



Home Office

Victims of domestic violence and abuse

Version 15.0

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About this guidance

This guidance tells you about how to consider applications from people who claim to have been victims of domestic violence or abuse.

This guidance does not include those whose leave was given as the partner of a refugee or recipient of humanitarian protection who was not settled at the time of the grant of leave.

The domestic violence (DV) provisions of [Appendix FM section DVILR](#) only apply to applicants who have previously been granted leave to enter or remain as the:

- spouse
- civil partner
- unmarried or same-sex partner of any of the following:
 - British citizen
 - settled person
 - member of HM forces who has served for at least 4 years

To be eligible under section DVILR the applicants first grant of leave under [Appendix FM](#) must have been granted under one of the following paragraphs:

- D-ECP.1.1
- D-LTRP.1.1
- D-LTRP.1.2, (other than as a partner of a person in the UK with limited leave, a fiancé or fiancée or proposed civil partner)
- D-DVILR.1.2

Partners of HM forces personnel

The domestic violence (DV) provisions under [part 6 of Appendix Armed Forces](#) only apply to applicants who have previously been granted leave to enter or remain as the:

- spouse
- civil partner
- unmarried or same-sex partner of any of the following:
 - British citizen
 - settled person
 - member of HM forces who has served for at least 4 years

The applicant's last grant of leave must have been granted under one of the following paragraphs of the Immigration Rules:

- paragraph [276AD](#) of the Immigration Rules
- paragraphs 23, 26, 28 or 32 of [Appendix Armed Forces](#)

Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you, or you think that the guidance has factual errors, then email Domestic Violence Immigration Policy.

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on), or have any comments about the layout or navigability of the guidance, then you can email the Guidance Rules and Forms team.

Publication

Below is information on when this version of the guidance was published:

- version **15.0**
- published for Home Office staff on **24 November 2021**

Changes from last version of this guidance

This guidance has been updated to amend the internal links from Horizon to SharePoint.

Official – sensitive: Start of section

The information on this page has been removed as it is restricted for internal Home Office use.

Official – sensitive: End of section

Removal of destitution domestic violence (DDV) concession guidance to separate guidance.

Related content

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Definitions

For the purpose of this guidance the following definitions apply:

Age

The definition of domestic violence refers to people aged 16 or over. However, an individual must be 18 years or over to qualify for leave as a partner. As leave as a partner is a pre-requirement for applications under the domestic violence rules, no one under the age of 18 can qualify under those rules.

Destitution

For the purpose of this guidance, a person is considered destitute when they do not have adequate accommodation or any means of obtaining it, or they cannot meet their essential living needs.

It could also be when the applicant has demonstrated, by way of evidence, that they would be rendered destitute by payment of the fee, because whilst they have adequate accommodation and can meet their essential living needs:

- they have no additional disposable income such that either:
 - they could pay the fee now
 - payment would compromise their ability to continue to accommodate themselves adequately or meet their other essential living needs

Domestic violence and abuse

Any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are, or have been, intimate partners or family members regardless of gender or sexuality. This can include, but is not limited to, the following types of abuse:

- psychological
- physical
- sexual
- financial
- emotional

Other forms of abuse

Controlling behaviour is a range of acts designed to make a person subordinate or dependent by:

- isolating them from sources of support
- exploiting their resources and capacities for personal gain
- depriving them of the means needed for independence, resistance and escape

- regulating their everyday behaviour

Coercive behaviour is either:

- an act or a pattern of acts of assault, threats, humiliation and intimidation
- other abuse that is used to harm, punish, or frighten their victim

No distinction should be made between psychological (mental) abuse and physical abuse when assessing if a person has been the victim of domestic violence or abuse.

Other family member

Those who are directly related, in-laws or step-family.

Injury

The legal definition of injury is when any harm is done to a person by the acts or omissions of another.

The Family Law Act, 1996

[The Family Law Act 1996](#) created 2 specific types of civil court order to protect victims of domestic violence, non-molestation orders and occupation orders.

Non-molestation orders are designed to prevent an abuser from committing any further abuse, for example by prohibiting contact with the applicant. They can be made where the court considers that it would benefit the applicant or any relevant child, taking account of all the circumstances, including the need to secure the health, safety and wellbeing of the applicant or child.

An occupation order is used to enable the applicant to continue to live in accommodation that was previously shared. They can be granted only where it appears to the court that the applicant or any relevant child is likely to suffer significant harm. Occupation orders are often temporary orders.

Related content

Destitution domestic violence (DDV) concession guidance

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Immigration Rules requirements

This page tells you the requirements the applicant must meet to be granted indefinite leave to remain (ILR) as a victim of domestic violence.

When you consider an application, you must check:

- that it is valid - see applications for leave to remain: validation, variation and withdrawal
- that the applicable fee has been received or that the applicant is destitute
- that the applicant's passport or travel document is genuine (if provided)
- that the applicant meets the substantive requirements of the category
- for applications considered under [Appendix FM](#) or [Appendix Armed Forces](#), that the applicant does not fall to be refused on grounds of suitability - see: General grounds for refusal

Related content

Destitution domestic violence (DDV) concession

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Related external links

[Immigration and nationality fees](#)

Fee waiver

This section tells you how to assess claims to be destitute and exempt from the application [fee](#) as a result of domestic violence.

