a)(ii) Writing to Australian children involved in international custody disputes [SEC=OFFICIAL:Sensitive]

OFFICIAL:Sensitive

Fyi what went forward on this issue from APO.

Warren Macilwain

Assistant Secretary

Consular Communications & Policy Branch | Consular & Crisis Management Division

Department of Foreign Affairs & Trade

E warren.macilwain@dfat.gov.au

T s 22(1)(a)(ii)

M s 22(1)(a)(ii)

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From: s 22(1)(a)(ii) <[s22\(1\)\(a\)\(ii\)@dfat.gov.au](mailto:s22(1)(a)(ii)@dfat.gov.au)>
Sent: Monday, 15 May 2023 11:44 AM
To: s 22(1)(a)(ii) <[s22\(1\)\(a\)\(ii\)@dfat.gov.au](mailto:s22(1)(a)(ii)@dfat.gov.au)>; Tori Lamb <tori.lamb@dfat.gov.au>
Cc: s 22(1)(a)(ii) <[s22\(1\)\(a\)\(ii\)@dfat.gov.au](mailto:s22(1)(a)(ii)@dfat.gov.au)>; Warren Macilwain <Warren.Macilwain@dfat.gov.au>; s 22(1)(a)(ii) <[s22\(1\)\(a\)\(ii\)@dfat.gov.au](mailto:s22(1)(a)(ii)@dfat.gov.au)>
Subject: RE: s 22(1)(a)(ii) Writing to Australian children involved in international custody disputes [SEC=OFFICIAL:Sensitive]

OFFICIAL: Sensitive

s 22(1)(a)(ii)

Apologies for not getting back to you last week.

My understanding is Lucelle had worked on it and Craig McLachlan had some changes, which were applied.

Assigned to MO for action on 3 May – hard copy was sent to MO on the same day. Currently assigned to s 22(1)(a)(ii) I have attached for your reference.

Cheers

s 22(1)(a)(ii)

A/g Director | Passport Policy, Identity, Legislation and Knowledge Management
Strategy and Modernisation Branch | Australian Passport office
Department of Foreign Affairs and Trade
s 22(1)(a)(ii)
Australian Passport Contact Centre 131 232
www.passports.gov.au



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We acknowledge the Traditional Custodians of Country throughout Australia, and their continuing connection to land, waters and community. We pay our respects to all First Nations peoples, their cultures and to their Elders, past, present and emerging.

From: s 22(1)(a)(ii) <[s22\(1\)\(a\)\(ii\)@dfat.gov.au](mailto:s22(1)(a)(ii)@dfat.gov.au)>
Sent: Monday, 15 May 2023 11:37 AM
To: Tori Lamb <tori.lamb@dfat.gov.au>; s 22(1)(a)(ii) <[s22\(1\)\(a\)\(ii\)@dfat.gov.au](mailto:s22(1)(a)(ii)@dfat.gov.au)>
Cc: s 22(1)(a)(ii) <[s22\(1\)\(a\)\(ii\)@dfat.gov.au](mailto:s22(1)(a)(ii)@dfat.gov.au)>; Warren Macilwain <Warren.Macilwain@dfat.gov.au>
Subject: RE: s 22(1)(a)(ii) : Writing to Australian children involved in international custody disputes [SEC=OFFICIAL:Sensitive]

OFFICIAL: Sensitive

Hi Tori and s 22(1)(a)(ii)

Just checking in to see if you had sent this up to the Minister as yet. If so could you please pass us a copy as well.

Thanks very much,

s 22(1)(a)(ii)

Director | Consular Policy Section
 Consular Communications and Policy Branch | Consular and Crisis Management Division
 Department of Foreign Affairs and Trade

s 22(1)(a)(ii) [@dfat.gov.au](mailto:dfat.gov.au)

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From: s 22(1)(a)(ii)

Sent: Monday, 8 May 2023 4:14 PM

To: Tori Lamb <tori.lamb@dfat.gov.au>; s 22(1)(a)(ii) [@dfat.gov.au](mailto:dfat.gov.au)>

Cc: s 22(1)(a)(ii) [@dfat.gov.au](mailto:dfat.gov.au)>; Warren Macilwain <Warren.Macilwain@dfat.gov.au>

Subject: s 22(1)(a)(ii) Writing to Australian children involved in international custody disputes
 [SEC=OFFICIAL:Sensitive]

OFFICIAL: Sensitive

Hello Tori and s 22(1)(a)(ii)

Sorry we have been a bit remiss getting back to you on this but things have been a little crazy over here with the Sudan crisis.

Thanks for the hard copy of s 22(1)(a)(ii) that you provided to Warren for clearance. We checked with Kate Logan and she is happy to just be cc'd into it (nothing that CCD has been consulted) rather than it being from or through her.

The minsub looked good to us. We'd just suggest that the third last paragraph reads....

