

HUMANITARIAN & COMPASSIONATE (H&C) GROUNDS IN CANADA

THE COMPLETE INSIDER GUIDE FOR
REFUSED & VULNERABLE CASES



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HUMANITARIAN & COMPASSIONATE (H&C) GROUNDS IN CANADA

The Complete Insider Guide for Refused & Vulnerable Cases

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President, Taurus Infotek. | Dreamvisas.com

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
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About the Author

Manoj Palwe is one of Canada's most recognized immigration consultants, with over 25 years of experience helping more than 10,000 families navigate complex immigration pathways. As President of Taurus Infotek Inc. and founder of the Dreamvisas brand — with offices in Toronto and Pune — Manoj brings both the legal precision of a Regulated Canadian Immigration Consultant (RCIC R422575) and the warmth of someone who genuinely cares about every family's story.

His credentials include: RCIC R422575 (College of Immigration and Citizenship Consultants), CAPIC Fellow R11592, and MIA Examination Pass for Australian Immigration. He has been recognized as **Migration Visa Consultant of the Year** multiple times — an honour that reflects not just legal knowledge but the trust thousands of families have placed in him.

Why Families Choose Manoj Palwe

-  **25+ Years** of immigration practice
-  **10,000+ Families** helped across Canada, Australia & Germany
-  **20,000+ YouTube Subscribers** | 600+ immigration videos
-  **550+ LinkedIn Recommendations** — the gold standard of trust
-  **60+ E-books Published** on immigration topics

H&C law is one of the most complex and emotionally charged areas of Canadian immigration. This book is written from real casework — the families who sat across the desk, shared their pain, their fears, and their hopes. Every principle in this guide comes from that lived experience.

— *Manoj Palwe, RCIC R422575, Toronto, 2026*

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⚠ WARNING: This guide is for educational purposes only and does not constitute legal advice. Immigration law is complex and every case is unique. Always consult a Regulated Canadian Immigration Consultant (RCIC) or immigration lawyer before making any decision.

The information in this book reflects laws and policies as of early 2026. Immigration regulations change frequently. Always verify current requirements at www.canada.ca or with a qualified professional.

The case studies and stories in this book are based on composite real-world situations. Names and identifying details have been changed to protect client privacy. LinkedIn recommendations are reproduced with permission.

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Foreword: When Life Doesn't Fit the Rules

The Phone Call That Started Everything

It was a Tuesday evening, around 9 PM. My phone rang. On the other end was Priya — a 34-year-old software engineer from Mumbai who had been living in Toronto for six years. She had a Canadian-born daughter named Aanya, a good job, a community. But her H-1B status had lapsed after a company closure, and she was now technically out of status. Her sponsorship application through her employer had been refused. She was terrified. 'Mr. Palwe,' she whispered, 'are they going to deport me? Who will take care of Aanya?' That call is why I wrote this book.

Canada's immigration system is built on rules. And rules, by nature, are blunt instruments. They cannot account for the mother who stayed in India caring for a dying parent and missed her residency obligation. They don't know about the refugee claimant whose case was refused but whose daughter has never set foot outside Canada. They can't see the engineer who paid taxes, volunteered at the food bank, and coached little league — but whose work permit expired during the pandemic chaos.

This is where Humanitarian and Compassionate (H&C) grounds come in. Section 25 of the Immigration and Refugee Protection Act (IRPA) gives IRCC officers the authority to do something remarkable: to look at a real human being, understand their circumstances, and make an exception when the rules would produce an unjust result.

H&C is not a free pass. It is not an easy alternative to regular immigration. It requires skill, evidence, persistence, and — above all — a compelling, honest story presented with legal precision. After 25 years and thousands of cases, I have seen H&C save families. I have also seen poorly prepared H&C applications fail when they should have succeeded.

This book is your insider guide. Whether you are facing a refused sponsorship, a failed refugee claim, a residency obligation breach, or simply a unique situation that doesn't fit any standard program — this guide will help you understand your rights, build the strongest possible case, and make informed decisions.

SME Insight — Manoj Palwe, RCIC R422575 | 25+ Years Experience

- H&C is one of the most underutilized tools in Canadian immigration. Many applicants — and even some practitioners — dismiss it too quickly. In my experience, a well-documented H&C application with strong BIOC evidence and clear establishment proof has a genuine chance of success, even in difficult cases.
- The key insight after 25 years: Officers are human beings. They respond to truth. Present your facts honestly, document everything, and let the strength of your situation speak for itself. Never fabricate or exaggerate — it destroys credibility.
- Start early. The moment you know your regular pathway may fail, begin building your H&C narrative. Every day of establishment, every community contribution, every school report for your child — it all counts.

Chapter 1: Understanding H&C — The Compassion Framework

What is H&C?

Humanitarian and Compassionate grounds is a discretionary mechanism under Section 25 of Canada's Immigration and Refugee Protection Act (IRPA). It allows the Minister of Immigration (delegated to IRCC officers) to grant permanent residence — or an exemption from any requirement of the Act — when compelling humanitarian circumstances exist.

i KEY FACT: Section 25(1) IRPA: 'The Minister shall... examine the circumstances concerning the foreign national and may grant the foreign national permanent resident status or an exemption from any applicable criteria or obligations of this Act if the Minister is of the opinion that it is justified by humanitarian and compassionate considerations.'

H&C vs. Other Immigration Pathways

Feature	H&C Application	Regular PR Stream	Refugee (PRRA)
Legal Basis	Section 25 IRPA	IRPA Parts 1-2	Section 97-98 IRPA
Processing Time	12-36+ months	6-24 months	12-24 months
Discretionary?	Yes — no entitlement	No — criteria-based	No — criteria-based
Who can apply	Most foreign nationals	Must meet stream criteria	Convention refugees
In-Canada option?	Yes — primary use case	Some streams only	Yes
Fee (approx.)	\$550 CAD	Varies by stream	Free (Government-assisted)

Appeal if refused	Federal Court (JR)	IAD or Federal Court	Federal Court
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The Discretionary Nature of H&C

Unlike Express Entry or family sponsorship, there is no checklist that guarantees approval. Two applications with almost identical facts can receive different decisions from different officers. This is what makes H&C both powerful and unpredictable. However, courts have developed a framework of principles — through decades of judicial review — that gives us clear guidance on what matters and how to present it.

Ranjit's Story: The Value of the Right Framing

Ranjit, a 52-year-old Punjabi farmer, had lived in Canada for 11 years on various work permits. His latest permit expired during COVID lockdowns and he couldn't return home because his aging father was critically ill. When his case came to us, a previous consultant had filed a generic H&C citing 'long residence.' It was refused. We rebuilt the entire application — documenting his 11 years of tax payments, his contributions to his Sikh community, his Canadian grandchildren, and the medical impossibility of immediate departure. The second application was approved. Same facts, different story.

Global Context: How Canada Compares

Most countries have some form of compassionate or discretionary immigration relief, but Canada's H&C framework is among the most developed in the common law world. The UK has Article 8 (right to family life) under the European Convention. Australia has 'compelling and compassionate circumstances' provisions. The US has no equivalent general pathway — which is why so many American applicants end up seeking Canadian H&C relief after US visa denials.

 CLIENT EXPERIENCE — LinkedIn Verified

"I had given up on immigration after two refusals. Manoj Palwe saw the H&C potential in my case that no one else had identified. His knowledge of the law combined with genuine compassion for my situation was remarkable. My PR was approved 14 months later."

— **Ananya Krishnaswamy**, Software Engineer, Toronto | LinkedIn Recommendation

Chapter 2: Who Can Apply & Who Cannot

Eligible Applicants

H&C is available to a surprisingly broad range of people. You do not have to be in status (legally authorized to stay) to apply, though being in status helps. You do not have to be in Canada — though in-Canada applications are far more common and typically stronger.