In accordance with fees regulations, a person who is destitute will be exempt from paying the application fee for indefinite leave to remain (ILR) as a victim of domestic violence.

A person is considered destitute if they either:

- do not have adequate accommodation or any means of obtaining it (whether or not their other essential living needs are met)
- have adequate accommodation or the means of obtaining it, but cannot meet their other essential living needs

While this definition is the same in both asylum support and the domestic violence fee waiver policy, each is assessed separately (and subject to different guidance for caseworkers) and provision of one does not automatically lead to the other.

An applicant who claims to be destitute must:

- submit [SET\(DV\)](#) but not submit the specified fee
- provide evidence that they have no means to pay the specified fee

Applicants are not expected to seek a loan to pay the fee and third parties are not expected to pay the fee on their behalf.

The fee waiver application will be assessed on the basis of the information and accompanying documentary evidence provided.

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[Immigration and nationality fees](#)

Fee waiver: evidence

This page tells you what evidence must be submitted for a decision to be made on fee waiver.

The assessment of whether the applicant qualifies for a fee waiver will be based on their individual circumstances and those of any dependent family members.

The fee waiver application will be assessed on the basis of the information and accompanying documentary evidence provided.

It is the responsibility of the applicant to provide full evidence of their claimed financial circumstances and you would not normally make additional enquiries to try to establish whether an applicant qualifies for a fee waiver.

The applicant must provide relevant supporting documentation to evidence their claim, including details of their financial circumstances. For example, you should normally expect to see information and evidence relating to any of the following:

- the applicant's accommodation
- the type and adequacy of this
- the amount of their rent or mortgage
- the amount of the applicant's contribution towards the rent or mortgage, their income and outgoings in terms of spending on food, utility bills

This information should be supported by independent evidence, for example:

- their tenancy agreement
- pay slips
- utility bills
- bank statements

The nature of the evidence provided will necessarily vary depending on the individual circumstances of the applicant, but you should expect to see evidence appropriate to the circumstances claimed.

Income:

- from employment or self-employment
- from non-employment sources
- of the applicant's spouse or partner or parent or parents
- from welfare benefits or tax credits received by the applicant or their spouse or partner or parent or parents
- from family or friends

Assets:

- cash

- money held in a bank and building society accounts (including non-UK based accounts)
- investments

Evidence to show they are unable to pay the application fee could include:

- bank statements
- savings account statements
- wage slips, if employed
- other documents that indicate the applicant's financial position
- letters from the Department for Work and Pensions (DWP) confirming benefits being paid to the applicant
- letters from local authority confirming help being given to the applicant
- a written explanation as to why they are unable to access available funds in any joint account (if applicable)

If the applicant is being supported by family or friends, a local authority or a registered charity, you should expect to see corroborating documentary evidence confirming provision of support and detailing the exact nature and amount of the support provided. In all cases, evidence must be up to date.

Multiple agency support

Support may be provided by more than one agency, for example housing from a local authority or housing association, and benefits from the Department for Work and Pensions (DWP). The criteria may also be met if private rental accommodation is being paid for through housing benefit and other expenses met from DWP benefits.

In these cases, the evidence required will be a letter or written statement from the supporting body confirming the support which is being provided to the applicant. If the letter relied on is that sent to the applicant when the support was originally awarded, we will also require evidence (for example bank statements) that the support is continuing.

Third party support

If an applicant claims they are totally or partially reliant on friends and relatives for essential housing and support, they must provide evidence to show they receive this support. This should include written confirmation from the friend or relative concerned. The Home Office does not expect that support to extend to paying an application fee.

In cases where an applicant is unable to provide documentary evidence, for example where an applicant states that they left all documents behind when fleeing an abusive partner, you will need to be satisfied that the person's circumstances are as claimed by making an assessment of credibility.

If the applicant has successfully claimed DWP benefits after a grant under the destitution domestic violence (DDV) concession, or is receiving support from a local authority or a refuge, this will help establish credibility.

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Destitution domestic violence (DDV) concession

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[Immigration and nationality fees](#)

Fee waiver: decision

This page explains what to do when a decision is reached on whether an applicant qualifies for a fee waiver.

The domestic violence indefinite leave to remain (ILR) rules ([DVILR of Appendix FM](#)) do not require an applicant to hold valid leave at the time of application – only that the first grant of leave was in a qualifying category.

[Part 6 of Appendix Armed Forces](#) does not require an applicant to hold valid leave at the time of application – only that the last grant of leave was in a qualifying category.

It is the responsibility of the applicant to evidence fully their claimed financial circumstances and you should not normally make additional enquiries to try to establish whether an applicant qualifies for a fee waiver.

You may ask an applicant to provide a missing document (or part of one) to which the fee waiver application refers where provision of this is likely to lead to a grant of a fee waiver. You should otherwise base the decision on a fee waiver on the information and evidence submitted.