- *It is possible the department will receive requests to contact children with advice on how to apply for an Australian passport in other countries. s 42(1)*

As otherwise the reference to the other countries is just hanging there a bit.

Thanks,

s 22(1)(a)(ii)

s 22(1)(a)(ii)

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 Consular Communications and Policy Branch | Consular and Crisis Management Division
 Department of Foreign Affairs and Trade

s 22(1)(a)(ii) [@dfat.gov.au](mailto:dfat.gov.au)

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From: Tori Lamb <tori.lamb@dfat.gov.au>

Sent: Tuesday, 18 April 2023 10:08 AM

To: Warren Macilwain <Warren.Macilwain@dfat.gov.au>

Cc: s 22(1)(a)(ii) [@dfat.gov.au](mailto:dfat.gov.au); s 22(1)(a)(ii) [@dfat.gov.au](mailto:dfat.gov.au); s 22(1)(a)(ii) [@dfat.gov.au](mailto:dfat.gov.au); s 22(1)(a)(ii) [@dfat.gov.au](mailto:dfat.gov.au); s 22(1)(a)(ii) [@dfat.gov.au](mailto:dfat.gov.au); s 22(1)(a)(ii) [@dfat.gov.au](mailto:dfat.gov.au)

Subject: RE: RESPONSE: For information - proposal to send letters to Australian children overseas with advice on applying for an Australian passport [SEC=OFFICIAL:Sensitive]

OFFICIAL: Sensitive

Hi Warren,

The info brief addresses the risk of setting a precedent for parents to make this request in other countries. We've included an additional line in the risk assessment to ensure this potential consequence is clear.

I've added the tables to the info brief, as requested. I think that's useful context to provide, thanks for the suggestion.

s 42(1)

In the info brief I've elaborated on this risk.

The updated documents are attached. We'll share these with Lucelle today and they will inform her discussion with Craig before we speak with the Minister's office. We'll include the caveat that s 33(a)(iii) and further updates may be made to these documents in the coming days.

Tori

From: Warren Macilwain <Warren.Macilwain@dfat.gov.au>

Sent: Monday, 17 April 2023 6:26 PM

To: Tori Lamb <tori.lamb@dfat.gov.au>; s 22(1)(a)(ii) [@dfat.gov.au](mailto:dfat.gov.au)

Cc: s 22(1)(a)(ii) [@dfat.gov.au](mailto:dfat.gov.au); s 22(1)(a)(ii) [@dfat.gov.au](mailto:dfat.gov.au)

Subject: RE: RESPONSE: For information - proposal to send letters to Australian children overseas with advice on applying for an Australian passport [SEC=OFFICIAL:Sensitive]

OFFICIAL: Sensitive

Hi Tori

Craig Maclachlan has provided some further direction on this issue at our weekly CCD SES catch up today.

He's keen to ensure we work through the outstanding issues quickly to deliver on the FMO aim to assist parents in sending the letter to young adult Australians. I would say the end of this week or early next is the informal deadline for a submission. You/Lucelle might want to consult informally in advance with Craig further on the draft wording of the Minsub.

He thought it was worth waiting for s 33(a)(iii) and finding out about their experience s 22(1)(a)(iii) – *can you send something on this by the end of the week*) but didn't think we needed to wait on specific Japanese legal advice.

He also acknowledged the additional risks, including around privacy, s 47E(d) to find an address so this would need to be considered (not necessarily up front but certainly in individual cases).

I think your risk assessment otherwise looks fine assuming you draw out the AGD part a little further based on their s 42(1)

My only other comments

- Can you also include wording to the following effect either in the body or in the risk assessment

“Public awareness of the letters may draw requests from parents of children in other cases and countries to also send letters in their cases. We would either need to set criteria for deciding in which cases we were going to send the letters (and be ready to say no and explain why) or be prepared to send letters whenever there was a request.”

s 47F(1)

- Can you also include the following stats wherever suits – maybe the text in the submission and the tables in an attachment (only if they fit):

The following tables provide a detailed breakdown of the cases by country”.

s 47F(1)

Cheers

Warren Macilwain

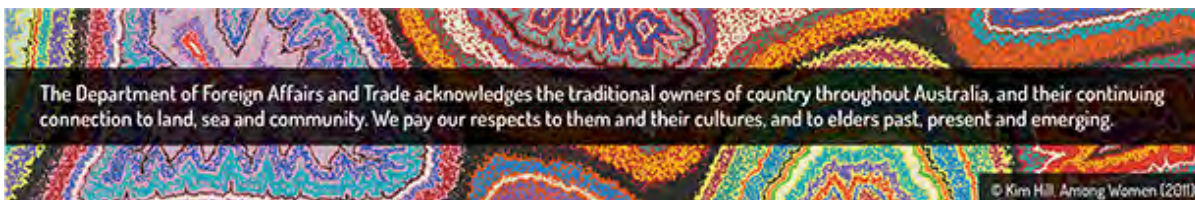
Assistant Secretary
Consular Communications & Policy Branch | Consular & Crisis Management Division
Department of Foreign Affairs & Trade