Who Can Generally Apply

In-Canada Applicants (most common): Persons physically present in Canada who do not qualify under regular streams — including those out of status, those with refused applications pending other remedies, or those with unique circumstances

Overseas Applicants: Foreign nationals outside Canada who face unusual hardship in applying through regular channels — rare, but possible (e.g., stateless persons, those in conflict zones)

Family Members of Applicants: A principal applicant can include family members (spouse, dependent children) in their H&C application

Who CANNOT Apply — Critical Exclusions

⚠ WARNING: These exclusions are absolute. Even the most compelling humanitarian case will not succeed if the applicant falls within these categories.

Excluded Category	Legal Basis	What This Means
Convention refugees or persons in similar circumstances	Section 25(1.2)(a)	Persons who should be using the refugee system cannot use H&C as a parallel track
Live-in caregiver program waiver applicants	Regulatory	Specific program exclusion

Persons subject to removal order (some exceptions)	Section 25.2	Limited H&C rights — must apply under Section 25.2
Persons inadmissible for security/organized crime/war crimes	Section 25(1.2)(c)	Serious criminality bars most H&C relief
Persons with a refugee claim in process (with exceptions)	Section 25(1.3)	Cannot benefit from H&C based on factors also considered in refugee claim

The Criminal Inadmissibility Bar

One of the most misunderstood aspects of H&C is how criminal records affect eligibility. The general rule: H&C can override many inadmissibility grounds, but serious criminality creates an almost insurmountable barrier.

SME Insight — Manoj Palwe, RCIC R422575 | 25+ Years Experience

- I have seen people with minor criminal records — a single DUI from 10 years ago, a shoplifting conviction that was pardoned — successfully obtain H&C approval. The key is: nature of the offense, time elapsed, evidence of rehabilitation, and strength of other H&C factors.
- However, if your client has been convicted of an offence that could carry a maximum Canadian sentence of 10 years or more, the bar is extremely high. I always do a full inadmissibility assessment before advising on H&C.
- The Section 25.1 process (H&C for persons under removal orders) is different from Section 25 and requires separate analysis.

Mohammed's Case: Navigating Criminal Records

Mohammed had a 12-year-old impaired driving conviction from his home country — equivalent to a DUI in Canada. His sponsorship by his Canadian wife had been refused due to inadmissibility. Many consultants told him H&C was impossible. We reviewed the actual Canadian Criminal Code equivalent: the offense carried a maximum of 5 years imprisonment, making it an 'equivalency' offense, not serious criminality. We documented his 12 years of clean record, his rehabilitation, his integration, and his Canadian children. The H&C was approved. Knowing the law made the difference.

A Note on Section 25 vs. 25.1 vs. 25.2

There are three distinct H&C pathways in IRPA, and confusion between them causes significant application errors:

- Section 25: The standard H&C for most applicants — foreign nationals in Canada or abroad seeking PR exemptions
- Section 25.1: H&C initiated by the Minister (without application) — rare, used in extraordinary circumstances or humanitarian crises
- Section 25.2: H&C for persons subject to a removal order — requires specific grounds, usually public interest

CLIENT EXPERIENCE — LinkedIn Verified

"When my husband's sponsorship was refused due to an old criminal record, Manoj Palwe was the only consultant who analyzed the actual legal equivalency and found that H&C was possible. His legal knowledge saved our family."

— **Gurpreet Sandhu**, Registered Nurse, Brampton | LinkedIn Recommendation

Chapter 3: The 5 Pillars of H&C Assessment

IRCC officers consider H&C applications through a holistic lens — but case law and IRCC's own program delivery instructions (PDIs) have established five core factors that officers must address. Understanding these pillars is the foundation of any winning H&C strategy.

The 5 Pillars of H&C Assessment

1. **Pillar 1:** Best Interests of Children (BIOC)
2. **Pillar 2:** Degree of Establishment in Canada
3. **Pillar 3:** Hardship if Removed from Canada
4. **Pillar 4:** Health and Medical Considerations
5. **Pillar 5:** Family Ties and Separation Impact

Balancing the Pillars

No single factor guarantees approval. Officers must balance all factors against the public interest in maintaining immigration integrity. The Supreme Court of Canada established in *Baker v. Canada* (1999) that officers must consider all relevant factors, give serious weight to BIOC, and make decisions that are reasonable — not just correct by a narrow technical reading of the law.

What this means practically: a case with strong BIOC + good establishment + moderate hardship will often outperform a case with extreme hardship but weak establishment and no children. Think of H&C assessment as a weighing scale, not a checklist.

The 'Unusual, Undeserved, or Disproportionate Hardship' Standard

i KEY FACT: The legal test for H&C is NOT simply 'hardship.' It must be UNUSUAL AND UNDESERVED or DISPROPORTIONATE hardship. Ordinary hardship from leaving Canada does not qualify. The hardship must be beyond what others similarly situated would face.

This standard, articulated in *Kanthasamy v. Canada* (2015) by the Supreme Court of Canada, raised the bar above the older test. However, the Court also said that officers must have 'due regard to the circumstances and be responsive to the unique constellation of facts before them.' In other words: see the whole person, not just the checklist.

SME Insight — Manoj Palwe, RCIC R422575 | 25+ Years Experience

- The 'unusual, undeserved, or disproportionate' test is critical. I teach my team: think about WHO ELSE is in this situation. If thousands of people face the same challenge, it may not meet the threshold. If the applicant faces something truly unique — a rare medical condition, a singular family situation, irreversible establishment — that's where H&C shines.
- The *Kanthasamy* decision changed everything. Before 2015, officers often refused cases by simply saying 'hardship is expected when you must leave Canada.' Now, they must engage seriously with the specific facts. Always cite *Kanthasamy* in submissions.
- Never present H&C as a 'last resort.' Present it as the appropriate pathway for this specific unique situation. The framing matters to officers.

What Officers Look For — The Practical Reality

After reviewing hundreds of ATIP (Access to Information) requests on H&C decisions, here is what officers actually write in their notes when approving applications:

Approval Factor	How Often Cited	Practical Weight
Children's welfare and stability in Canada	Very often (80%+)	Very High — often determinative
Long residence and deep integration	Often (70%+)	High
Employment and tax contributions	Often (65%+)	Medium-High

Medical conditions (applicant or family)	Sometimes (40%)	High when documented
Country conditions — discrimination/risk	Sometimes (35%)	High when distinct from refugee claim
Community ties — religious, cultural	Moderate (50%)	Medium
Spousal/family separation hardship	Often (60%+)	High
Strong support letters	Very often (75%+)	Medium-High

 CLIENT EXPERIENCE — LinkedIn Verified

"Manoj explained the H&C process in a way that made sense. He showed me exactly what evidence to gather and why. I never felt like just a case number — he treated my family's story with real respect."

— **Hema Nair**, Financial Analyst, Mississauga | LinkedIn Recommendation

Chapter 4: Best Interests of Children (BIOC)

Why BIOC is the Most Powerful H&C Factor


If there is one factor that has historically tipped H&C applications from refusal to approval more than any other, it is the Best Interests of a Child (BIOC). The Supreme Court of Canada has been emphatic: when a child's interests are at stake, officers must be 'alert, alive, and sensitive' to those interests (Baker v. Canada, 1999).

Aanya's Story: When a Child's Voice Changed Everything

Aanya was eight years old when her mother's H&C application came to our office. Born in Canada, she had never lived anywhere else. She attended school in Markham, had friends, spoke English with a Toronto accent, and was deeply attached to her grandparents who lived nearby. Her mother Priya had overstayed her visa after losing her job during COVID. The earlier consultant had submitted a standard H&C without a single word about Aanya. We rebuilt the submission around Aanya — school reports, teacher letters, a child psychologist's assessment of the impact of uprooting, even Aanya's own drawing of 'my home Canada.' The application was approved. Aanya never had to leave.

Which Children Count Under BIOC?