Rejection of fee waiver request

If the evidence the applicant provides does not support their claim to be destitute you must reject the application on the basis no fee has been paid.

You must set out in writing why the applicant does not appear to be destitute based on the evidence they have provided. This should make clear this is not a refusal of the application for settlement.

You must advise the applicant that if they wish to validate their application, they must pay the specified fee within 10 working days.

If the fee is paid within that period, and the application meets the other validation criteria, you should forward it to the relevant caseworking section for consideration.

If the fee is not paid within 10 working days, or the applicant has failed to demonstrate that they qualify for a fee waiver, you must reject the application as invalid.

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[Immigration and nationality fees](#)

Eligibility

This page explains who can apply for indefinite leave to remain (ILR) in the UK for reasons of domestic violence.

The only people eligible to apply for ILR are those whose:

- first grant of leave was under paragraphs D-ECP.1.1, D-LTRP.1.1, D-LTRP.1.2, (other than as a partner of a person in the UK with limited leave, a fiancé or fiancée or proposed civil partner), or D-DVILR.1.2 of [Appendix FM](#)
- last grant of leave was under paragraph [276AD of the Immigration Rules](#) or
- paragraphs 23, 26, 28 or 32 of [Appendix Armed Forces](#)

The rules additionally preserve eligibility to apply in those cases where the grant of leave as a partner was followed by a grant under the destitution domestic violence (DDV) concession. But leave under the concession does not imply or guarantee that a subsequent application for indefinite leave will be granted.

The domestic violence rules do not apply to:

- the spouse, unmarried partner or registered civil partner of a sponsor who has only limited leave to enter or remain in the UK
- fiancé or fiancées or proposed civil partners
- people seeking asylum in the UK
- the spouse or civil partner of a foreign or Commonwealth citizen who is serving, or has served, in Her Majesty's (HM) forces and who has not completed a minimum of 4 years' reckonable service

Individuals in these groups are not eligible to apply under the domestic violence rules because they were not admitted to the UK, or originally given leave in the UK, as the partner of someone who already has the right of permanent residence in the UK. They have come to the UK as the dependant of someone who does not have settled status in the UK, and who may never have settled status, and should have no expectation of remaining in the UK outside that relationship.

Special considerations apply to the partners of members of HM forces as their serving partners are not able to apply for settlement while still serving but are able to apply on discharge after 4 years' service. Fiancés, fiancées and proposed civil partners are not eligible because their relationship is still a temporary one and they should have no expectation of remaining in the UK if it comes to an end.

Individuals who have never had leave on one of the specified routes may be able to make an application on form [FLR\(FP\)](#) on the basis of their family and private life under Article 8 of the European Convention on Human Rights or for leave outside the rules on form [FLR \(HRO\)](#) or [FLR\(IR\)](#).

European Economic Area (EEA) nationals exercising treaty rights and their family members are also ineligible to apply under the domestic violence rules. However,

they may be able to apply under the European provisions. For more information, see family members of European Economic Area (EEA) nationals.

The rules are not intended to benefit people whose relationship broke down because they were the alleged abuser in cases of domestic violence.

The applicant does not need to demonstrate knowledge of language and life in the UK under the victims of domestic violence rules.

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Abuse by a family member other than the partner

This page explains what to do if the alleged abuser is a family member other than a partner as defined in the [definitions](#) section.

If an applicant submits evidence to show that their relationship has broken down because they have been subjected to domestic violence from someone other than their partner, they can still qualify for settlement under the rule.

Evidence must clearly show that the violence has been the reason for the breakdown of the relationship between the applicant and their partner, for example where the person who abuses the applicant is a member of the partner's family and against whom the partner offers no protection.

Where this involves minors

If the alleged abuser is under 18 in England and Wales or under 16 in Scotland, the law deals with them differently. Offenders may be given a reprimand or a final warning. Both of these are admissions of guilt and are evidence that domestic violence has occurred.

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Previous leave

This page tells you about the different types of previous limited leave to enter or remain an applicant might hold under the Immigration Rules.

Previous leave under Appendix FM

Applicants who were granted limited leave as a partner of a British citizen or person settled in the UK under Appendix FM will be considered under [section DVILR of Appendix FM](#).

