

NOTE: This version was updated on 19 December 2023
There may be an updated version on the website at righttoremain.org.uk/toolkit

Illegal Migration Act 2023

A new law called *The Illegal Migration Act 2023* has recently come into force. The Act has brought about significant changes to the UK asylum and immigration system for people who arrive in the UK on or after 20 July 2023. We are in the process of updating the Toolkit to reflect these developments. For now, please be aware that some of the information in the Toolkit may be out-of-date for people who arrived in the UK after that date. To stay up to date with any changes to the Toolkit, please sign up to our newsletter.

Evidence for asylum, immigration and human rights cases

On this page, you will find the following information:

What is evidence?
When do you need to provide evidence?
Who is responsible for providing evidence?
What is good evidence?
Types of evidence including:
Testimony
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Evidence the Home Office does not like

What is evidence?

In all types of asylum, immigration or human rights claims, you will need evidence to support your application.

Evidence is information to prove – to the Home Office, or maybe to the courts if you are appealing a refusal – that you are telling the truth. This may be to prove that you need to be in the UK, that you can't live elsewhere, that you would be in danger somewhere else, or that you meet the criteria of the application you are making.

The evidence you need to make your case stronger will be specific to your individual situation. There are, however, some standard rules and principles that need to be met. Keep on reading to find out more about how to meet them.

If you have a lawyer, make sure you show any evidence to them before deciding to send it to the Home Office. It

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is important that your lawyer has the chance to review it and agree that it should be submitted.

If you do not have a lawyer, you should think very carefully before sending evidence to the Home Office. Sometimes, evidence can weaken your case. Whether or not you have a lawyer, you can read this page to better understand how to prepare strong evidence in support of your case.

When do you need to provide evidence?

For some applications, such as asylum applications, there may be several points at which you can submit evidence to support your case. In other applications, you may only get one opportunity to submit evidence.

For example, for immigration applications that do not have a right of appeal, you will need to submit all the relevant evidence you can when you make the application.

The evidence you should submit will depend on the rules you are trying to show you meet and maybe where in the application process you are. For example, if you have had a refusal from the Home Office and you have an opportunity to provide more evidence, your evidence should try to address the reasons the Home Office has given for their refusal. Can you show that you do, in fact, meet the rules or requirements? When possible, you should try and pre-empt (this means to take action to stop it happening) the Home Office refusal and provide evidence for areas they commonly refuse applications on, or areas of your application that appear to be weak or vague.

Who is responsible for providing evidence?

Is it you? If you don't have a lawyer, it will be your responsibility to provide evidence in support of your case. Is it a family member? If it's a family member (for example, providing a statement about your family or private life in the UK) you or your lawyer will need to tell them what kind of information needs to be included in their evidence.

Is it someone who has been supporting you, either as a staff member or volunteer at an organisation, or in your community? This might be the case if you are applying to stay on the basis of your family or private life. You or your lawyer will need to explain to them what to say. You can read more about supporting letters from organisations [here](#).

Is it your employer? Your employer might need to provide evidence if you are trying to show you meet income criteria, or if you are trying to prove how long you have been in the UK.

Is it a professional such as a doctor, social worker or teacher? This might be the case if you are applying to stay on the basis of your family or private life. You or your lawyer will need to explain to them what to say.

Is it your lawyer? Your lawyer might be responsible for providing evidence if it is about technical legal arguments, or case law (decisions in other people's cases). Watch our video on understanding case law [here](#).

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What is good evidence?

For some kinds of applications, there are very specific types of evidence that are allowed (and in some cases, in a very specific format).

The Home Office has lists of what it considers to be acceptable evidence in its internal guidance documents, but the courts may not always agree with its position on this.

If your evidence comes from outside the UK, you may need to prove its genuineness (that it is real) and how you received it. You need to think about where the evidence comes from and if that source will be considered as trustworthy by the Home Office and/or the courts.

If any documents you want to use as evidence are in a different language, you must have them translated by a certified translator. The translator must sign the translation and certify that it is accurate to the best of their knowledge.