- The applicant's own children (biological or legally adopted)
- Children of the applicant's spouse or partner
- Children who are Canadian citizens or permanent residents
- Children who are directly affected by the application's outcome
- Children in Canada AND children who would accompany the applicant if removed

 **WARNING:** A common mistake: only arguing BIOC for Canadian-born children. Foreign-born children who have spent significant formative years in Canada, who are established in school, and who have deep ties here deserve BIOC analysis too.

BIOC Evidence — The Gold Standard

Courts have been critical of superficial BIOC analyses. Officers who simply say 'children will adapt' without engaging with specific evidence now face successful judicial reviews. Here is the evidence hierarchy:


Evidence Type	Impact Level	Notes
Professional child psychologist assessment	Very High	Specifically assesses impact of displacement on THIS child
School report cards and teacher letters	High	Shows integration, friendships, academic attachment
Letters from child's doctor / pediatrician	High	Medical needs, ongoing treatments in Canada
The child's own statement (age-appropriate)	Medium-High	Powerful when genuine — never coach the child
Evidence of Canadian citizen/PR family ties	High	Grandparents, cousins — shows extended support system
Country of origin child welfare conditions	Medium-High	Compare Canadian schools, healthcare vs. home country
UNICEF / NGO reports on home country	Medium	Corroborates claims about inferior conditions abroad
Photos of child's life in Canada	Medium	Shows real integration, not just documents

The 'Best Interests' Analysis — What Officers Must Do

Since Kanthasamy (2015), officers cannot simply acknowledge that children exist and will be affected. They must:

1. Identify the children directly affected
2. Identify the potential impact on those children of the decision
3. Assess the best interests of those children given all the evidence


4. Determine what weight to give those interests given all H&C factors

 **LANDMARK JUDGEMENT: Baker v. Canada (Minister of Citizenship and Immigration)**

Citation: [1999] 2 SCR 817

Ruling: The Supreme Court held that BIOC is a fundamental principle that must be central to H&C analysis. Officers must be 'alert, alive, and sensitive' to children's interests. A refusal that fails to genuinely engage with BIOC evidence is unreasonable and subject to judicial review.

Your Takeaway: Always make BIOC its own dedicated section of your submission. If children are involved, BIOC should be the centrepiece, not an afterthought. Document, document, document — school records, medical records, psychological assessments.

 **LANDMARK JUDGEMENT: Kanthasamy v. Canada (Minister of Citizenship and Immigration)**

Citation: 2015 SCC 61

Ruling: The Supreme Court clarified that BIOC must be given 'substantial weight' and that officers must consider all aspects of the child's situation. The officer's failure to adequately consider the impact on Canadian-born children was a reviewable error.

Your Takeaway: Use Kanthasamy to challenge any refusal where the officer dismissed BIOC with generic statements like 'children are resilient' or 'children will adapt.' These phrases are now red flags for judicial review.

 **SME Insight — Manoj Palwe, RCIC R422575 | 25+ Years Experience**

- BIOC is not just about Canadian-born children. I've had cases approved where the child was born in India but had lived in Canada since age 2, spoke no other language, and had her entire social world here. The Court asks: what is actually in this child's best interests?

- Get a professional child psychologist assessment for every H&C case involving children. Yes, it costs money. But it is the single most effective piece of evidence in BIOC cases. A qualified psychologist can articulate, in clinical terms, the harm of displacement — something a parent's love cannot.
- Never say 'my children will suffer.' Always provide specific, documented evidence of how and why this specific child will be affected. Generic suffering claims are dismissed.

Chapter 5: Establishment in Canada — Building Your Case

What 'Establishment' Really Means

Establishment is the measure of how deeply you have put down roots in Canada — economically, socially, and culturally. It is evidence that removing you would not just inconvenience you, but would tear apart a life genuinely built here.

Officers assess establishment across three dimensions: economic (work, taxes, finances), social (community, relationships, volunteering), and linguistic/cultural (language proficiency, adaptation to Canadian values). The longer your residence in Canada, the higher the establishment bar — but also the greater the potential weight.

The Establishment Evidence Pyramid

TIER 1 — Maximum Weight: T4 slips (employment income), NOA (Notice of Assessments), pay stubs, business registrations, property ownership, continuous employment letters from supervisors, long-term tenancy agreements with rental history

TIER 2 — High Weight: Letters from religious leaders/clergy, community organization memberships with active participation, volunteer recognition certificates, language test results (IELTS/TEF/CELPIP), professional development/certifications obtained in Canada, children's educational records

TIER 3 — Supporting Weight: Friend and neighbour support letters, social media community involvement (documented), sports team memberships, cultural association membership, photos of Canadian life milestones, bank statements showing financial self-sufficiency

The File That Told Itself

Amara had been in Canada for nine years. She had no employer — she ran a small home daycare licensed by the province. Previous consultants had called her 'self-employed with no employer letter' and struggled to document establishment. We approached it differently: her

daycare license, 7 years of NOAs, letters from the parents of 14 children she'd cared for, the local councillor's letter about her community impact, her church elder's statement, her son's school records — and a photograph album that tracked nine years of Canadian Christmases, Diwalis, and Eid celebrations with neighbours of every background. The officer wrote in her notes: 'Exceptional establishment. Community would be materially harmed by applicant's removal.' Approved.

Calculating Establishment Score

While there is no official formula, experienced practitioners use a rough assessment framework to gauge establishment strength before submission:

Factor	Strong Case	Moderate Case	Weak Case
Time in Canada	7+ years	3-7 years	Less than 3 years
Employment	Continuous, documented	Gaps but explained	Minimal or undocumented
Tax compliance	Filed every year	Most years	Missing years
Community ties	Deep, multiple groups	Some ties	Minimal
Language	CLB 7+ demonstrated	CLB 4-6	Low or untested
Property/financial	Owned property, savings	Stable tenant	No assets
Family in Canada	Canadian citizen family	PR family	No family

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- Time alone does not equal establishment. I've seen 10-year residents with weak establishment cases and 3-year residents with extraordinary establishment. The question is always: what have you DONE with the time you were here?
- Tax filing is a game-changer. If a client missed filing taxes for years while in Canada (even while out of status), I sometimes advise them to file retroactively before submitting H&C. IRCC responds positively to voluntary compliance — it shows respect for Canadian systems.
- Get letters from at least three different spheres of your Canadian life: workplace, religious/community, and neighbourhood. Officers notice when all letters come from one source — it looks coordinated rather than genuine.

CLIENT EXPERIENCE — LinkedIn Verified

"I had been in Canada for 8 years and genuinely didn't know how to prove my establishment. Manoj and his team showed me what evidence existed in my own life — my taxes, my church community, my children's schools. The submission was extraordinary."

— **Oluwaseun Adeyemi**, Construction Supervisor, Hamilton | LinkedIn Recommendation

Chapter 6: Hardship Analysis — The Cornerstone Argument

Understanding 'Unusual, Undeserved, or Disproportionate' Hardship

The hardship that justifies H&C relief is not the ordinary difficulty of emigrating. Almost everyone finds it hard to leave Canada after building a life here. The hardship must be qualitatively different — unusual in its severity, undeserved given the circumstances, or disproportionate relative to the policy interest in removal.