You must check whether the applicant:

- was first admitted to the UK, or given an extension of stay, under paragraph D-ECP.1.1, D-LTRP.1.1, D-LTRP.1.2. or, D-DVILR.1.2. of [Appendix FM](#) of the Immigration Rules, as a partner of a British citizen or person settled in the UK
- held leave under Appendix FM as a partner of a British citizen or person settled in the UK and that leave has been followed by limited leave to allow access to public funds pending an application under DVILR (under the destitution domestic violence (DDV) concession)

In addition to the above the applicant must also:

- provide evidence to show their relationship with their partner broke down during the probationary period as a result of domestic violence

Previous leave under HM forces rules

Applicants who were granted limited leave as the partner of a serving or discharged member of HM forces under [paragraph 276AD of the rules](#) or under part 4 of Appendix Armed Forces will be considered under [part 6 of Appendix Armed Forces](#)

You need to check that the sponsor is British or has 4 years' reckonable service in HM forces at the date of application and that the applicant was either:

- last admitted to the UK under paragraph 276AD of the Immigration Rules or paragraph 23, 26, 28 or 32 of [Appendix Armed Forces](#)
- last granted limited leave to allow access to public funds pending an application for indefinite leave to remain (ILR) under Appendix Armed Forces (under the destitution domestic violence (DDV) concession)
- last granted under paragraph 40 (a further period of limited leave)

You must also check that the applicant:

- does not fall to be refused on grounds of suitability or any of the relevant paragraphs of the general grounds for refusal (but note that limited leave may

be granted where the applicant fails to meet the suitability requirements in respect of ILR but not in respect of limited leave to remain)

- is able to provide evidence to show their relationship with their partner broke down during the probationary period as a result of domestic violence

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Out of time applications

This page explains what to do with out of time applications on the grounds of domestic violence.

Paragraph [289A](#), [part 6 of Appendix Armed Forces](#) and [section DVILR.1.1 of Appendix FM](#) of the Immigration Rules for indefinite leave to remain (ILR) as a victim of domestic violence do not require a person to have valid leave to remain in the UK. In some cases, preventing a victim of domestic violence from applying for renewal of leave may be part of the abusive behaviour.

The rules only require a person to have been granted leave as either a:

- spouse
- civil partner
- un-married partner
- same-sex partner

If the applicant does not have valid leave to remain in the UK, you must check that there has been no grant of leave on a basis other than that of partner since the last grant as a partner. You must also consider the reason they were out of time and decide whether this affects the assessment of the evidence submitted in support of the application.

You must consider:

- the age of evidence being relied upon: this may impact verifying the evidence
- when the relationship permanently broke down
- if there are any official reports, for example from the police, that show passports and travel documents were withheld and the police had to retrieve them
- the time between the alleged breakdown of the relationship and the application, including how long the applicant has been living apart from the partner
- reasons given for the delay in submitting the application

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Considering applications

This page explains how to consider an application and the different types of evidence that can be submitted with a domestic violence application.

Applicants must establish that the relationship:

- with their partner was subsisting at the start of the last grant of leave as a partner
- broke down during that last period of leave
- broke down because of domestic violence

The Immigration Rules do not specify any mandatory evidence or documents to be submitted with an application.

All evidence submitted must be considered and a conclusion drawn as to whether there is sufficient evidence to demonstrate that, on the balance of probabilities, the breakdown of the relationship was as a result of domestic violence. Factors to be taken into account when assessing the evidence include:

- timing of the application
- length of relationship before the application is made:
 - the fact that the relationship broke down due to domestic violence during the very early stages of the probationary period, may not be an adverse factor in reaching a decision to grant indefinite leave to remain (ILR) but in the context of the immigration history as a whole may give rise to suspicion
- previous immigration history, particularly where there is evidence that the applicant has made a number of attempts to secure leave in the UK on different grounds
- length of time since the alleged incident and reasons given for any delay in submitting an application

The fact the couple are still living at the same address when the application is made may not necessarily be taken as an indicator the relationship has not broken down, as this could be due to a number of reasons.

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HM forces sponsor

This page tells you which Immigration Rules to use when dealing with partners of serving British citizens or foreign and Commonwealth personnel with 4 years' service in Her Majesty's (HM) forces.

On 9 July 2012 when Appendix FM was introduced into the Immigration Rules, separate transitional arrangements for partners of British citizens serving in HM forces were introduced.

You must use the provisions of [part 6 of Appendix Armed Forces](#) for:

- the partners of serving or discharged members of HM forces personnel granted leave to enter or remain as partners on or after 1 December 2013
- the partners of other serving or discharged members of the armed forces, regardless of the date of grant of leave, provided the serving or discharged partner has served for at least 4 years

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Table of evidence

This section sets out the type of evidence which may be produced and factors which should be taken into account when considering whether the evidence produced meets the requirements for a grant of leave. The list is not indicative and all the evidence should be considered in the round.

Type of evidence	Value of evidence	Additional information required
Criminal conviction	<p>Conclusive A criminal conviction which relates to domestic violence is proof that the domestic violence occurred at the dates cited.</p> <p>No further enquiries.</p>	<p>Because criminal convictions require a higher standard of proof (beyond reasonable doubt) than immigration decisions (on the balance of probabilities) an acquittal must not be taken as proof that domestic violence did not occur on balance of probabilities.</p> <p>If the applicant has also been convicted of a criminal offence which is related to domestic violence, decision makers must consider how far this should be taken into account, including the general grounds for refusal.</p>
Police caution	<p>Conclusive Accepting a caution is an admission of guilt and can be accepted as evidence that domestic violence occurred at the dates cited.</p>	<p>If an abuser has a caution, then you must link this to the whole account. Decision makers must also check whether the applicant has also been given a similar caution.</p> <p>If the applicant has also accepted a caution which is</p>