E warren.macilwain@dfat.gov.au

T s 22(1)(a)(ii)

M s 22(1)(a)(ii)

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From: Tori Lamb <tori.lamb@dfat.gov.au>

Sent: Thursday, 13 April 2023 12:03 PM

To: s 22(1)(a)(ii) <[s22\(1\)\(a\)\(ii\)@dfat.gov.au](mailto:s22(1)(a)(ii)@dfat.gov.au)>; Warren Macilwain <Warren.Macilwain@dfat.gov.au>

Cc: s 22(1)(a)(ii) <[s22\(1\)\(a\)\(ii\)@dfat.gov.au](mailto:s22(1)(a)(ii)@dfat.gov.au)>; s 22(1)(a)(ii) <[s22\(1\)\(a\)\(ii\)@dfat.gov.au](mailto:s22(1)(a)(ii)@dfat.gov.au)>; s 22(1)(a)(ii) <[s22\(1\)\(a\)\(ii\)@dfat.gov.au](mailto:s22(1)(a)(ii)@dfat.gov.au)>

Subject: RE: RESPONSE: For information - proposal to send letters to Australian children overseas with advice on applying for an Australian passport [SEC=OFFICIAL:Sensitive]

OFFICIAL: Sensitive

Hi ^{s 22(1)(a)(ii)} Warren ^{s 22(1)(a)(ii)}

Attached is the first draft of the information brief we propose sending up to FM and AFM.

Our intention is to speak with FMO and AFMO prior to submitting this. We welcome CCD's participation in that call.

Appreciate your review and feedback by **cob Friday 14 April**, if possible.

I have attached the latest risk assessment, too, if you'd like to amend that with any feedback.

Thanks

Tori



Ministerial Submission

Cleared by: Lucelle Veneros

Date sent to MO: PLE to complete

Action Requested By: 18 April 2023

Reason for Urgency: **Not Applicable**

FOR: Senator the Hon Penny Wong

INFO: The Hon Tim Watts MP

INTERNATIONAL CHILD CUSTODY LETTER FROM DFAT

<p>Key Issues:</p> <ul style="list-style-type: none"> • A small number of Australian children living in Japan are subjects of custody disputes involving an Australian parent. • The Department of Foreign Affairs and Trade (the department) is providing consular assistance to affected Australian parents. • One parent has requested the department contact their child with advice on how to apply for an Australian passport. • The department has identified several risks with this proposal which will require careful management on a case-by-case basis. 	
<p>Recommendation: That you:</p> <ul style="list-style-type: none"> • Note the department will consider, on an exception basis, contacting Australian children who are subjects of custody disputes in Japan. • Note the assessment of each case will consider local and individual circumstances, as guided by Australian and Japanese legal advice. 	<p>Decision:</p> <p style="text-align: center;"><u>Noted</u></p> <p style="text-align: center;"><u>Noted</u></p>
<p>Domestic/Media Considerations: Australian parents of children residing in Japan have engaged media.</p> <p>Action:</p> <p style="text-align: center;">Penny Wong</p> <p style="text-align: center;">/ /</p> <p style="text-align: right;">Noted</p>	
<p>Information:</p> <p style="text-align: center;">Tim Watts</p> <p style="text-align: center;">/ /</p> <p style="text-align: right;">Noted</p>	
<p>From: Deputy Secretary Craig MacLachlan ISG s 22(1)(a)(ii)</p>	<p>Contact Tori Lamb, A/g Assistant Secretary, APO Strategy and Modernisation s 22(1)(a)(ii)</p>
<p>Can this proposal be funded from within your existing <u>divisional</u> allocation (departmental/aid)? Not Applicable</p> <p>If the proposal high risk/high value (over \$100m) concept has been approved by the Aid Governance Board? Not Applicable</p>	
<p>Consultation: Consular and Crisis Management Division, Diplomatic, Consular and Security, International Law Branch: Advising, Human Rights and Treaties Section; International Family Law Section- AGD; Australian Government Solicitor; Department of Home Affairs.</p>	



Background:

- Under Japanese law, after divorce, only one parent retains legal parental responsibility for the child.
 - The Australian government does not have authority to intervene in custody disputes.
 - The Department of Foreign Affairs and Trade (the department) is providing consular assistance to affected Australian parents.
 - One parent has requested the department contact their 17-year-old child with advice on how to apply for an Australian passport.
 - This request was considered by the department in 2021. In considering the risks of this proposal against the likelihood that it would affect change in the custodial circumstances, the department declined to take this action.
 - With recent media reporting on this issue, the department has again considered this request.
 - s 42(1)
-
- On receiving these requests, the department will consider each case individually and engage with Australian and local legal experts as part of a suitability assessment. This assessment will consider the welfare of the child and the implications of contact for siblings. Before being issued, letters will be reviewed by the department's legal team.
 - It is unlikely this strategy will influence an outcome for these parents.