Types of evidence

Testimony

At the early stages of an asylum claim, your evidence may just be your testimony (this means your story) about what has happened to you and/or what you think may happen, why that means it is not safe to return to your country, and why you need to be in the UK specifically.

In an asylum claim, you need to prove that you would not be safe if returned to your home country or the country where you normally live. You may want to provide evidence of persecution you or people like you have experienced. Read more about this on the What is Asylum? page of this guide.

The Home Office will look at the information you gave in your screening interview and then in your substantive interview. They will consider whether there are any differences, or things they don't think make sense, or that they don't think are true. Read more about these interviews on the Screening Interview page of this guide and the Substantive Interview page of this guide.

Documentary evidence

This is a term used to describe official documents that establish aspects of your account. This might include a political party membership card, an arrest warrant, a birth certificate, or newspaper articles about you or about persecution of people like you. Documentary evidence is often hard to get because of the circumstances in which you had to leave your country. If possible, it can be very helpful to submit documentary evidence to support your story. However, you must be certain that the document is genuine.

The Home Office is often suspicious of documentation from outside of the UK. If the Home Office determines that

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evidence you have provided isn't genuine, this is generally very damaging to your case.

You must be able to show how you were able to get access to the documentary evidence. For example, if a friend posted the document to you from your country of origin, you should provide the Home Office with the envelope.

Evidence of medical or psychological problems

You can read about this kind of evidence by going to the online version of this page and clicking on the useful resources.

You may require an expert to provide you with a medico-legal report. This is an assessment carried out by a medical or psychological professional which they then write up in a report that documents the psychological and/or physical result of torture and other forms of ill-treatment which an individual has been subjected to.

Objective evidence

If your asylum claim has been refused by the Home Office, you may need objective evidence to prove to the judge in the court (the First-tier Tribunal) that your asylum claim should be granted.

Objective evidence may be general information about the situation in your country, from reliable sources such as human rights organisations or trusted media sources. It could also include an expert statement on your country or situation.

Objective evidence is especially important if your credibility (this means how believable you are) has been questioned by the Home Office, because the evidence isn't based on what you say happened or could happen.

New evidence

If your asylum claim is "appeal rights exhausted" and you have new evidence, you may want to consider a fresh claim.

The basis of a fresh claim might be new evidence about the original reason you claimed asylum; or it might be that your situation has changed since you claimed asylum and had an appeal heard and dismissed; the situation in your country may have changed; or recent case law might have changed the way cases are dealt with or decided.

The evidence you submit to be considered as a fresh claim might be emphasising a point already made, or providing a new source of evidence for an issue that has previously been disputed. The evidence may be on an entirely new matter that hasn't been raised with the Home Office/courts before. Read more about fresh claims on the Fresh Claims page of this guide.

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Applications based on a partner

If you are a British citizen or someone with Indefinite Leave to Remain (ILR) in the UK and you wish to apply for your spouse, civil partner or unmarried partner to come and live with you, you will in most circumstances have to meet income or savings criteria.

If you wish to sponsor a partner to come to the UK, you will need to be earning a minimum (before tax) of £18,600 per year or equivalent in cash savings. You will need to provide evidence that you meet this criteria – this might be through payslips, tax documents and/or bank statements.

The Home Office has information about proving your income on their website.

In any application based on a relationship, you will need to prove that the relationship exists.

If you are applying to stay in the UK based on your family life, and this is because you have a partner in the UK but cannot meet the income/savings criteria mentioned above, you will need to prove that:

you have a "genuine and subsisting relationship"
with a partner who is in the UK and they are a British citizen, or have Indefinite Leave to Remain (ILR), or Refugee Status or Humanitarian Protection, and
there are insurmountable obstacles to your family life with your partner continuing outside of the UK.
A "subsisting" relationship is one that is long-lasting.

"Insurmountable obstacles" means very serious difficulties.

