

## Who are ‘partners’?

The same sex partners of British citizens or those ‘settled’ in the UK (those with indefinite leave to enter or remain) can apply to come to the UK, or stay in the UK under the British Immigration Rules on the basis of three types of partnership:

- **Marriage/civil partnership**
- **Two years’ cohabitation (commonly known as unmarried partners)**
- **Fiancé(e)/proposed civil partnership**

If you are not married or in a civil union, you can apply as an unmarried partner if you can show cohabitation for at least two years prior to the date of application. The prior cohabitation is mandatory – it is not sufficient that you have just been in a relationship for two years. (Note that there is no period of prior cohabitation required for an application as a spouse/civil partner.) If you don’t meet this requirement you can seek legal advice and see whether you can still apply.

If you intend to marry in the UK, and continue to live in the UK after your wedding, you can apply for a fiancé(e) visa from outside the UK only. A fiancé(e)/proposed civil partner visa allows an individual to come to the UK for the purpose of entering into a marriage/civil partnership within six months and then apply for the right to stay as a spouse/civil partner.

## Domestic violence and bereavement

There is provision both within Appendix FM for indefinite leave to be granted before five years if the relationship ends as a result of [domestic violence](#) or [bereavement](#). Also see our [domestic violence page](#).

## The Immigration Rules

The Immigration Rules give separate requirements for entry clearance applications (applications from abroad also known as visa applications) and applications for leave to remain (applications from within the UK). The rules are similar for each but not exactly the same.

### Who can apply?

The Immigration Rules require that applicants must be ‘suitable’ and ‘eligible’.

### Suitability

‘Suitability’ deals with issues of criminal conduct, ‘bad character’ and certain aspects of previous immigration history.

For those applying for a visa (entry clearance), they must also consider whether their application may be refused under [paragraph 320 \(11\) of the immigration rules](#) ‘where the applicant has previously contrived in a significant way to frustrate the intentions of these Rules’. So if you have tried to secure a visa or leave to remain in the UK in the past and have a ‘bad’ immigration history, your application may be refused.

**We especially advise those with negative immigration histories to seek specialist legal advice.**

## Eligibility

This includes:

- Relationship requirements
- Financial requirements
- English language requirements
- Immigration status requirement (leave to remain only)

Applicants must also check, in addition to these requirements, whether they are applying from a [country where a TB \(tuberculosis\) certificate is required](#).

## Relationship requirements

Under relationship requirements, the rules require the following:

- The applicant’s partner must be British, settled, a refugee or have humanitarian protection, or have limited leave to remain as a refugee, a person with humanitarian protection, EUSS pre-settled status or limited leave under the ECAA agreement.
- The applicant and the partner must be aged 18 or over at the date of application.
- The applicant and their partner must not be within the prohibited degree of relationship (for example siblings).
- The applicant and their partner must have met in person.
- The relationship between the applicant and their partner must be genuine and subsisting.
- If the applicant and partner are married or in a civil partnership it must be a valid marriage or civil partnership, as specified.
- If the applicant is a fiancé(e) or proposed civil partner they must be seeking entry to the UK to enable their marriage or civil partnership to take place.
- Any previous relationship of the applicant or their partner must have broken down permanently
- The applicant and partner must intend to live together permanently in the UK.

Note that unmarried partners must show two years’ prior cohabitation.

An applicant must pay particular attention to the requirement to show a ‘genuine and subsisting relationship.’ It is not enough to simply submit a marriage or civil partnership certificate, an applicant must give evidence of the genuine nature of the relationship.

We suggest that applicants do their best to provide as many of the following documents as possible, in addition to the mandatory documents requested by UKVI (this is not an exhaustive list and we are not suggesting that every applicant must have all of these documents):

## Relationship evidence

- A statement or declaration from each of you detailing most, but not necessarily all of the following:
  - How and when you met
  - How and why the relationship developed
  - If you've spent time apart – why, and how you felt during this time
  - Your shared social activities and hobbies
  - Milestones in your relationship such as moving in together or going on holidays
  - What makes your relationship special for you
  - What makes your partner special for you
  - Future plans you may have.
- Evidence of cohabitation (essential for unmarried partners and helpful although not mandatory for spouses/civil partners or fiancé(e)s/proposed civil partners). This might include joint tenancy agreement; joint utility bills; individual utility bills; letters addressed to you both at the same address; official documents which are addressed individually but show the same address. Unmarried partners must produce as much evidence of cohabitation as they can for at least two years. They should use any document which shows their name(s), their address and the date.
- Passport stamps and/or tickets to show visits to your partner's country and/or travel together.
- Evidence of contact while apart e.g. telephone bills, a selection of emails, Skype or WhatsApp records, for any periods when you were separated.
- Photographs of you together clearly dated, captioned and accompanied with an explanation.
- Supporting letters from friends and family, saying in their own words:
  - How long they have known you both
  - How long they have known of the relationship
  - Reasons why they believe the relationship is genuine and committed
  - How you would feel if you were forced to be apart.

