

# Family members

This page looks at applying for the right to remain in the UK on the basis of having an adult family member in the UK.

There is information on applying on the basis of a partner in the UK; the minimum income requirement; applying to bring a parent to the UK; evidence; the application process; fees; leave to remain granted if successful; and what to do if your application is refused.

This page does not look at applying for the right to remain on the basis of children in the UK – for information on that, see the Toolkit section on *If You Have Children*.

If you are an EEA national and you are in the UK before 31 December 2020, your close family may be able to apply under the EU Settled Status scheme. See our the Toolkit section *EEA nationals*.

## Partners: minimum income requirement

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 (husband/wife), civil partner or unmarried partner** to come and live with you, you will in most circumstances have to meet **income or savings** criteria.

You may also have to meet these criteria if you have Refugee Status or Humanitarian Protection and you do not meet the criteria for refugee family reunion (see below).

In these types of applications, the person with British citizenship, ILR etc may be referred to as the “sponsor”.

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).

If you are applying to bring – in addition to your partner – a child under the age of 18 who does not already have Indefinite Leave to Remain in the UK or British citizenship, this income requirement increases to £22,400 for your partner and one child, and then an additional £2,400 for each further child.

The financial requirements are even more complicated if you are self-employed, or if you cannot meet the threshold through earnings alone.

There are some circumstances in which your partner can be granted leave to remain even if you do not meet the income requirements.

If you are in receipt of certain welfare benefits, such as Disability Living Allowance or Carer’s Allowance, you may not need to meet the income requirements.

The Home Office also need to consider whether a refusal of your application because you do not meet the requirements would have “unjustifiably harsh consequences” for you and your family. This will be particularly relevant if you have children.

## Partners: right to family life

If you cannot meet the income requirements, it is possible to apply for the right to remain (or to enter) the UK on the basis of your right to family/private life in the UK. This is also known as your “Article 8” rights. Read more about Article 8 in the Toolkit section on Human Rights.

The Home Office refuse most human rights-based applications, but you may have the right to appeal a refusal at the First-tier Tribunal.

The Home Office (and then a judge, if you are appealing a refusal) will consider whether you meet the criteria in the immigration rules for the right to remain/enter the UK as a partner; if you do not meet the criteria of the immigration rules, they should then consider your application outside of the rules and decide if exceptional circumstances apply that mean you should be given the right to stay.

The immigration rules allow you to apply for the right to remain on the basis of family life, if:

- 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, or Refugee Status or Humanitarian Protection, and
- there are insurmountable obstacles to your family life with your partner continuing outside of the UK.

You need to provide evidence that your relationship is *genuine*. The Home Office may invite you and your partner to attend an interview to assess this. They are unlikely to refer to it, to you, in language that makes it obvious that the interview is about testing the “genuineness” of your relationship. They might just refer to it as a “marriage interview” or “relationship interview”. Both of you in the relationship must attend this interview.

A *subsisting relationship* means a relationship that currently exists. See below for information on how to prove this.

A *partner* is someone you are engaged to, married to, in a civil partnership with, or someone you have lived with in a relationship like marriage for at least *two years*.

The meaning of “*insurmountable obstacles*” has been the subject of legal debate. If you have a lawyer, they will need to show that the reasons you couldn’t live outside of the UK amount to insurmountable obstacles. If you are making the application without a lawyer,

concentrate on showing why it would not be reasonable for you to live with your partner outside of the UK, and providing evidence for this.

## **ACTION SECTION: EVIDENCE**

Think about the evidence you need to gather to prove the strength of your family life in the UK.

You need to show evidence that your relationship is genuine, long-term, and ongoing.

If you live together, you should provide evidence of this. This might include documents about your mortgage if you own the place where you live, or a joint tenancy agreement or letter from your landlord confirming you both pay the rent, if you are a renter.

If you don't live together, what evidence do you have of joint financial responsibilities? This might include a joint bank account or utility bills with both your names on. *Remember you will need to have been living together if you aren't married, in a civil partnership or engaged.*

Can you show evidence of visiting each other's families? If this was outside the UK, you can provide travel tickets to prove your visit.