s 22(1)(a)(ii)

From: s 22(1)(a)(ii)
Sent: Monday, 22 May 2023 11:38 AM
To: s 22(1)(a)(ii) ; Tori Lamb
Cc: Warren Macilwain; s 22(1)(a)(ii)
Subject: FW: s 22(1)(a)(ii) : Writing to Australian children involved in international custody disputes [SEC=OFFICIAL:Sensitive]
Attachments: s 22(1)(a)(ii) docx

OFFICIAL: Sensitive

Hi s 22(1)(a)(ii) Tori,

I just got a call from s 47F(1) up in FMO office about this Min Sub. He tried to get onto you but couldn't and asked me to pass this on. He has suggested changing it as per below to allow for this policy to be applied outside of Japan as well.

- note the department will consider contacting Australian children who are subjects of custody disputes in Japan, when requested; and
- s 42(1)

Please give him (or me) a call to discuss if you would like to.

Thanks,

s 22(1)(a)(ii)

Director | Consular Policy Section
 Consular Communications and Policy Branch | Consular and Crisis Management Division
 Department of Foreign Affairs and Trade

s 22(1)(a)(ii) [@dfat.gov.au](https://www.dfat.gov.au)

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From: Warren Macilwain <Warren.Macilwain@dfat.gov.au>
Sent: Monday, 15 May 2023 12:07 PM
To: Kate Logan <Kate.Logan@dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au; Ian Gerard <Ian.Gerard@dfat.gov.au>; Madeleine Casey <Madeleine.Casey@dfat.gov.au>
Cc: s 22(1)(a)(ii) @dfat.gov.au

Subject: FW: s 22(1)(a)(ii) : Writing to Australian children involved in international custody disputes
[SEC=OFFICIAL:Sensitive]

OFFICIAL:Sensitive

Fyi what went forward on this issue from APO.

Warren Macilwain

Assistant Secretary
Consular Communications & Policy Branch | Consular & Crisis Management Division
Department of Foreign Affairs & Trade

E warren.macilwain@dfat.gov.au

T s 22(1)(a)(ii)

M s 22(1)(a)(ii)

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s 22(1)(a)(ii) - duplicate



Ministerial Submission

Cleared by: Craig Maclachlan

Date sent to MO: 3 May 2023

FOR: Senator the Hon Penny Wong

INFO: The Hon Tim Watts MP

Action Requested By: 19 May 2023

Reason for Urgency: Not Applicable

Writing to Australian Children Involved in International Custody Disputes

<p>Key Issues: A small number of Australian children living in Japan are subjects of custody disputes involving an Australian parent. DFAT is providing consular assistance to affected Australian parents. One parent has requested the department contact their child with advice on how to apply for an Australian passport. The department has identified risks with this proposal which it will manage on a case-by-case basis.</p>	
<p>Recommendation: That you:</p> <ul style="list-style-type: none"> note the department will consider contacting Australian children who are subjects of custody disputes in Japan, when requested; and note the assessment of each case will consider local and individual circumstances, as guided by Australian and Japanese legal advice. 	<p>Decision:</p> <p style="text-align: center;"><u>Noted</u></p> <p style="text-align: center;"><u>Noted</u></p>
<p>Domestic/Media Considerations: Australian parents of children residing in Japan have engaged media.</p> <p>Action:</p> <p style="text-align: center;">Penny Wong</p> <p style="text-align: center;">/ /</p>	
<p>Information:</p> <p style="text-align: center;">Tim Watts</p> <p style="text-align: center;">/ /</p>	
<p>From: Executive Director Lucelle Veneros APO s 22(1)(a)(ii) First Assistant Secretary, Kate Logan CCD s 22(1)(a)(ii)</p>	<p>Contact Tori Lamb, A/g Assistant Secretary, APO Strategy and Modernisation s 22(1)(a)(ii)</p>
<p>Can this proposal be funded from within your existing <u>divisional</u> allocation (departmental/aid)? Not Applicable</p> <p>If the proposal high risk/high value (over \$100m) concept has been approved by the Aid Governance Board? Not Applicable</p>	
<p>Consultation: CCD, ISD, ILB; International Family Law Section- Attorney-General's Department; Australian Government Solicitor; Department of Home Affairs.</p>	



Background:

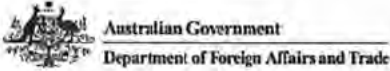
Under Japanese law, after divorce, only one parent retains legal parental responsibility for the child. The Australian government does not have authority to intervene in custody disputes. DFAT is providing consular assistance to affected Australian parents.