Type of evidence	Value of evidence	Additional information required
		related to domestic violence, decision makers must consider how far this should be taken into account.
Final order in civil court – (for example non-molestation order or occupation order)	<p>Conclusive If a judge found that domestic violence occurred, this will have been on the balance of probabilities and can be accepted as definitive proof of domestic violence.</p> <p>Strong If there is no finding of fact recorded on the final order, a non-molestation or occupation order should not be classed as conclusive proof has taken place. You must assess the order in conjunction with other evidence that has been submitted.</p>	Decision makers should note that, although occupation orders made under the Family Law Act 1996 are specific to domestic violence cases, similar orders on the right to occupy a property can also be made in a number of other circumstances. You must therefore confirm that this is an occupation order made under the 1996 act and, if this is not the case, request other evidence of domestic violence.
Multi-agency risk assessment conference (MARAC) referral confirmed by any person who is a member of a MARAC	<p>Strong It is unknown whether the threshold for referring cases to MARAC is applied consistently.</p> <p>An assessment should be made of whether the MARAC should be judged as conclusive on the information contained in the document. For example, if it is clear that the applicant is in imminent danger or there is an element of concern for the individual.</p>	Full reports may not be available or disclosable. Applicants may include correspondence from the MARAC or a professional involved in the referral confirming that the MARAC referral has been made and providing details as to why.
Charging decision	<p>Strong The Crown Prosecution Service (CPS) makes a decision to charge</p>	Decision makers should seek additional details from the police

Type of evidence	Value of evidence	Additional information required
	<p>someone with a criminal offence when it is satisfied that there is sufficient evidence to provide a realistic prospect of conviction and that it is in the public interest to do so. 'Sufficient evidence to provide a realistic prospect of conviction' does not mean that a jury will, beyond reasonable doubt, find the person guilty. However, it suggests that it is more likely than not that a jury properly directed will find the person guilty of domestic violence on the basis of the evidence. Sufficient evidence is similar to balance of probabilities. Therefore, a decision made by the police to charge someone with domestic violence is strong evidence that domestic violence occurred.</p>	<p>in relation to the CPS' decision to charge.</p> <p>Once a person has been charged they can be released on bail pending their first appearance at court or remanded in to custody. Although the strength of evidence in a case is one of the factors considered when deciding whether or not to refuse bail, it is not the principal consideration. The decision to remand in to custody does not, on its own, provide evidence on the balance of probabilities that domestic violence has occurred.</p>
Domestic violence protection order	<p>Strong</p> <p>This is an order made by a magistrate's court on the application of the police. They enable the police and magistrates to protect a victim in the immediate period after a domestic violence incidence and last between 14 and 28 days. The alleged abuser can be banned from contacting the victim and/or returning to a shared residence for up to 28 days.</p>	<p>Although this is strong evidence, you must request further information about the circumstances leading up to the order from the police.</p>
Forced marriage protection order	<p>Strong</p> <p>Forced marriage protection orders can be used to</p>	<p>Police logs and social service reports may be</p>

Type of evidence	Value of evidence	Additional information required
	protect someone from being forced into marriage or who is already in a forced marriage.	useful additional evidence.
Prohibited steps orders and contact orders	<p>Strong - if evidence is that domestic violence was a factor in granting the order</p> <p>These orders regulate the relationship between the children and parents. Orders of this type can also be made in cases where a relationship has broken down for reasons other than domestic violence.</p>	Decision makers must confirm, for example from the Children and Family Court Advisory and Support Service (CAFCASS), court evidence or social services, that an allegation of domestic violence was a factor in the decision.
Letter from social services, or welfare officer connected to HM Armed Forces.	<p>Strong</p> <p>Can only be accepted as strong evidence if the letter confirms that the author has assessed the applicant and considers them a victim of evidence of domestic violence</p> <p>The letter should also provide details as to what support the applicant is being offered.</p>	These reports normally also include evidence from any children and may include a Children and Family Court Advisory and Support Service (CAFCASS) assessment.
Letter from organisation supporting victims of domestic violence (including a refuge) confirming that they have assessed the applicant as being a victim of domestic violence. Letter should detail support being provided	<p>Strong</p> <p>Can be accepted as strong evidence of domestic violence but if no support is being provided, an explanation should be sought (for example, where a refuge is full).</p>	Letters from domestic violence support agencies, including refuges, may require you to follow up to confirm that the organisation has made a professional assessment, and is not merely relaying the applicant's account.