You may want to provide photographs that document your relationship, including meeting each other's families. You also might want to provide statements from friends and families about your relationship. Official documents are treated most seriously by the Home Office/the courts, but these are not always available or enough. You might even want to show records of your communication with your partner via email, messaging and social media – but as these are personal communications, think carefully about whether it's necessary to include these.

Remember you need to show that there are insurmountable obstacles to you living in another country – how can you prove this? Are there family, work, health or care reasons that mean you or your partner have to be in the UK? You will need official letters, documents and statements to prove these.

## **Applying to bring a parent to the UK**

If you are an *adult with British citizenship or Indefinite Leave to Remain* in the UK, and you wish to apply to bring your parent to the UK, you have to demonstrate that due to age, illness or disability, your parent requires a level of long-term personal care that can **only be provided in the UK by a relative in the UK and without recourse to public funds.**

If you have the funds to support your parent so that they will not need public funds, the Home Office is likely to argue that you can pay for care to be provided in the country in which they live – the Home Office position is generally that care does not need to be

*familial care.*

These applications are known as “Adult Dependent Relative” applications, or ADRs. It is extremely difficult to succeed in these applications because of these strict criteria.

## The application

When applying to bring a parent or partner to the UK, there are “suitability” requirements, meaning that criminal convictions, “bad character”, poor immigration history or unpaid NHS debts could disqualify you.

You will also need to prove you have a “good level of English”. See the Home Office website for more information: <https://www.gov.uk/uk-family-visa/knowledge-of-english>

**The application forms and guidance notes for these applications are here:**

<https://www.gov.uk/uk-family-visa>

In general, you will not be able to get legal aid immigration advice to assist you with these applications. In exceptional circumstances and if you do not have the funds to pay for a private lawyer, you may be able to apply for exceptional legal aid funding. See *Your Legal Case* section of the Toolkit for more information about this.

## Fees

See the Home Office website for the latest information on this: <https://www.gov.uk/uk-family-visa>

You will need to pay the health surcharge as part of an application under this route, unless you fall into one of the exempt categories.

You will need to pay the health surcharge as part of an application under this route, unless you fall into one of the exempt categories. Read more about the health surcharge at the Toolkit section *Entering the UK*.

You cannot apply for a **fee waiver** for the fee and health surcharge for these applications *unless* you are not required to meet the minimum income threshold. Read more about fee waivers in the Toolkit Section *Human Rights: Family/Private Life*.

## Leave to remain

If you are successful in your application, you will be granted **2.5 years’ leave to remain** in the UK. You will generally not have access to public funds such as welfare benefits or homelessness support during this time.

You can apply to renew your leave to remain (before it runs out). If successful, you will be granted another period of 2.5 years’ leave to remain.

If you have met all the income requirements and suitability requirements, you will generally

be able to apply for Indefinite Leave to Remain (“settled status”) after 2 x 2.5 years leave to remain. Because you can apply for settlement after 5 years, you may hear this referred to as the “five-year route to settlement”.

If your application is granted on the basis of the exceptional circumstances described above when you do not meet the standard requirements, you will need to establish 10 years of time-limited leave to remain (4 x 2.5 years’ leave to remain) before you can apply for Indefinite Leave to Remain in the UK.

## **If your application is refused**

If your application is refused, you may have the right to appeal the decision. Read more in the *Appeals* section of the Toolkit.

If your application is based on human rights and doesn’t meet the immigration rules, the Home Office may say that they consider your human rights claim to be “clearly unfounded” and “certify” your claim. This means you do not have the right to appeal the refusal in the UK. If you do not have the right to appeal the refusal, you may wish to consider a judicial review. Read more in the *Judicial Reviews* section of the Toolkit.

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## **Refugee family reunion**

If you have Refugee Status or Humanitarian Protection, you may be able to apply to bring your partner/spouse and any children you have to the UK, as long as they were part of your family unit at the time you fled your country of origin. This is known as “refugee family reunion”.

You can find more information on the Home Office website here:

<https://www.gov.uk/settlement-refugee-or-humanitarian-protection/family-reunion>

The barrister Colin Yeo has written a guide to understanding refugee family reunion, which you can access here: <https://www.freemovement.org.uk/refugee-family-reunion-a-users-guide/>