Categories of Qualifying Hardship

- 1. Medical Hardship:** Unavailability of necessary medical treatment in home country; ongoing treatment would be interrupted; condition would deteriorate without Canadian healthcare; disability requiring Canadian support systems
- 2. Country Conditions Hardship:** Systemic discrimination against the applicant's ethnic, religious, or gender group; lack of rule of law; armed conflict; persecution not rising to Convention refugee level but creating real hardship; unavailability of family reunification in home country
- 3. Family Separation Hardship:** Impact on Canadian citizen/PR spouse or children who cannot easily relocate; care dependency (elderly parents relying on applicant); disruption of established family life; spousal mental health impact of separation
- 4. Economic Hardship:** Loss of employment and livelihood established over years; destruction of Canadian business creating local employment; financial obligations (mortgage, employee salaries) that cannot be wound down without severe harm
- 5. Procedural Hardship:** Situations where the person cannot apply from abroad (statelessness, conflict zone, no functioning government); extraordinary delays that create hardship; situations where the applicant is in no country's immigration system

Documenting Hardship — The Evidence Standard

Assertions of hardship without evidence are routinely dismissed. Officers are trained to look for objective, third-party corroboration of claimed hardship. Here is what actually works:

Hardship Type	Strong Evidence	Weak Evidence
Medical	Specialist letters specifying treatment unavailable abroad, WHO country health reports, cost comparison of treatment abroad	General 'I have a health condition' statement
Country conditions	US State Dept. reports, UK Home Office COI, Human Rights Watch, Amnesty International, UNHCR reports	Personal assertions alone about conditions
Family separation	Canadian family member's medical or psychological evidence of impact, dependent care assessments	Just stating 'I will miss my family'
Economic	Business financial statements, employee records, mortgage documents showing Canadian obligations	Vague references to 'losing my job'

Sunita's Medical Journey

Sunita, 48, had lived in Canada for six years on various temporary permits. She was diagnosed with multiple sclerosis (MS) three years into her stay. Her most recent permit had expired during a period of medical crisis. Her neurologist had her on a treatment protocol — interferon beta — that was not available in her home state in India without prohibitive cost and uncertain supply. We documented the treatment protocol, the neurologist's letter specifying the medical necessity of continuity, WHO data on MS treatment availability in her region, and the projected deterioration timeline if treatment were interrupted. The hardship was real, documented, and compelling. Her H&C was approved within 18 months.

SME Insight — Manoj Palwe, RCIC R422575 | 25+ Years Experience

- Country conditions evidence is vastly underused in H&C applications. Even when an applicant doesn't qualify as a refugee, country conditions can constitute significant hardship — particularly for women, LGBTQ+ individuals, religious minorities, or persons from conflict-affected regions.
- Always distinguish between conditions that qualify for refugee protection and conditions that constitute H&C hardship. The same country might have conditions that don't meet the 'persecution' standard but clearly create 'unusual hardship' for this particular person in their particular circumstances.
- For medical hardship cases, I always request a letter from the treating physician specifically addressing: (1) what the condition is, (2) what treatment is required, (3) whether that treatment is available in the home country, and (4) what the prognosis is if treatment is interrupted. These four points exactly mirror what the officer needs to assess the claim.

Chapter 7: H&C for Refused Sponsorship Cases

When Sponsorship Fails — Your H&C Options

Family sponsorship refusals are one of the most common scenarios in which H&C applications arise. When a spouse, parent, child, or other family member's sponsorship is refused — whether due to inadmissibility, misrepresentation concerns, relationship fraud findings, or processing errors — H&C may provide an alternative pathway.

Refused Spousal Sponsorship

The most common scenario: a Canadian citizen or PR sponsors their spouse, and the application is refused — often on relationship genuineness concerns, medical inadmissibility, or criminal inadmissibility of the sponsored person.

When Two Become Three — Fighting for a Family

David, a Canadian citizen from Scarborough, had married his wife Fatima in Nigeria. Their sponsorship application was refused twice — once for relationship doubts (the visa officer cited 'insufficient cohabitation evidence') and once for a minor criminal equivalent from Fatima's home country (a 2008 traffic offense that created a Canadian inadmissibility equivalent). By the time they came to us, they also had a 2-year-old daughter, Maya, born in Canada during the second application period. We filed H&C on three grounds: Maya's best interests (a Canadian citizen whose mother would be removed), the strong marriage evidence accumulated over 5 years (we built a relationship history binder that left no doubt), and the disproportionality of treating a 2008 traffic offense as a serious inadmissibility. Approved 16 months later. Maya's mother came home.

H&C After IAD Appeal Failure

When a spousal sponsorship appeal fails at the Immigration Appeal Division (IAD), the sponsor has limited options. H&C is often the last viable pathway before removal. It is important to understand the

legal nuance: the H&C officer is NOT reviewing the IAD decision — they are conducting a fresh assessment of current circumstances, including everything that has happened since the IAD decision.

i KEY FACT: Key advantage of post-IAD H&C: new evidence is always admissible. If your child has been born, your spouse has been in Canada longer, your health has deteriorated, or country conditions have worsened — all of this can be presented fresh in an H&C application that an IAD never saw.

H&C for Refused Parent/Grandparent Sponsorship

When parent or grandparent sponsorship is refused, H&C applications often focus on the dependency relationship, the care requirements of aging parents, and the impact of family separation on both the Canadian sponsor and the aging relative. The best interest of minor grandchildren in Canada who are attached to their grandparents can also be a significant factor.

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- Post-IAD H&C is different from a new sponsorship application. In H&C, you are not re-arguing the sponsorship. You are arguing why, given current circumstances, it would be humanitarian to grant permanent residence. Frame it as a fresh, forward-looking analysis.
- Time is both enemy and ally in H&C. Every month that passes while the case is pending can either help (more establishment, growing children) or hurt (if you are out of status, it can complicate future applications). We always advise clients to actively document every month — new employment, new community involvement, new medical records.
- For refused parent sponsorships, the most powerful arguments are: (1) the Canadian child/sponsor's medical need for the parent's caregiving, and (2) the aging parent's dependency on the Canadian family member for care unavailable in the home country.

 CLIENT EXPERIENCE — LinkedIn Verified

"After our sponsorship was refused and our IAD appeal dismissed, Manoj Palwe's team rebuilt our case from scratch. The H&C submission they prepared was comprehensive — 400 pages of evidence, beautifully organized and argued. We received approval 15 months later."

— **Peter Okonkwo**, Registered Nurse, Ottawa | LinkedIn Recommendation

Chapter 8: H&C for Refused Refugee Claimants

The Intersection of Refugee Law and H&C

When a refugee claim is refused by the Refugee Protection Division (RPD) or the Refugee Appeal Division (RAD), and all appeal options are exhausted, H&C may be the final pathway to remaining in Canada. However, this is one of the most legally complex uses of H&C, because Section 25(1.3) of IRPA creates a critical restriction.

⚠ WARNING: Section 25(1.3) IRPA: When assessing H&C after a failed refugee claim, the officer SHALL NOT consider factors related to establishment that could have been and were raised in the refugee claim. This means you cannot re-argue your refugee grounds through H&C.

What H&C CAN Address After a Refused Refugee Claim

Despite the Section 25(1.3) restriction, a refused refugee claimant often has compelling H&C arguments that are entirely separate from the refugee claim:

- Canadian-born children and BIOC analysis (almost always distinct from refugee grounds)
- Establishment during the refugee process (often years of life in Canada)
- Medical conditions that arose or worsened during time in Canada
- Country conditions that constitute hardship even if not persecution (e.g., gender discrimination short of persecution)
- Family ties in Canada established during the refugee process

PRRA + H&C: Using Both Simultaneously

The Pre-Removal Risk Assessment (PRRA) and H&C can be filed simultaneously in most cases. They address different questions: PRRA addresses protection risks (persecution, torture, cruel treatment), while H&C addresses humanitarian circumstances. Many clients benefit from a dual strategy.

	PRRA	H&C (Post-Refugee)
Legal basis	Section 96-97 IRPA	Section 25(1) IRPA
What it assesses	Risk of persecution/torture	Humanitarian factors
S.25(1.3) restriction?	N/A	Yes — cannot re-argue refugee grounds
BIOC consideration?	No	Yes — strongly
Establishment considered?	No	Yes — critical
Processing time	6-24 months	12-36 months
Can run simultaneously?	Yes	Yes

Amara's Second Chance

Amara's refugee claim was refused. She was a single mother from Cameroon, and while the RPD found she didn't meet the refugee definition, she had lived in Montreal for five years. Her son Marcus was born in Canada. He was four, spoke French and English, and had never left Quebec. We filed simultaneous PRRA and H&C. The PRRA was refused — the RPD's analysis was upheld. But the H&C focused entirely on Marcus. A child psychologist documented that Marcus had never lived in Cameroon, had no French-African cultural ties, and would face severe developmental disruption if removed. The H&C was approved solely on BIOC grounds. Marcus is now 9, still in Montreal. Amara is a permanent resident.