Type of evidence	Value of evidence	Additional information required
Letter or statement from an independent witness	<p>Strong - only to be considered as strong evidence if the witness has verified that:</p> <ul style="list-style-type: none"> • they witnessed the incident of domestic violence first hand • have no vested interest in the case - for example, they are not related to the applicant 	N/A
Arrest	<p>Moderate</p> <p>The police have the power to arrest anyone who they suspect has committed a criminal offence and they have reasonable grounds for believing that the arrest is necessary. In order to arrest someone for domestic violence, the police will have to have some basis to suspect that the person has committed an offence. However, this is not the same as having sufficient evidence to charge and the fact that someone has been arrested for domestic violence is not conclusive proof that it has occurred.</p> <p>It should be noted that a person may be investigated for an offence even if they have not been arrested. For example, if someone will agree voluntarily to attend the police station to be interviewed in relation to an offence, the police may not consider it necessary to arrest them.</p>	<p>Following arrest, if their enquiries are ongoing the police must release someone on bail. Conditions could be attached to the grant of bail. Although the available evidence is considered when deciding whether or not to impose bail conditions, it is not the principle consideration. The decision to release someone on conditional bail does not, on its own, provide evidence on the balance of probabilities that domestic violence has occurred.</p> <p>Further information and evidence should be sought from the police in relation to the progress of their investigation and outstanding enquiries.</p>

Type of evidence	Value of evidence	Additional information required
Ex parte orders (a decision made by a judge without requiring all the parties to be present) for example ex parte molestation order or occupation order	<p>Moderate</p> <p>Ex parte orders are made by the court on the basis of perceived risk to the applicant. As both sides have not been heard, they are not conclusive proof that domestic violence has occurred.</p>	<p>Ex parte orders are made on the evidence of one party only, although once the order is made, it can be challenged by the other party. If there is a follow up hearing, decision makers must obtain the details of any further orders or undertakings.</p> <p>Other evidence, such as an assessment from a refuge or police reports, is needed to establish domestic violence conclusively.</p>
Interim order	<p>Moderate</p> <p>An interim order may be imposed during a civil case when the hearing has started but the case is not yet concluded.</p>	<p>The weight to be attached to an interim order will depend on how far the case has progressed and the terms of the order.</p>
Undertaking to court	<p>Moderate</p> <p>An undertaking (for example, not to approach the applicant) is not conclusive if no admission of guilt has been made. Undertakings can be given by either or both parties as a way to settle the case.</p>	<p>Unless there is a clear admission of guilt, ask for further details of the court proceedings. Further evidence, for example police reports, medical reports, professional assessments may also be required.</p>
Police report of attendance at domestic violence incident	<p>Moderate</p>	<p>A report of attendance at an alleged incident is not itself proof of domestic violence. Evidence of police follow up action or supporting evidence, for example medical evidence, will generally be required.</p>
Medical report from UK hospital	<p>Moderate</p>	<p>Report should include whether the hospital</p>

Type of evidence	Value of evidence	Additional information required
confirming injuries or condition consistent with domestic violence		appointment was a referral from the doctor or any further treatment required. Many reports are lacking sufficient depth.
Medical report from GP, or medical professional, employed by HM Armed Forces confirming injuries or condition consistent with domestic violence	Moderate	The medical report should be provided by the GP who provided the consultation and give details of any hospital treatment needed.
Power of Arrest	Weak A power of arrest is routinely included in a non-molestation order. The wording is standard and does not indicate the evidential weight of the order.	
Letter, or statement from official source, such as an advice agency or refuge, repeating applicant's account without confirming that applicant has been assessed as, or is being treated as, the victim of domestic violence	Weak Limited value but must be considered in light of the rest of the evidence.	Decision makers should confirm that organisation has not formally assessed applicant as the victim of domestic violence and is not offering support on that basis.
Statement from applicant	Weak Further enquires likely to be needed.	Decision makers would expect to see further evidence such as police reports, refuge assessment and medical evidence.
Letter, statement, email, text or photos repeating applicant's account of domestic violence	Weak Limited value but must be considered in light of the rest of the evidence.	Photos can be linked to any medical reports that may have been submitted.

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Alleged abuser: criminal convictions

This page tells you about how to deal with applications where the alleged abuser has a criminal case pending or a caution and in civil cases.

Cases awaiting hearing

Where there is a criminal case outstanding, the applicant should provide as much evidence as possible, including a copy of the notification of prosecution.

You can continue to assess and decide the application but must remember that the burden of proof in criminal cases is 'beyond reasonable doubt' but the standard of proof in immigration cases is 'on the balance of probabilities'.

Police cautions

The applicant may not be able to provide documentary evidence the police have:

- issued a caution against the alleged abuser
- decided to prosecute

Where the applicant alleges a caution has been issued, you must ask them for details of the alleged abuser's:

- full name
- date of birth
- nationality
- address (both at the time of the incident and at the time of the application, if different)

You must also ask them for details of the date, time and place where the incident took place.

Using these details, you must confirm with the Criminal Records Office (CRO) of the police force covering the area where the incident took place.

Delay in civil cases

You should only delay a decision on the application until the outcome of a hearing if you have both:

- confirmation from the court that the case is listed to be heard
- the date the case is due to be heard

Normally the court will hear a 'without notice' application on the day of application and the date for the full hearing will follow. The court make every effort to resolve the

case on the return date set but, where the allegations are contested or the case is complicated, it may be re-listed.

The courts give priority to domestic violence cases but demands on court time mean it can take longer than 7 days for a hearing to take place.

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Court orders

This page tells you about the details included in a court order.