2. One parent has requested DFAT contact their 17-year-old child with advice on how to apply for an Australian passport. This request was considered by DFAT in 2021. In considering the likelihood that it would change custodial circumstances, DFAT declined to take this action.
3. With recent media reporting on this issue, DFAT has again considered this request.
4. s 33(a)(iii), s 33(b)

5. s 42(1)

7. s 47F(1)

8. While the effectiveness of this strategy in repatriating these children to Australia remains uncertain, DFAT will liaise closely with Australian parents to manage expectations.



Ministerial Submission

s 22(1)(a)(ii)

Cleared by: Craig Maclachlan

REDRAFT Date sent to MO: 24 May 2023

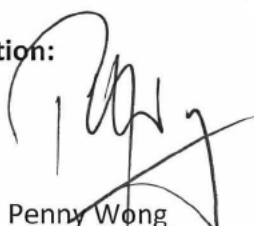
FOR: Senator the Hon Penny Wong

INFO: The Hon Tim Watts MP

Action Requested By: 19 May 2023

Reason for Urgency: Not Applicable

Writing to Australian Children Involved in International Custody Disputes

<p>Key Issues: A small number of Australian children living in Japan are subjects of custody disputes involving an Australian parent. DFAT is providing consular assistance to affected Australian parents. One parent has requested the department contact their child with advice on how to apply for an Australian passport. The department has identified risks with this proposal which it will manage on a case-by-case basis.</p>	
<p>Recommendation: That you:</p> <ul style="list-style-type: none"> note the department will consider contacting Australian children who are subjects of custody disputes, when requested; and note the assessment of each case will consider local and individual circumstances, as guided by Australian and local legal advice. 	<p>Decision:</p> <p style="text-align: center;"><u>Noted</u></p> <p style="text-align: center;"><u>Noted</u></p>
<p>Domestic/Media Considerations: Australian parents of children residing in Japan have engaged media.</p> <p>Action:</p>  <p>Penny Wong 21/6/23</p>	
<p>Information:</p> <p>Tim Watts</p> <p>/ /</p>	<p><u>Noted</u></p>
<p>From: Executive Director Lucelle Veneros APO s 22(1)(a)(ii) First Assistant Secretary, Kate Logan CCD s 22(1)(a)(ii)</p>	<p>Contact Tori Lamb, A/g Assistant Secretary, APO Strategy and Modernisation s 22(1)(a)(ii)</p>
<p>Can this proposal be funded from within your existing <u>divisional</u> allocation (departmental/aid)? Not Applicable</p> <p>If the proposal high risk/high value (over \$100m) concept has been approved by the Aid Governance Board? Not Applicable</p>	
<p>Consultation: CCD, ISD, ILB; International Family Law Section- Attorney-General's Department; Australian Government Solicitor; Department of Home Affairs.</p>	



Background:

Under Japanese law, after divorce, only one parent retains legal parental responsibility for the child. The Australian government does not have authority to intervene in custody disputes. DFAT is providing consular assistance to affected Australian parents.

2. One parent has requested DFAT contact their 17-year-old child with advice on how to apply for an Australian passport. This request was considered by DFAT in 2021. In considering the likelihood that it would change custodial circumstances, DFAT declined to take this action.
3. With recent media reporting on this issue, DFAT has again considered this request.
4. s 33(a)(iii), s 33(b)
5. s 42(1)
6. s 42(1)
7. s 47F(1)
8. While the effectiveness of this strategy in repatriating these children to Australia remains uncertain, DFAT will liaise closely with Australian parents to manage expectations.