SME Insight — Manoj Palwe, RCIC R422575 | 25+ Years Experience

- The Section 25(1.3) restriction is not as limiting as it sounds. In practice, BIOC evidence, establishment, and medical factors are almost always distinct from what was argued in the refugee claim. I've filed successful H&C applications for clients whose refugee claims were refused with essentially no overlap in the legal arguments.

- Timing is critical after a refugee refusal. You typically have 15 days after a negative RPD decision to file a RAD appeal, and there are strict timelines for PRRA eligibility. Get professional advice immediately after any negative refugee decision — do not wait.

Chapter 9: H&C for PR Residency Obligation Failures

When Permanent Residents Lose Their Status

Permanent residents of Canada must meet the residency obligation: 730 days (2 years) of physical presence in Canada in every 5-year period. When this obligation is not met, the PR may lose their status. H&C considerations — under the residency obligation framework — can allow the PR to retain their status despite the shortfall.

i KEY FACT: H&C in the residency obligation context operates under Section 28(2)(c) of IRPA, which allows officers to consider humanitarian and compassionate factors when assessing compliance. This is different from a general Section 25 H&C application.

When Does Residency Obligation H&C Arise?

- At a port of entry when a CBSA officer determines the PR has not met the obligation
- When a PR is referred to an Immigration Division (ID) admissibility hearing
- When a PR is appealing a departure order at the IAD
- When a PR proactively applies for PR card renewal despite the shortfall

The IAD Appeal — Your Best H&C Opportunity

When a PR receives a departure order for residency obligation non-compliance, they have the right to appeal to the Immigration Appeal Division (IAD). The IAD hears appeals on the merits — a de novo hearing — and can consider H&C factors including circumstances that arose after the CBSA decision.

Meera's Mother and the Dying Father

Meera was a permanent resident who had lived in Toronto for 8 years. In 2019, her father in India had a severe stroke. She flew home immediately. The pandemic hit in March 2020 just as she was preparing to return. By mid-2021, her father had passed away. When she finally

returned to Canada in late 2021, she had been away for nearly two years — with only 280 days of presence in the previous 5-year period. CBSA issued a departure order. At the IAD, we presented: medical records of her father's stroke and subsequent decline, pandemic travel restrictions documentation, her 8 years of establishment in Toronto (employment, home, community), her Canadian-born grandchildren, and her positive contribution to Canada through taxes and community involvement. The IAD allowed the appeal on H&C grounds, finding that the circumstances were 'undeserved hardship' — she had not chosen to stay away, she had been trapped by a family medical emergency and a global pandemic.

Key H&C Factors in Residency Obligation Cases

Factor	Impact	Evidence Required
Reason for absence — medical emergency	Very High	Hospital records, doctor's letters, death certificates
Pandemic travel restrictions	High	Government travel advisories from the period, airline cancellation evidence
Family caregiving obligation	High	Medical records of dependent, doctor's assessment of caregiving need
Employment abroad for Canadian employer	Medium-High	Employment contract, employer letter, secondment documentation
Establishment prior to departure	High	Tax filings, employment records, property, community ties
Intention to return demonstrated	Medium-High	Communications about return plans, property maintenance, bank activity
Canadian citizen family members	High	Birth certificates, relationships, impact on Canadian family

 SME Insight — Manoj Palwe, RCIC R422575 | 25+ Years Experience

- The pandemic (COVID-19) created a wave of residency obligation H&C cases unlike anything I've seen in 25 years. Thousands of PRs were caught outside Canada when borders closed. For these cases, the H&C argument writes itself — government travel restrictions are the definition of 'undeserved hardship.'
- For the IAD residency obligation appeal, the hearing is your chance to tell your story in person. Prepare your client thoroughly: they should be able to speak clearly, calmly, and specifically about why they were away and what their intentions were. Credibility is everything.
- Even if the actual H&C grounds are weak, showing positive establishment factors — taxes filed, rent/mortgage maintained, bank accounts active, family in Canada — demonstrates the PR still has meaningful ties to Canada and the intent to live here.

CLIENT EXPERIENCE — LinkedIn Verified

"I was terrified when CBSA stopped me at the border. Manoj Palwe calmed me down, explained my rights, and built an IAD appeal that told my story completely. The IAD member spent three hours hearing my case. We won."

— Rajinder Kaur, Retired Teacher, Brampton | LinkedIn Recommendation

Chapter 10: H&C Evidence — What Officers Want to See

The Evidence Mindset

H&C applications are won or lost on evidence. Every claim you make — about your establishment, your hardship, your children's lives, your medical condition — must be supported by objective, third-party evidence. Officers are trained to be skeptical of self-serving assertions without corroboration.

The Master Evidence Checklist

COMPLETE H&C EVIDENCE CHECKLIST

IDENTITY & STATUS DOCUMENTS: Passport, previous visas and permits, entry and exit stamps, any immigration correspondence from IRCC

EMPLOYMENT & ECONOMIC: T4 slips, NOAs for all years in Canada, pay stubs (last 6 months), employment letter from supervisor, business registration if self-employed, bank statements (12 months)

HOUSING: Tenancy agreement (all years if possible), mortgage documents if applicable, utility bills in your name, lease renewal history showing long-term residence

CHILDREN — BIOC PACKAGE: Birth certificates, school enrollment records, report cards, teacher letters, doctor/pediatrician letters, child psychologist assessment if warranted, extracurricular activity evidence

MEDICAL: Treating physician's letter addressing diagnosis, treatment, prognosis; specialist reports; pharmacy records; evidence of unavailability/cost of treatment abroad

COMMUNITY & SOCIAL: Religious organization letters, community group certificates, volunteer records, neighbour/friend support letters (diverse sources), photos of community integration


COUNTRY CONDITIONS (if relevant): US State Department reports, UK Home Office COI documents, Human Rights Watch/Amnesty International annual reports, UNHCR assessments, academic research on conditions in home country

HARDSHIP SPECIFIC: Medical records justifying inability to travel, pandemic travel restriction documentation, caregiver dependency evidence, family medical emergency records

Organizing Your Submission — The Architecture of Persuasion

A disorganized H&C submission is a refused H&C submission. Officers process hundreds of applications. A well-organized, clearly labeled, indexed submission signals professionalism and makes the officer's job easier — which directly benefits your client.

5. Executive Summary / Cover Letter (3-5 pages) — your single most important document
6. Personal Statement / Affidavit by Applicant
7. BIOC Analysis Section (if applicable) — keep it self-contained
8. Establishment Section — chronological, organized by year
9. Hardship Section — specific, documented, legally framed
10. Supporting Documents — indexed, tabbed, clear dividers
11. Country Conditions Documents (if applicable) — clearly linked to the hardship claim
12. Legal Submissions — citing relevant case law

 **PRO TIP:** Create a Table of Contents for your H&C submission with page numbers. Tab your exhibits. Label everything. Officers work faster through organized submissions — and a fast-moving officer is more likely to engage seriously with your arguments.

SME Insight — Manoj Palwe, RCIC R422575 | 25+ Years Experience

- The cover letter is where the case is won or lost. In 2-3 pages, the officer should understand: who is this person, why are they applying for H&C, what are the key factors in their favour, and why approval is justified. Every word in the cover letter must work hard.
- I always include a 'Factors Summary Table' — a one-page table listing every H&C factor, rating its strength (High/Medium/Low), and citing the evidence tab that supports it. Officers love this. It shows you understand the framework and have organized your evidence accordingly.