## Financial requirements

**This requirement is complex. We provide only a brief summary. We advise all applicants to study the rules and guidance or seek legal advice.**

The basic position is that the evidence must show a gross annual income of at least £18,600 (plus an additional £3,800 for a first dependent child and an additional £2,400 for each other dependent child). This minimum income will qualify alone, or in combination with savings of £16,000, plus additional savings equal to 2.5 times the shortfall in gross annual income. The savings must be held as cash savings (this means that you have the money in a bank account in your name or in the joint name with your partner, and you have immediate access to them).

Example 1: An income of £18,000 would be £600 short. To make up this shortfall the couple would need £17,500 savings (£16,000 plus £600 x 2.5)

Example 2: No income would require £16,000 plus £18,600 x2.5, total £62,500 in savings

For some applicants, it may be relatively straightforward. For example, if the British (or settled) partner is working in the UK, earns an income of £18,600 or more and has done so for more than six months, has been in the same job for more than six months, and has the required evidence, the situation is relatively straightforward.

For those who are self-employed, have been in their employment for less than six months or are returning from abroad, however, the rules and evidence are more complex, unless they can rely upon savings alone. Directors of small limited companies probably have the hardest job in proving that they meet the financial requirements.

The income level does not apply if the British (settled) partner is receiving one or more of the disability related welfare benefits listed in Appendix FM.

It is not possible in this guide to go into all the different ways that the income and/or savings requirement can be met. All applicants must look at the Home Office guidance at [Annex FM 1.7: financial requirement](#) and the immigration rules at [Appendix FM-SE](#) (or take specialist legal advice).

It is crucial to supply the required documents, and applications will be refused without the correct documentation as set out in Appx FM-SE.

You must also show there is adequate accommodation for all family members: this is accommodation which the family must own or occupy exclusively. 'Adequate' is defined by reference to non-overcrowding/contravention of public health regulations.

For a couple, it is sufficient to show that they have a bedroom that they occupy exclusively, even if they live/will live in a shared house.

The rules are less prescriptive as to evidence on this point but we suggest you supply the following documents (as appropriate):

- Land Registry entry or mortgage statement if you own the property
- Rental contract
- Letter from owner/landlord
- Recent utility bills

## English language requirements

[Appendix FM in E-ECP.4.1](#) states that the applicant must provide specified evidence that they:

- are a national of a majority English speaking country listed in paragraph GEN.1.6 (under the [family members/general heading](#))

- ),
- have passed an English language test in speaking and listening at a minimum of level A1 of the Common European Framework of Reference for Languages with a provider approved by the Secretary of State,
  - have an academic qualification which is either a Bachelor's or Master's degree or PhD awarded by an educational establishment in the UK; or, if awarded by an educational establishment outside the UK, is deemed by [UK NARIC](#) to meet or exceed the recognised standard of a Bachelor's or Master's degree or PhD in the UK, and UK NARIC has confirmed that the degree was taught or researched in English to level A1 of the Common European Framework of Reference for Languages or above,
  - are exempt from the English language requirement under paragraph E-ECP.4.2 (see list below).

The applicant is exempt from the English language requirement under [E-ECP.4.2](#) (see p.9) if at the date of application:

- the applicant is aged 65 or over,
- the applicant has a disability (physical or mental condition) which prevents the applicant from meeting the requirement, or
- there are exceptional circumstances which prevent the applicant from being able to meet the requirement prior to entry to the UK.

If the applicant is not from one of the listed majority English language countries (Antigua and Barbuda; Australia; the Bahamas; Barbados; Belize; Canada; Dominica; Grenada; Guyana; Jamaica; New Zealand; St Kitts and Nevis; St Lucia; St Vincent and the Grenadines; Trinidad and Tobago; or the United States of America), does not have a qualifying degree, or is not exempt as above, they must have an approved test and required evidence, as listed in [Appendix O](#).

Please also note that once you obtain your visa, you will need to show a higher level of English when you apply for an extension of leave and indefinite leave.

## **Immigration status requirements (leave to remain only)**

The immigration status requirements apply to applications **from within the UK**.

If applying from within the UK, an applicant must not be in the UK in any of the following categories:

- as a visitor,
- with a visa which was originally granted for a period of 6 months or less, apart from fiancé(e) or proposed civil partner visas, or leave granted for family court proceedings, or
- on temporary admission, or
- in breach of immigration laws (disregarding any period of overstaying allowed for by [para 39E of the immigration rules – last para](#)).