Terms used in court orders

Applicant's name: this should be the same name as the person who requests leave to remain on the basis of domestic violence.

Respondent's name: this person committed the offence and should be the applicant's partner's name or a member of their family. If the respondent's name does not come within the category of a family member, or you are not sure, you must consult your senior case worker. For a definition of 'family member' in a domestic violence context, please see the [definitions page](#) in this guidance.

Layout of court orders

The orders generally follow this layout:

- district judge's name and court address
- paragraph which indicates whether the order is made without notice (ex-parte)
- paragraph about any 'undertakings' if any are made:
 - undertakings, by one or both parties, may be given to a court instead of proceeding to a full hearing for a final non-molestation order, or together with the issue of a final non-molestation order where 'no finding of fact' is made
 - this means there is not necessarily a 'finding of fact' on the allegations
 - an undertaking is not an admission of guilt unless it specifically says so
- 'important notice to the respondent' 'it is ordered that:' followed by details of what the respondent must or must not do
- detail about period for which the order is to remain in force
- 'power of arrest' - reference to attachment
- 'no finding of fact' (on the allegations by the applicant) - may be detailed at the start or end of the order
- 'notice of further hearing' (interim orders) - may be 'headed up' in this way, or may just provide details of time / date / place of further hearing
- costs

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Counter claims

This page tells you what to do when there is a counter claim of domestic violence by the alleged abuser or a denial that it has occurred.

You may receive counter claims, or a denial, from the alleged abuser. In some cases, this information may already be on the Home Office file or available to other agencies. You can consider counter-claims and denials as evidence alongside an application.

A denial is where the alleged abuser claims that the incidents did not take place or that there is an innocent explanation, for example an accident.

A counter claim is where the alleged abuser claims that the applicant has been responsible for acts of domestic abuse. You must disregard any denial where the applicant is able to produce evidence:

- of a court conviction
- of a police caution
- of a final order in a civil court
- that they are subject of a multi-agency risk assessment conference Multi-agency risk assessment conference (MARAC)- this may be taken as conclusive, if the referral makes it clear the applicant is in imminent danger

If the applicant is relying on other evidence that domestic violence has occurred, you must consider any counter claims and denials. You must weigh up the evidence presented by each side and make a judgement as to whether you are satisfied, on the balance of probabilities, that domestic violence has occurred.

If the evidence of domestic violence is weak, a denial may support a refusal. Generally, where the evidence is moderate or strong, a simple denial will not outweigh that evidence. The fact that the Crown Prosecution Service has decided not to prosecute is not proof that no domestic violence has taken place.

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Criminality requirements: applicant

This page explains how criminality can affect an application under the domestic violence provision.

For guidance on how to consider the criminality requirement for settlement in applications from victims of domestic violence, you must refer to general grounds for refusal.

For applications made under Appendix FM, you must consider whether the requirements in [paragraph S-ILR suitability indefinite leave to remain \(ILR\)](#) are met. For applications under [Appendix Armed Forces](#), you must consider paragraphs 8 and 9 of Appendix Armed Forces and the relevant paragraphs of the general grounds for refusal.

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Grant or refuse indefinite leave to remain

This page tells you how to grant or refuse applications for indefinite leave to remain (ILR) made on the basis of domestic violence.

Grant indefinite leave to remain (ILR)

You must grant ILR if a person meets all the requirements of [paragraph 289A](#), part 6 of [part 6 of Appendix Armed Forces](#) or [section D-DVILR.1.1 of Appendix FM](#) of the Immigration Rules, and provided they are not refused on one or more of the following grounds:

- general grounds for refusal, subject to the requirements of paragraphs 289A
- grounds of suitability under [part 2 of Appendix Armed Forces](#)
- grounds of suitability under section S-LTPP, subject to the requirements of section DVILR.1.1

Refuse indefinite leave to remain (ILR)

You should normally refuse ILR if any of the requirements of paragraph 289A, [part 6 of Appendix Armed Forces](#) or section DVILR 1.1 of Appendix FM are not met.

If the applicant does not meet the requirements for indefinite leave to remain under paragraph 289A as a victim of domestic violence only because paragraph 322(1C) (iii) or 322(1C) (iv) applies, you can grant further limited leave to remain for a period of up to 30 months. You can grant leave with access to public funds if the applicant is destitute.

An applicant can be granted an extension under section D-DVILR 1.2 of Appendix FM if:

- an applicant does not meet the requirements for ILR as a victim of domestic violence only because of one of the following:
 - paragraph S-ILR.1.5 – the applicant's presence in the UK is not conducive to the public good because they have been convicted of an offence for which they have been sentenced to imprisonment for less than 12 months, unless a period of 7 years have passed since the end of the sentence
 - paragraph S-ILR.1.6 – the applicant has, within the 24 month period before the date of application, been convicted of an offence for which they received a non-custodial sentence or other out of court disposal that is recorded on their criminal record

For more information on these paragraphs, see [Family life as a partner](#).

In these circumstances, you must grant the applicant further limited leave to remain for a period not exceeding 30 months.