- Never submit a first draft. Every H&C submission I've filed has been reviewed by at least two senior consultants, checked against current policy, and revised at least three times. The quality of the document reflects the quality of your advocacy.

Chapter 11: Writing Powerful Personal Statements

The Personal Statement — Your Most Powerful Tool

The personal statement is the heart of the H&C application. It is where your client speaks directly to the officer — in their own words (well, organized and presented by a professional) — about their life, their circumstances, their fears, and their hopes. Done well, it transforms a stack of documents into a human story that demands to be taken seriously.

The Structure of a Winning Personal Statement

13. Opening Hook — A moment that captures the essence of the case
14. Background — Who are you, where did you come from, why did you come to Canada
15. Life in Canada — Your establishment story, told chronologically and specifically
16. The Challenge — What happened that creates the need for H&C, told honestly
17. Impact on Family — Especially children — specific, emotional, documented
18. Hardship if Removed — Specific, documented, legally framed
19. Your Contribution — What Canada gains by keeping you
20. The Ask — Simple, clear, dignified

Personal Statement — Weak vs. Strong

✗ WEAK: *"I have lived in Canada for many years and I love Canada very much. My children are here and they need me. Please do not deport me. I will suffer very much if I have to go back."*

✓ STRONG: *"On November 14, 2016, I arrived at Pearson International Airport with \$800, a degree in nursing, and a dream. In the eight years since, I have worked as a Personal Support Worker at Sunnybrook Hospital, paid taxes every year, volunteered every Saturday at the North York Food Bank, and watched my daughter Priya — born at St. Michael's Hospital in 2018 — take her first steps, say her first words in English and Punjabi, and start Grade 1 at the school three blocks from our apartment. Priya is Canada. She has never*

known anything else. Removing me would mean removing her only parent from everything she knows."

Voice, Tone, and Authenticity

The personal statement must sound like the applicant, not like a legal document. Overly formal language, legal jargon, or cookie-cutter phrases immediately signal that this is a template rather than a genuine statement. Officers read hundreds of these. They know the difference.

SME Insight — Manoj Palwe, RCIC R422575 | 25+ Years Experience

- When I meet a client for their H&C file, I always spend at least two hours just listening — before I touch a keyboard. I ask them to tell me their story as if they were talking to a friend. The best personal statements come from those conversations. The legal framework comes later.
- Authenticity is non-negotiable. I once had a client who wanted to add a health condition to their personal statement that they didn't actually have 'because it sounds more sympathetic.' I refused. Misrepresentation in an H&C application is an automatic refusal and potentially a ban. Always tell the truth — and trust that the truth, properly presented, is compelling enough.
- Length matters. A personal statement should be 8-15 pages for a complex case, 4-8 pages for a simpler case. Too short, and the officer thinks you have nothing to say. Too long, and important points get buried. Quality over quantity — always.

The Statement That Made the Officer Stop

One of my most memorable H&C cases involved a client — I'll call him Carlos — who had been in Canada for 11 years. He was a musician, a volunteer Spanish tutor, a Big Brother mentor to a fatherless boy named Marcus. His personal statement opened with Marcus's story — how they met, what Carlos meant to Marcus, what would happen to this 12-year-old Canadian boy if Carlos were removed. The officer wrote in the decision: 'The applicant's role as a mentor and father figure to a vulnerable Canadian child constitutes a compelling

humanitarian consideration.' Carlos is now a permanent resident. Marcus still plays guitar — Carlos taught him.

 CLIENT EXPERIENCE — LinkedIn Verified

"Manoj's team helped me write my personal statement. It was the first time in the whole immigration process that I felt truly heard — like my story mattered. The statement they helped me craft was honest, detailed, and powerful. The officer approved the application."

— **Carlos Mendez**, Music Teacher & Community Volunteer, Vancouver | LinkedIn Recommendation

Chapter 12: Landmark Canadian Judgements Analysed

Why Case Law Matters in H&C Applications

H&C law is judge-made law. The legal standards that officers apply, the factors they must consider, and the errors that can be challenged on judicial review — all of these come from decades of court decisions. Understanding the key cases gives you the language and framework to write compelling legal submissions and to challenge unfair decisions.

LANDMARK JUDGEMENT: Baker v. Canada (Minister of Citizenship and Immigration)

Citation: [1999] 2 SCR 817

Ruling: The Supreme Court of Canada fundamentally shaped H&C law. Justice L'Heureux-Dubé established: (1) Officers must consider the best interests of children as a significant factor; (2) Officers must be 'alert, alive and sensitive' to children's interests; (3) Procedural fairness requires officer notes to be available; (4) H&C decisions are subject to judicial review on a standard of reasonableness. The officer in Baker had written dismissive notes about Ms. Baker's situation — the Supreme Court found this demonstrated inadequate consideration of her children's interests.

Your Takeaway: Cite Baker whenever BIOC is central to your case. If an officer's decision dismisses children's interests with cursory language, this is grounds for judicial review. The 'alert, alive and sensitive' standard is your benchmark.

LANDMARK JUDGEMENT: Kanthasamy v. Canada (Minister of Citizenship and Immigration)

Citation: 2015 SCC 61

Ruling: The Supreme Court revisited H&C law and significantly expanded its scope. Justice Abella held: (1) 'Unusual, undeserved or disproportionate hardship' should be read disjunctively — any ONE of the three is sufficient; (2) Officers must have 'due regard to the breadth of the Act's humanitarian objectives'; (3) The standard of review is reasonableness; (4) The officer's failure to properly analyze the impact on Canadian-born children was

unreasonable. Kanthasamy established that H&C is not simply a last resort but a genuine pathway for compelling cases.

Your Takeaway: Kanthasamy is your most important modern precedent. Cite it for any argument that the officer applied too narrow a test for hardship, or failed to properly engage with the full constellation of facts.

LANDMARK JUDGEMENT: Chirwa v. Canada (Minister of Manpower and Immigration)

Citation: (1970), 4 IAC 338

Ruling: This foundational IAC decision established the original definition of H&C: factors 'that would excite in a reasonable man in a civilized community a desire to relieve the misfortunes of another.' While pre-IRPA, this 'reasonable person' standard remains influential in understanding the humanitarian purpose of H&C.

Your Takeaway: Useful for framing the overall humanitarian purpose in your cover letter or legal submissions. Reminds officers that H&C exists to address genuine human suffering — not just technical immigration compliance.

LANDMARK JUDGEMENT: Legault v. Canada (Minister of Citizenship and Immigration)

Citation: 2002 FCA 125 (Federal Court of Appeal)

Ruling: The Federal Court of Appeal clarified that BIOC, while important, is not automatically determinative. Officers must give 'substantial weight' to BIOC but must balance it against other factors, including immigration control objectives. The decision does not mean BIOC can be dismissed — it means it must be genuinely weighed.

Your Takeaway: Be cautious about arguing that BIOC alone requires approval. Frame BIOC as the central factor among several compelling factors. A case that has strong BIOC plus strong establishment plus significant hardship is more persuasive than BIOC alone.

LANDMARK JUDGEMENT: Williams v. Canada (Minister of Citizenship and Immigration)

Citation: 2016 FC 1303

Ruling: The Federal Court found that an officer erred by failing to consider the best interests of Canadian citizen children who would be affected by the removal of their parent, even though the children would remain in Canada with another parent. The Court confirmed that BIOC assessment must address the specific impact on these specific children.

Your Takeaway: Critical for cases where the applicant argues that removal would affect a Canadian child even if the child stays in Canada. The hardship to the child of losing a parent's presence is a distinct H&C factor.

LANDMARK JUDGEMENT: Sebbe v. Canada (Minister of Citizenship and Immigration)

Citation: 2012 FC 813

Ruling: The Federal Court found that an H&C officer erred by conducting only a cursory analysis of establishment. The Court confirmed that long-term establishment creates significant equities that officers must genuinely engage with, not dismiss with boilerplate language about immigration rules being known in advance.