**But, importantly, the immigration status requirements may not apply if paragraph EX applies (see below).**

## **Applying from abroad**

The further leave to remain application must be filed before the existing leave to remain or proposed civil partner/fiancé(e) visa expires to ensure an applicant remains lawfully in the UK.

An application may possibly still be successful if made while an overstayer in very limited circumstances under [paragraph 39E](#) of the Immigration Rules or, under [Section EX of Appendix FM](#) of the Immigration Rules, where the applicant can show that there are ‘insurmountable obstacles to family life with the sponsor continuing outside the UK’. The applicability of these exceptions can be very hard to prove.

So long as you have made the application before your leave to remain expires, you continue to be legally in the UK with your existing visa status, until a decision has been taken and any appeal against a negative decision has been resolved. If you had permission to work before you made the application you will continue to have this permission to work whilst the application is being considered. If you did not have permission to work when you made the application this continues to be the case until you receive a positive decision.

An application is considered as ‘made’ as soon as you submit it online and pay the relevant fees (or as soon as the form is received by the Home Office in the rare circumstances where a form can be sent by post).

Application fees are payable at the end of the initial online ‘application form’ stage. On top of the [standard application fee](#), there is a biometric enrolment fee and if you wish to take advantage of the [Super Priority 24 hour service](#) there will be an extra £800 to pay. For further leave as opposed to indefinite leave applications, you will also need to pay an [Immigration Health Surcharge \(IHS\)](#).

After payment of the fees you will be directed to the [Sopra Steria – UKVCAS website](#) to book an appointment to enrol your biometrics and have your documents processed at a UKVCAS centre. A few core centres offer free appointments, other centres charge a fee.

Once you submit your online form, you need to scan and upload supporting documents. This can be done before, or during an appointment at the [Sopra Steria – UK Visa and Citizenship Application Service \(UKVCAS\)](#) centre you have chosen for your biometric appointment. If you do the uploading yourself beforehand, you must upload all the documents before your appointment day. If you opt for Sopra Steria themselves to upload the documentation you should bring with you complete sets of documents on A4 sized paper which can be easily scanned and uploaded. There may be a fee for this service.

In either case, do not forget to bring with you the appointment confirmation of your appointment with QR code as they will not let you in without it. You must also bring your passport.

## **Time periods for limited leave and indefinite leave (ILR)**

If an application is successful, the applicant will be granted a period of leave depending on the type of application made. All applications lead to a grant of limited leave and all applicants must spend at least five years in the UK before being eligible for indefinite leave to remain (ILR).

## What leave will be granted and when will the partner be eligible for ILR?

- Spouse/civil partner visas (entry clearances): one month to travel to the UK and then 33 months on biometric residence permit.
- Fiancé(e)/proposed civil partner visas: six months and then they must apply to extend their leave for a further 30 months after they are married/civil partnered (and this can be done at any point during the six months, after the wedding/civil partner ceremony).
- Leave to remain (applications within the UK): 30 months.
- The foreign partner will need to extend for a further 30 months beyond the initial 30 (or 33) month period. Those who have met the rules in [Appendix FM](#) will become eligible for indefinite leave to remain after 60 months (five years).
- Those who have relied on [EX.1](#) (see below), will need to continue to extend every 30 months to reach a total period of 10 years before they become eligible for indefinite leave to remain.

Prior to obtaining indefinite leave, a partner will be free to take employment, but there will be a prohibition on receipt of public funds. Partners are free to use the NHS and to travel in and out of the country.

Fiancé(e)s/proposed civil partners can only work after they have switched their immigration status in the UK after registering their civil partnership or marriage.

## Refused applications

If you are refused under Appendix FM you have a right of appeal on human rights grounds.

You should instruct a lawyer to advise and assist you. If you are unable to find a lawyer within the deadline, you should complete and submit the appeal form as fully as possible yourself.

## Applicants who cannot meet the requirements of the Immigration Rules

The Secretary of State has introduced EX 1 (Exception 1) in the Immigration Rules, which states that for leave to remain applications only, an applicant can be successful even if they do not meet the eligibility requirements when:

- the applicant has a genuine and subsisting parental relationship with a **child** who:
  - is under the age of 18 years
  - is in the UK
  - is a British Citizen or has lived in the UK continuously for at least the seven years immediately preceding the date of application, and
- it would not be reasonable to expect the child to leave the UK, or
- the applicant has a genuine and subsisting relationship with a **partner** who is in the UK and is a British Citizen, settled in the UK or in the UK with refugee leave or humanitarian protection, and there are insurmountable obstacles to family life with that partner continuing outside the UK.

**If you are in the UK without lawful status, or if you cannot meet one of the other requirements, you may still be able to have a successful application. We strongly advise that you obtain specialist legal advice.**

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