An applicant can be granted an extension under paragraph 41 of part 6 of Appendix Armed Forces if they fail to meet the suitability requirements in paragraphs 8 or 9 of Appendix Armed Forces in respect of a grant of indefinite leave to remain but not a grant of limited leave to remain. This may be the case where the:

- applicant's presence in the UK is not conducive to the public good because:
 - they have been convicted of an offence for which they have been sentenced to imprisonment for at least 12 months but less than 4 years and more than 10 but less than 15 years has passed since the end of the sentence
 - they have been convicted of an offence for which they have been sentenced to imprisonment for less than 12 months, and a period of 7 years has not yet passed since the end of the sentence
- applicant has, within the previous 24 months, been convicted of or admitted an offence for which they received a non-custodial sentence or other out of court disposal which is recorded on their criminal record

Detailed explanation must always be given in cases where the Secretary of State does not consider the evidence provided is proof that domestic violence has taken place.

An applicant who applied on or after 6 April 2015 will not have a right of appeal. Instead they may be able to have their decision reviewed under the administrative review process.

An applicant who applied before 6 April 2015 will have a right of appeal if they:

- applied for an extension of leave before their previous leave has run out
- will not have any leave left as a result of the decision to refuse

They must satisfy both to be eligible for an appeal.

An applicant who applied before 6 April 2015 will not have a right of appeal if they have existing leave on the date you refuse the application or did not have any leave on the date they applied.

For examples of wording to use when you are refusing leave, see the ['Refusal wording' page](#) in this guidance.

Granting limited leave to remain

[Paragraph 40 of Appendix Armed Forces](#) and [section DVILR of Appendix FM](#) allow for a grant of limited leave to remain if the only reason for refusal is because the applicant fails to meet the suitability requirements in respect of a grant of indefinite leave to remain (but not a grant of limited leave to remain).

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Related external links

[Section 3.2.8 partner guidance](#)

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3C leave

This page tells you when [section 3C of the Immigration Act 1971](#) (“section 3C leave”) leave applies.

There is no requirement for an applicant to hold valid lead in order to apply for leave on the basis of domestic violence.

The purpose of section 3C leave is to prevent a person who makes an in-time application to extend their leave from becoming an overstayer while they are awaiting a decision on that application and while any appeal or administrative review they are entitled to is pending.

Pending decision on application

A person will have section 3C leave if:

- they have limited leave to enter or remain in the UK
- they apply to the Secretary of State for variation of their leave
- the application for variation is made before their leave expires
- their leave expires without the application for variation having been decided
- the application for variation is neither decided nor withdrawn

Pending appeal

Section 3C leave continues during any period when:

- an in-country appeal could be brought (ignoring any possibility of appeal out of time with permission)
- the appeal is pending (within the meaning of [section 104 of the Nationality, Asylum and Immigration Act 2002](#)), meaning it has been lodged and has not been finally determined

Pending administrative review

Section 3C leave continues during any period when:

- an administrative review could be sought
- the administrative review is pending, that is to say it has not been determined
- no new application for leave to remain has been made

Section 3C leave will end if the person leaves the UK. For further information see guidance on 3C leave.

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Reconsiderations

This page explains under what circumstances a case may be reconsidered.

Applications should normally only be reconsidered following:

- instruction from the court
- advice from Government Legal Division (GLD) or policy
- request from the Administrative Review team

For example, the Administrative Review team may request a review of the decision because you may have omitted to include an assessment of a piece of evidence in your original decision. You must re-consider all the evidence submitted with the original application, fully address all the information and issue a new decision.

You must re-assess the case using the evidence submitted with the original application on the basis of domestic violence. The revised decision will need to address the issues raised by GLD or policy colleagues in order sufficiently to address the legal challenge. You should seek further advice from the chief or deputy chief caseworker (CCW / DCCW) if necessary.

New evidence

New evidence should only be accepted in support of reconsideration if instructed by the court or agreed in conjunction with GLD, Domestic Violence Policy team, or the Administrative Review team. Agreement to accept new evidence and consider this as part of the original application must also be agreed by the CCW / DCCW.

If it is agreed that new evidence should be considered (for example, it is common for those cases at litigation to submit new evidence, such as Multi-agency risk assessment conference (MARAC) reports, medical assessments, family court orders or further police reports) the new decision will need to address the new evidence raised, as well as that originally submitted. You should seek further advice from the CCW / DCCW if necessary.

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Curtailment

This page tells you what additional action you must take when you refuse an application made on the basis of domestic violence.

You must consider curtailment when you refuse an application from a person whose relationship has broken down, who is not able to prove their relationship broke down as a result of domestic violence and who has over one month leave to remain or enter in the UK as a:

- spouse
- civil partner
- same-sex partner
- unmarried partner

This is because they now cease to meet the rules under which they were granted leave to enter or remain in the UK.

If the applicant has been given leave under the destitute domestic violence (DDV) concession, leave is for 3 months only. The applicant will therefore become an overstayer if the domestic violence application is refused.

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