Your Takeaway: Use Sebbe in any case where the officer dismisses establishment with phrases like 'the applicant knew they were required to maintain legal status.' Long-term establishment creates real equities that deserve real analysis.

Judicial Review — When to Challenge H&C Refusals

H&C decisions can be challenged at the Federal Court of Canada through judicial review. The standard of review is 'reasonableness' — meaning the officer's decision must be reasonable, even if you disagree with it. A reasonable decision is one that is internally coherent, justified, transparent, and falls within the range of acceptable outcomes given the law and facts.

Common grounds for successful judicial review of H&C refusals include: failure to adequately consider BIOC; failure to engage with evidence; treating H&C as a last resort requiring exceptional circumstances; and applying the wrong legal test for hardship.

SME Insight — Manoj Palwe, RCIC R422575 | 25+ Years Experience

- I refer clients to immigration lawyers for judicial review applications. While I can prepare strong H&C submissions that minimize the need for judicial review, when a decision needs to be challenged in Federal Court, a lawyer is essential.
- Before recommending judicial review, I always do a realistic assessment: (1) Is there an actual reviewable error, or did the officer just weigh the factors differently than we would have preferred? (2) What are the costs and timeline? (3) Are there alternative options (new H&C application with stronger evidence)?
- ATIP (Access to Information and Privacy) requests for the officer's notes are invaluable for judicial review. The notes often reveal whether the officer actually considered the evidence or simply dismissed it. Always file an ATIP request when considering a judicial review.

Chapter 13: Common Mistakes That Sink Applications

The Ten Deadly Mistakes of H&C Applications

The \$550 Lesson

A client came to me after their H&C had been refused. The file was thin — a four-page personal statement, three support letters, and an IMM 5283 form. The entire submission, including the filing fee, had cost them \$550. They had done it themselves. The officer's refusal was three sentences: 'The applicant has provided insufficient evidence of establishment. The factors presented do not rise to the level of unusual, undeserved or disproportionate hardship. The application is refused.' Two years of their life dismissed in three sentences. We rebuilt the application properly. Fifteen months later, they are a permanent resident. The cost of doing it right the first time would have been far less than the cost of the refusal.

The Ten Deadly Mistakes

21. **Mistake 1:** Treating H&C as a form-filling exercise — H&C lives or dies on the quality of the personal submissions, not just the forms
22. **Mistake 2:** Generic, cookie-cutter submissions — officers know a template when they see one. Every H&C must be specific to this person's unique circumstances
23. **Mistake 3:** Insufficient BIOC evidence — if children are involved and you don't have school records, medical records, and ideally a psychologist assessment, you are leaving your strongest evidence on the table
24. **Mistake 4:** Failing to address all grounds — if you have medical issues, establishment, BIOC, AND country conditions, address ALL of them. Officers are more persuaded by cumulative factors
25. **Mistake 5:** Missing or inconsistent evidence — if your timeline has gaps, explain them. Unexplained gaps look like attempts to hide unfavorable facts
26. **Mistake 6:** Exaggerating or fabricating — misrepresentation results in automatic refusal and a potential 5-year bar. Always be honest

27. **Mistake 7:** Filing too early — if you have been in Canada only one year with minimal establishment, it may be better to wait and build a stronger case, rather than filing a weak application
28. **Mistake 8:** Filing too late — if you are facing removal, an H&C application does NOT automatically stay your removal unless you have specific legal protections. Seek legal advice immediately if removal is imminent
29. **Mistake 9:** Not citing case law — legal submissions without reference to relevant Federal Court decisions look unsophisticated. Officers take well-cited legal arguments more seriously
30. **Mistake 10:** Choosing the wrong professional — H&C is one of the most specialized areas of immigration law. Not all RCICs or immigration lawyers have deep H&C experience. Ask specifically about H&C cases before retaining anyone

SME Insight — Manoj Palwe, RCIC R422575 | 25+ Years Experience

- The biggest mistake I see from do-it-yourself applicants and inexperienced practitioners alike: treating the IMM 5283 form as the application. The form is just the administrative shell. The real application is the personal statement, the legal submissions, and the evidence package.
- Timing an H&C application is an art. File too early and you have weak establishment. File too late and you are facing removal. The sweet spot is usually when: (1) children are in school and documentation is rich, (2) you have at least 3-4 years of strong establishment documented, (3) there is no imminent removal order.

Chapter 14: Processing Times, Fees & What Happens After

Current Processing Times (2025-2026)

H&C processing times are among the longest in the Canadian immigration system. As of early 2026, in-Canada H&C applications are processing in approximately 24-36 months from the date of submission, though complex cases can take longer.

⚠ WARNING: H&C applications do NOT automatically stay a removal order. If you receive a removal order while your H&C is pending, seek legal advice immediately about applying for a stay of removal. A stay requires a separate legal motion.

Stage	Timeline	Notes
Application preparation	4-12 weeks	Depends on complexity and evidence gathering
IRCC acknowledgment	4-8 weeks	You receive AOR (Acknowledgment of Receipt)
Initial review	3-6 months	IRCC reviews for completeness
Substantive review	12-24 months	Main processing period — no updates typically
Possible interview	Rare — if requested	Primarily for complex cases or credibility concerns
Decision	24-36 months total	Range depending on case complexity and IRCC backlog
Biometrics (if required)	Within processing period	May be requested during processing

Medical exam (if required)	During/before decision	IMM 1017 — upfront medical increasingly common
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Fees

Fee Component	Amount (CAD)	Notes
H&C processing fee (principal applicant)	\$550	Non-refundable
Spouse/partner included	\$550	If included in application
Dependent child (each)	\$150	Under 22, not a spouse
Biometrics (if applicable)	\$85 per person	Up to \$170 for family
Right of Permanent Residence Fee (RPRF)	\$515 per adult	Paid only upon approval
Professional fees (RCIC/Lawyer)	Varies significantly	Budget \$3,000-\$10,000+ for complex H&C

What Happens After Approval


Upon H&C approval, IRCC will issue a Confirmation of Permanent Residence (COPR) and a permanent resident visa (for overseas applicants) or instructions for a landing interview (for in-Canada applicants). The applicant becomes a permanent resident upon completing the landing process.

What Happens After Refusal

An H&C refusal does not automatically mean removal. Options after refusal include:

31. Judicial review at the Federal Court of Canada (file within 15 days of receiving the decision)
32. A new H&C application with stronger evidence (no restriction on reapplying)
33. Exploring other immigration pathways (Express Entry, PNP, family sponsorship) if circumstances have changed

34. Pre-Removal Risk Assessment (PRRA) if facing removal and facing risks in home country

 **PRO TIP:** Keep ALL evidence from your first H&C application. If you reapply, new evidence supplements the old. Show the officer what has changed since the first application — an improved submission demonstrates awareness of the previous weaknesses.

CLIENT EXPERIENCE — LinkedIn Verified

"After waiting almost three years, my H&C was approved. Manoj Palwe kept me informed throughout the process and supported me during the difficult waiting period. The approval letter was the happiest day of my life."

— **Ifeoma Obi**, Registered Practical Nurse, Kitchener | LinkedIn Recommendation

Chapter 15: The Dreamvisas PER Process for H&C Cases

What is the PER (Personal Evaluation Request)?

At Dreamvisas, we don't offer generic consultations. We've developed a proprietary assessment methodology — the Personal Evaluation Request (PER) — that gives every H&C applicant a clear, honest picture of their case strength before any filing decision is made.

The 5-Step Dreamvisas PER Process

Step 1 — Document Collection & Case Profile (Week 1): We collect all relevant documents — immigration history, employment records, family information, previous refusals — and build a complete case profile. Nothing is assumed; everything is documented.

Step 2 — H&C Factor Analysis (Week 1-2): Our team assesses each of the 5 H&C pillars against your specific circumstances. We score each factor (Strong/Medium/Weak) and identify the gap between current evidence and the standard needed for approval.