If you are married or have a civil partnership with your partner, you will need to provide evidence of this. To prove that your relationship is subsisting, you may need to prove that you and your partner have been living together. Read our Family Members page for more information on the documents that may help to prove this. The Home Office has a list of information you may need to have ready when making an application based on family members in the UK. If you have a lawyer helping you with your application, you will need to provide the information to them.

Applications based on a child

For applications based on being a parent of a child in the UK, you will need to prove that they are in fact your child.

If your child is a British citizen, you will need to provide proof of that. If you are applying on the basis that your child has been in the UK for seven years, you will need to submit evidence to prove this. For example, school reports and health records.

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Applications can be refused if you do not speak English, or if you are not financially independent. If you do speak English and are financially independent, you should provide evidence of this in your application.

You may also need to demonstrate the extent of the life your child has in the UK, and why it would be unreasonable to expect them to leave the UK. Read more about this on the If You Have Children page of this guide. The Home Office has a list of information you may need to have ready when making an application based on family members in the UK. If you have a lawyer helping you with your application, you will need to provide the information to them.

Proving time spent in the UK

For some applications, you will need to prove how long you have been in the UK (and maybe, the length of time you have been outside of the UK since you arrived).

For example, to successfully apply for EU Settled Status you need to prove that you (as an EEA national) have been living in the UK for five years. Most people will just be able to provide their National Insurance number and there will be an automated check of tax and some benefits records. You can find out more about EU applications in our Toolkit page for EEA Nationals.

If this doesn't work, the Home Office has provided information about how you may provide evidence in other ways.

The information the Home Office suggests you can submit is also useful if you are trying to prove your length of residence in the UK for other types of applications, as it gives a good idea of what the Home Office considers to be "good" evidence.

For proving long periods of residence in the UK, the Home Office suggests:

- annual bank statement or account summary, showing at least 6 months of payments received or spending in the UK
- employer letter confirming employment and evidence that the employer is genuine, for example, their Companies House number
- council tax bill
- letter or certificate from your school, college, university or other accredited educational or training organisation showing the dates you enrolled, attended and completed your course
- invoice for fees from your school, college, university or other accredited educational or training organisation and evidence of payment
- document showing a UK address from a student finance body in England, Wales, Scotland or Northern Ireland or from the Student Loans Company
- residential mortgage statement or rental agreement and evidence of payment
- letter from a registered care home confirming your residence there

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employer pension contributions
annual business account of a self-employed person
a P60 for a 12-month period – your P60 shows the tax you've paid on your salary in the tax year (6 April to 5 April).
a P45 showing the length of your previous employment. You should get a P45 from your employer when you stop working for them.

For proving shorter periods of time spent in the UK (that might not be captured in the documents mentioned above), the Home Office suggests:

bank statement showing payments received or spending in the UK
payslip for a UK-based job
water, gas or electricity bill showing a UK address
landline or mobile telephone, TV or internet bill showing a UK address
domestic bill, such as for home repairs, vet's services or insurance, and evidence of payment
card or letter from your GP, hospital or other healthcare professional confirming appointments you have made or attended
letter from a government department, public service or charity that show you dealt with them on a particular date or for a particular period (for example Job Centre Plus or Citizens Advice)
passport stamp confirming entry at the UK border
used travel ticket confirming you entered the UK from another country
invoice for work you have done in the UK and evidence of payment
Read more about applications based on your time in the UK on the Long Residence page of this guide.

Evidence the Home Office doesn't like

The Home Office says that evidence should “be from an official or impartial source” and does **not** consider the following as evidence to be used to prove residence:

photos and videos
letters or references from family and friends
greeting cards, for example birthday cards
postcards sent or received; or
personal scrapbooks

If you can find the stronger evidence detailed in the lists above, then you should use that.

However, when more official evidence isn't available, people do use photos, videos, letters etc, especially in applications around relationships. The Home Office considers this to be weaker evidence and may not grant an application if this is the only evidence submitted, but a judge may view that evidence differently if you are

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appealing a Home Office refusal.