Ref.	Event	Sources of the Risk	Impact	Key Contact	Risk Severity without controls implemented			Existing Controls in Place	Risk Severity with controls implemented			Proposed Treatments (proposed additional controls)	Target risk rating after proposed treatments are implemented.		
					Consequence (refer to risk matrix)	Likelihood (refer to risk matrix)	Risk Rating (refer to risk matrix)		Consequence (refer to risk matrix)	Likelihood (refer to risk matrix)	Risk Rating (refer to risk matrix)		Consequence (refer to risk matrix)	Likelihood (refer to risk matrix)	Risk Rating (refer to risk matrix)
1	Promotes solicitation for Australian passports	DFAT raising eligibility is seen as soliciting passport applications.	-42(1)		Major	Possible	High	Legislation does not prevent DFAT from issuing a letter to Australian citizens.	Moderate	Unlikely	Medium	-42(1)	Moderate	Unlikely	Medium
2	Safety or wellbeing of the child or younger sibling/s is impacted	The child may not know they are an Australian citizen. The child may not have accurate information about their family model (e.g. may understand the other parent to be intentionally absent, deceased). If the child has escaped family violence, a letter could be a psychological trigger. Inadvertent release of personal details (i.e. home address) to non-custodial parent. The Hague Convention may apply to a younger sibling/s (under 16 years), the parent may raise concerns in the context of the Hague Convention.	Harm to the child. Perception that DFAT has contributed to psychological damage to child. -42(1) Damage to Australia's/DFAT reputation.		Major	Possible	High	The APO has a well established Specialised Case Unit trained to process these cases. All Australian citizens have a right to apply for a passport. The APO maintains strict privacy policies limiting provision of information to a third party without consent from the lodging party. The APO Fraud Controls - Applying Passport Policy Change Process [O-126] and Compass Systems Controls [O-127].	Major	Unlikely	Medium	Require staff at Post/OCD to have sufficient information about the case to inform a risk based decision about sending a letter. -42(1)	Moderate	Possible	Medium
3	Non-compliance with privacy obligations	Data quality concerns - Embassy or OCD does not have the correct address of the custodial parent. Unintentional disclosure of parent's address is shared with non-custodial parent. Disclosure is not considered fair or reasonable (privacy verse exercising right of citizenship).	-42(1)		Moderate	Possible	Medium	The APO has a well established Specialised Case Unit trained to process these cases. The APO maintains strict privacy policies limiting provision of information to a third party without consent from the lodging party.	Moderate	Unlikely	Medium	-42(1)	Minor	Unlikely	Low
4	Damage to Australia's reputation and relationship with Japan and possibly other allied countries	Perception of 'special treatment' or 'targeting' - no other Australian citizen receives a letter of invitation. Child does not have access to the supporting evidence required for application (consent, evidence of identity and citizenship, application fee, photos). The APO cannot establish eligibility until an application is lodged. The child's application may be rejected.	Could create the perception that Australia is interfering in local legal or custody matters. Expectation that all 18 year old Australian's are advised of their eligibility for a passport within parental consent. DFAT/ Australian Government faces criticism (foreign government/media) for inviting an application and then refusing to issue. Parent may complain that something implicitly has been disclosed about them that ought not have been.		Moderate	Possible	Medium	Eligibility criteria is published on passports.gov.au. Processing and policy guides for staff.	Moderate	Unlikely	Medium	Letter contains generic information and asks whether the individual consents to further contact for the purpose of learning about passports. -42(1) Contact foreign (local) government before sending the letter to field concerns and prevent local issues. Consult with other like minded countries to determine whether the provision of a letter of this kind has had any adverse impacts. Don't mention recipient's age in letter.	Minor	Unlikely	Low
5	Proposal is ineffective in changing the custody issue	Child does not receive letter (intercepted, wrong address). Child does not have access to the supporting evidence required for application (consent, evidence of identity and citizenship, application fee, photos). Child does not want to apply for passport. Child is not permitted by custodial parent to apply for passport.	No change in current circumstances.		Limited	Likely	Medium	Provisions to grant passports on grounds specified in Section 10 of the Australian Passport Determination 2017.	Limited	Possible	Low	NA	Limited	Possible	Low
6	Increased number of specialised cases in queue	If application is lodged before the child is 18 years of age, consent from both parents is required along with supporting identity documents and photo. Child does not have access to the supporting evidence required for application (consent, evidence of identity and citizenship, application fee, photos).	Increased workload for post and APO.		Minor	Likely	Medium	The APO conducts consent checks with the non lodging parent. Workload management system in place to support case management. Referral to fraud team if consent forged. The APO Fraud Controls - Passport Fraud Detection [O-113], Passport Fraud Case Management [O-114], Departmental Fraud Case Management System [O-120].	Minor	Possible	Medium	Send letter to 18+ year old people only. Letter contains generic information and asks whether the individual consents to further contact for the purpose of learning about passports. Policy unit to work with Specialised Case Management to ensure current policies are effective and risks are being reviewed with modifications made where required.	Minor	Unlikely	Low

s 22(1)(a)(ii)

From: s 22(1)(a)(ii)
Sent: Friday, 4 August 2023 1:17 PM
To: Warren Macilwain
Cc: s 22(1)(a)(ii)
Subject: Update: Writing to Australian Children Involved in International Custody Disputes
[SEC=OFFICIAL]

OFFICIAL

Hi Warren

I had intended to obtain feedback from Tokyo Post and Conops on these issues, and provide you with recommendations to each of the decisions required below. At this stage, Conops and Tokyo post have not been consulted specifically on the questions below.

CON will decide on how to best document the agreed policy (matrix, flowchart, text) in the Consular Handbook once all decisions have been finalised.