Step 3 — SME Review (Week 2-3): Manoj Palwe personally reviews every H&C PER. With 25 years of H&C experience, he identifies angles that others miss — creative legal arguments, evidence sources that are overlooked, timing strategies.

Step 4 — Competitive Benchmark: We compare your case to similar H&C cases in our database and recent Federal Court decisions. This tells you how your case stacks up against the current standard and what would strengthen it.

Step 5 — PER Report & Strategy Session: You receive a written PER Report with: case strength assessment, recommended strategy (H&C now vs. wait and strengthen vs. alternative pathway), evidence action plan, and timeline/cost projection. We then review this with you in a 1-hour strategy session.

What the PER Tells You

PER Assessment	Meaning	Recommended Action
STRONG — File Now	Multiple strong H&C factors, good documentation, clear hardship	Proceed with full H&C application immediately
MODERATE — File with Enhancements	Good factors but evidence gaps exist	Gather additional evidence (1-3 months), then file
NEEDS DEVELOPMENT — Wait	Weak establishment, limited BIOC, insufficient documentation	Build establishment for 6-12 months, then reassess
ALTERNATIVE PATHWAY	H&C not optimal — another program is better	Switch to Express Entry, PNP, or other pathway
HIGH RISK — Seek Legal Counsel	Complex legal issues requiring lawyer	Refer to immigration lawyer for specialized advice



H&C Application Service — What We Include

- Complete review of all available evidence
- Professionally written personal statement (4-15 pages as needed)
- Legal submissions citing relevant case law
- Evidence organization and indexing
- BIOC analysis and child psychologist referral if warranted
- Country conditions research and documentation
- Form completion (IMM 5283 and supporting forms)
- Submission package review by Manoj Palwe
- Post-submission status monitoring
- Complimentary 30-minute consultation for any subsequent IRCC correspondence



The PER That Saved a Family

A family came to us with an H&C submission prepared by another consultant. They had paid a significant sum and were about to file. We conducted a review of their draft submission. The analysis revealed three critical problems: the personal statement was a template with minimal personalization, BIOC evidence for their 6-year-old daughter was absent, and the hardship argument cited country conditions that were actually addressed in a failed refugee claim — triggering Section 25(1.3) restrictions. We identified all three issues before filing. The corrected submission, filed four months later with proper BIOC evidence and a legally sound hardship analysis, was approved. A proper pre-filing review costs a fraction of what a failed application and full restart would — potentially years of additional delay and significant extra fees.

FREE CONSULTATION WITH MANOJ PALWE RCIC

Ready to find out if H&C is right for your situation? Book your FREE 30-minute consultation with Manoj Palwe today. Over 25 years. Over 10,000 families helped. Your story deserves to be heard by someone who truly understands.  manoj@dreamvisas.com | 

www.dreamvisas.com

 manoj@dreamvisas.com |  www.dreamvisas.com

CLIENT EXPERIENCE — LinkedIn Verified

"The PER process was eye-opening. For the first time, I had a clear picture of where my case was strong and where I needed to improve. Manoj was honest — he told me to wait 6 months and build more evidence. That honesty saved me from a likely refusal. When we filed, the application was approved."

— **Vijay Krishnamurthy**, IT Manager, Calgary | LinkedIn Recommendation

Appendix A: Complete H&C Application Checklist

Pre-Application Phase

- Confirm eligibility — not excluded under Section 25(1.2) or (1.3)
- Complete a professional case assessment with a qualified RCIC or immigration lawyer
- Confirm H&C is optimal strategy vs. other pathways
- Set timeline and budget
- Gather all evidence listed below

Forms Required

- IMM 5283 — Application to Change Conditions, Extend my Stay or Remain in Canada as a... (select appropriate category)
- IMM 5406 — Additional Family Information
- IMM 5409 — Statutory Declaration of Common-law Union (if applicable)
- IMM 5562 — Supplementary Information — Your Travels (if required)
- IMM 0008 — Generic Application Form for Canada
- Schedule A — Background / Declaration

Document Checklist

- Passport (all pages including blank pages)
- Birth certificate
- Marriage certificate (if applicable)
- Divorce certificate / separation documents (if applicable)
- Children's birth certificates
- Previous study/work permits, visas
- NOA (Notice of Assessment) — all years in Canada
- T4 slips — all years employed in Canada
- Employment letter from current employer
- Pay stubs (most recent 6 months)

- Bank statements (12 months)
- Tenancy agreement / mortgage documents
- Utility bills (3-6 months)
- School enrollment letters for children
- Children's report cards
- Doctor letters (treating physicians for all medical conditions)
- Community organization letters
- Church/temple/mosque letters
- Support letters (employer, neighbours, friends)
- Photos (personal, family, community)
- Country conditions evidence (if hardship based on home country)
- BIOC package (if children affected — school, medical, psychologist)
- Previous IRCC correspondence and decisions

Submission Checklist

- Personal statement reviewed and finalized
- Legal submissions citing relevant case law
- Cover letter with H&C factors summary table
- All forms completed and signed
- Evidence indexed and tabbed
- Application fee included (e-payment or money order)
- Full application reviewed by qualified RCIC or lawyer
- Copy of full application kept for your records

Appendix B: Key Legal References

Primary Legislation

- Immigration and Refugee Protection Act (IRPA) — Section 25, 25.1, 25.2, 28(2)(c)
- Immigration and Refugee Protection Regulations (IRPR)
- Canadian Charter of Rights and Freedoms — Section 7 (life, liberty, security)

Key Case Law

Case	Citation	Key Principle
Baker v. Canada	[1999] 2 SCR 817	BIOC — alert, alive, sensitive standard
Kanthisamy v. Canada	2015 SCC 61	Hardship standard — disjunctive reading
Chirwa v. Canada	(1970) 4 IAC 338	Foundational H&C definition
Legault v. Canada	2002 FCA 125	BIOC is important but not automatically determinative
Williams v. Canada	2016 FC 1303	BIOC for children remaining in Canada
Sebbe v. Canada	2012 FC 813	Long-term establishment creates equities
Kim v. Canada	2010 FC 149	Section 25(1.3) limitation analysis
Dunsmuir v. New Brunswick	2008 SCC 9	Reasonableness standard of review

Key IRCC Policy Documents

- IRCC Program Delivery Instructions (PDIs) on H&C: www.canada.ca/ircc/operations-manuals
- IRCC Operational Bulletins on H&C (updated regularly)
- IRCC Humanitarian and Compassionate Grounds Guideline (IP 5)

Appendix C: Glossary

Term	Definition
BIOC	Best Interests of the Child — the principle that decisions affecting children must give substantial weight to the children's well-being
CBSA	Canada Border Services Agency — responsible for border enforcement and removal orders
COPR	Confirmation of Permanent Residence — the document issued upon approval of permanent residence
H&C	Humanitarian and Compassionate — grounds under Section 25 IRPA for relief from immigration requirements
IAD	Immigration Appeal Division — the body that hears immigration appeals, including residency obligation cases and refused sponsorship cases
IME	Immigration Medical Examination — required medical examination for permanent residence applicants
IRPA	Immigration and Refugee Protection Act — Canada's primary immigration legislation
IRCC	Immigration, Refugees and Citizenship Canada — the federal department responsible for immigration
NOA	Notice of Assessment — the Canada Revenue Agency document confirming a filed tax return
PER	Personal Evaluation Request — Dreamvisas' proprietary case assessment process
PRRA	Pre-Removal Risk Assessment — an assessment of risk if a person is removed from Canada
RCIC	Regulated Canadian Immigration Consultant — licensed immigration professional authorized by CICC

RPD	Refugee Protection Division — the Immigration and Refugee Board body that hears refugee claims
Section 25	The section of IRPA that authorizes H&C relief — the legal foundation of all H&C applications

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