Note:

- The question numbers below relate to the corresponding numbers and comments in the table further below.
 - Client = the 'child' (not the non-custodial parent).
1. Decide whether or not to set a client cut-off age limit, and if so, what cut-off age should we apply (policy decision)
 2. Agree that a letter **is not** sent to clients who are in regular contact with their non-custodial parent (policy decision)
 3. s 42(1)
 4. Agree to open CIS / consular case using standard procedures if a letter is requested when there is no current case (policy decision)
 - a. Post / Conops input is required: e.g. is a CIS case required; active case or quick case; can the case be closed after the letter is sent; what will be the case category (parental abduction not applicable to over 18 client)
 5. Agree a letter is sent if Post/Conops **are not** aware of any welfare concerns
 - a. See DPL feedback. This is a complex issue and may need further discussion.
 6. Decide that we do not send a letter if the client has younger siblings (recommend deleting this question)
 7. Decide if we send a letter to the client if they have a younger sibling with a Hague Convention case (recommend we address this issue at question 9)
 - a. s 33(a)(iii)

8. s 42(1)
9. Agree that post confirms with the local authorities whether or not there are any current cases before the courts, incl Hague Convention cases, for the client or a client's siblings (not sure this will be possible in all locations?)
- a. Decide that if there are cases
 - i. a letter is not sent, or
 - ii. s 42(1)
10. Agree that we do not ask the non-custodial parent requesting the letter to confirm whether or not the client is an Australian citizen
- a. s 42(1)

Additional questions

1. Decide if post/ Conops need to clear the letter through DFAT legal each time one is sent
2. Agree to the use of a disclaimer

s 42(1)

	Eligibility Questions	CON Questions and Comments
1	Is the client over 18 years of age?	<p>Post have voiced concerns they will receive letter requests for older clients, especially after the first letters are sent, also do we want to commit ourselves to sending letters to adults in their 30s for example?</p> <p><u>Question</u>: Are there any issues with applying a cut-off age? For example, amend the question to: Did the client turn 18 within the last 12 months, or: Is the Client between 18 and 21 years of age?</p>
2	Is the non-custodial parent in regular direct contact with the client?	<u>Comment</u> : We do not intend to send letters to clients if they are in regular contact with the non-custodial parent.
3	Do you have the client's postal address?	s 42(1)

		<p>even if they do not know if the child still resides at the address.</p>	
<p>4</p>	<p>Is there an active CIS case for the client?</p>	<p>Initial due diligence to determine parentage: When we are requested to send a letter and we do not have a CIS case, Post have suggested requesting an original copy of a birth certificate (or another family record document depending on country) or stat dec. We do not normally request these documents to open a consular case. We plan to propose opening a CIS case using the standard procedures.</p> <p><u>Question:</u> Is there any need to seek these documents in order to send the letter/open a case? Could requesting these documents create a double standards situation? Also, if we are opening a case only for the purpose of sending the letter, does this remove the risk of using information collected for a different purpose?</p>	<p>s 42(1)</p>
<p>5</p>	<p>Are you aware of any welfare concerns, or of any reason, that sending a letter would cause distress to the client or any younger siblings?</p> <p>Check CIS case history if applicable and ask the non-custodial parent if they are aware of any reason sending a letter to the client would cause them distress?</p>	<p><u>Comment:</u> We have concerns in regard to the risk relating to this question. The APO risk assessment rates this risk initially as 'High', and the existing controls in place are APO controls and not particularly relevant to these consular related requests. Also, one of the proposed treatments is: "require the Post/CCD to have sufficient information about the case to inform a risk based decision about sending a letter". However, it is extremely difficult to obtain sufficient and/or reliable information about a child's welfare in child custody cases. The case information is obtained from the non-custodial parent who is often unaware what the child has been told. If domestic violence is involved and the alleged perpetrator is the non-custodial parent they are unlikely to inform Conops/Post.</p>	

		<p>We would appreciate further advice / your thoughts on this criteria based on the comment above.</p> <p style="text-align: right;">s 42(1)</p>
6	Does the client have younger siblings?	<p>APO draft SOPs advise at Step 3: "If the child in question has a younger sibling, DO NOT SEND A LETTER". We understand the SOPs were a draft document but we'd like to understand why the existence of younger siblings may prevent us from sending a letter. We couldn't find anything in the legal advice.</p> <p><u>Question:</u> What is the reasoning behind this advice (noting there is also a comment in the SOPs and below relating to younger siblings and the Hague Convention)? Can this eligibility question be deleted?</p>
7	Does the client have younger siblings who have active Hague Convention cases?	<p>APO draft SOPs advise: if a match is found and the client has a younger sibling under 16, "DO NOT SEND A LETTER".</p> <p><u>Question:</u> Does APO have access to the Hague Convention register? CCD does not have access to this register. Can APO check the register on behalf of CCD when we receive a request for a letter and advise Conops of results? Privacy issues?</p> <p>s 42(1)</p> <p style="text-align: center;">, s 33(a)(iii)</p>
8	Have you received local legal advice to ensure that sending a letter conforms to local law?	s 42(1)

9.	Have you confirmed with the local authorities that there are no current or open cases before the courts?	<p>APO draft SOPs advise "Check with local authorities if there are current / open cases before the courts in local jurisdictions". We are not sure what this question is asking.</p> <p><u>Question</u>: Does this advice refer to the client or to younger siblings? Is the question referring to current/open child custody cases only?</p>
10.	Is the client an Australian citizen?	<p>s 42(1)</p> <p>While many of the children in Japan are Australian citizens, we do not know the citizenship of some, and others are not Aust citizens. It would be our preference to remove this question if possible given a definitive answer will not always be possible.</p> <p>s 42(1)</p>

Additional Questions		
1	s 42(1)	
2	<p>The Vulnerability Matrix includes the following disclaimer: <i>This matrix is a guidance tool only and is not intended to create any legally binding duties or obligations on the Australian Government to provide any particular consular assistance or services.</i></p>	<p><u>Questions:</u> Does this matrix require a disclaimer, if so, can we use the Vulnerability Matrix wording (copied to the left)? If you recommend changes to the disclaimer, can you please provide the text?</p>

s 22(1)(a)(ii)

From: s 22(1)(a)(ii)
Sent: Friday, 11 August 2023 3:14 PM
To: Warren Macilwain
Cc: s 22(1)(a)(ii)
Subject: Question about passport letters [SEC=OFFICIAL]

OFFICIAL

Hi Warren

s 33(a)(iii), s 33(b)

Regards

s 22(1)(a)(ii)

Assistant Director | Consular Policy Section
Consular Communication and Policy Branch | Consular and Crisis Management Division

s 22(1)(a)(ii)

From: s 22(1)(a)(ii) @dfat.gov.au>
Sent: Friday, 11 August 2023 2:51 PM
To: s 22(1)(a)(ii) @dfat.gov.au>
Cc: s 22(1)(a)(ii) @dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au>
Subject: Fwd: [EXTERNAL] Re: Question about passport letters [SEC=OFFICIAL]

s 22(1)(a)(ii)

Please see the reply from my s 33(a)(iii), s 33(b)

It' s a little difficult to follow but I hope this helps.

Regards

s 22(1)(a)(ii)

s 33(a)(iii), s 33(b)

s 33(a)(iii)

s 22(1)(a)(ii)

From: Warren Macilwain
Sent: Monday, 4 September 2023 9:20 PM
To: s 22(1)(a)(ii)
Cc: s 22(1)(a)(ii)
Subject: Re: Seeking Guidance/Advice: Passport Letters for Non-case Affected Parents[SEC=OFFICIAL:Sensitive]

Categories: Child Abduction

OFFICIAL: Sensitive

Looks good

Agree being a known consular case isn't a criterion

we should assess each carefully

From: s 22(1)(a)(ii) <[redacted]@dfat.gov.au>
Date: Monday, 4 September 2023 at 8:54:07 pm
To: "s 22(1)(a)(ii) <[redacted]@dfat.gov.au>", "s 22(1)(a)(ii) <[redacted]@dfat.gov.au>"
Cc: "s 22(1)(a)(ii) <[redacted]@dfat.gov.au>", "Warren Macilwain" <Warren.Macilwain@dfat.gov.au>, "s 22(1)(a)(ii) <[redacted]@dfat.gov.au>", "s 22(1)(a)(ii) <[redacted]@dfat.gov.au>", "s 22(1)(a)(ii) <[redacted]@dfat.gov.au>"
Subject: Seeking Guidance/Advice: Passport Letters for Non-case Affected Parents [SEC=OFFICIAL:Sensitive]

OFFICIAL: Sensitive

Hi s 22(1)(a)(ii)

As expected, since the passport letters made their rounds in Australian media, we have received a number of requests from affected parents seeking further information. These parents are not cases, nor have they sought assistance from the Embassy before. In early conversations we touched on whether we would send letters to non-case parents, but I don't think we've reached a formal policy/operational position yet. s 33(a)(iii), s 33(b)

From post's perspective, it would be difficult to refuse letters to these parents simply on the basis they are not a known case to us, but as the SOP cites CCD as the approver happy to be guided by you.

s 22(1)(a)(ii) has drafted a response to these enquiries (attached). We propose to seek the relevant information from the parent who has contacted us and refer, as per the SOP, to CCD for a decision on whether to send the letter or not.

I'd be grateful for your thoughts and happy to setup a chat if you think it's best to work through it over the phone?

With thanks

s 22(1)(a)(ii)

Second Secretary (Management) & Consul | 二等書記官兼領事

(Consular, Crisis Management & Emergency Planning, HR, Protocol)

Australian Embassy Tokyo | オーストラリア大使館

s 22(1)(a)(ii)