

Affordability fee waiver: overseas Human Rights-based applications (Article 8)

Version 1.0

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About this guidance

This guidance tells you how to consider applications for a fee waiver from overseas. This applies to those who are going on to make a specified human rights application and where to require payment of the fee before deciding the application would be incompatible with a person's rights under Article 8 of the European Convention on Human Rights (ECHR).

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 Family 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 1.0**
- published for Home Office staff on **16 June 2022**

Changes from last version of this guidance

This is new guidance.

The application process for making a fee waiver request

The immigration application process for an overseas fee waiver must be submitted online using the digital (online) request form.

It is important to note that a fee waiver application is not an immigration or nationality decision, which means the outcome of a fee waiver application should not be taken as an indicator on the outcome of a subsequent immigration or nationality application. It is also not a barrier to entry into the UK.

Online applicants granted a fee waiver will receive a token to use when completing their application allowing them to proceed without paying the fee. Online applicants without a fee waiver will have to submit the relevant fee in order to resume with their application to enter the United Kingdom. Tokens can only be used in relation to the named individual for whom the waiver request was granted, otherwise the token will be rejected as invalid.

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Summary

This guidance explains which applicants are eligible for a fee waiver and the circumstances in which they will qualify for a fee waiver.

Fee waivers can be granted to those making a specified human rights application, where to require payment of the fee would be incompatible with a person's rights under the European Convention on Human Rights (ECHR).

Consideration

A fee waiver must be granted if the applicant and sponsor are assessed and found either:

- to credibly demonstrate they cannot afford the fee
- that their income is not sufficient to meet their child's needs

The primary consideration on whether someone is eligible for a fee waiver is an **affordability test** to assess whether the applicant and sponsor has credibly demonstrated that they **cannot afford the fee**. This applies when the applicant and sponsor do not have sufficient funds at their disposal, after meeting their essential living needs, to pay the fee.

Fee waivers should be granted if the applicant and sponsor have credibly demonstrated that they **meet the affordability test**.

The need to **safeguard and promote the welfare of a child in the UK** should be a primary consideration in deciding any claim. This means careful consideration needs to be given as to whether the applicant and sponsor are unable to meet the needs of a child and whether being required to pay the fee would deprive the child of having these needs met. The same approach should be applied to children not in the UK but who may be affected by the payment of the fee as per **MM (Lebanon) v SSHD [2017] UKSC 10** paras 46 and 91.

Evidence

In completing the fee waiver request form, the applicant and sponsor must provide details and supporting evidence for both their own financial circumstances and those of any individual on whom the applicant is dependent for financial support. It is the responsibility of the applicant and sponsor to provide a full account as to their financial circumstances, and to demonstrate that those who are supporting them are reasonably unable to provide funding to support the payment of the fee. It is ultimately at the caseworker's discretion as to whether these considerations have been adequately demonstrated.

Evidential flexibility should only be applied to an application for a fee waiver in exceptional circumstances, where the caseworker is satisfied that there is clear and

compelling evidence that the individual will not be able to afford the fee or if there is a compelling reason why the evidence cannot be provided.

Each case should still be considered on its own individual merits, and the onus is on the applicant to demonstrate that they qualify for a fee waiver.

The fee waiver can be rejected for a range of reasons, including if the applicant has:

- not provided reliable information about their circumstances
- intentionally disposed of funds
- been purchasing items within their income but outside of what is essential or spending excessively
- sufficient savings to pay the fee and/or income in excess of their essential needs (whether being spent or not) which shows they can afford the fee
- not taken reasonable steps to ensure they have sufficient funds to pay a foreseeable fee

When applying for a fee waiver the applicant and sponsor will be asked to provide details of their financial circumstances. This will typically be in the form of statements covering the 6-month period prior to the date of application for all bank or building society accounts they hold, and a full breakdown of their monthly income and expenditure at the time of application.

Evidence should be provided where a charity or local authority is providing support, particularly if it is claimed that such support cannot continue.

The total amount to be paid by an applicant and sponsor for the application must be considered when a fee waiver request is made. This includes both the immigration application fee and the Immigration Health Surcharge (IHS) combined. Fee waivers are also available for applicants who are able to pay the immigration fee but who are unable to pay all, or only part, of the IHS.

This is a brief summary, please refer to the complete guidance below before deciding an application.

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Applicants eligible for a fee waiver

Eligible applicants are those making certain specified human rights applications where to require payment of the fee before deciding the application would be incompatible with a person's rights under Article 8 of the European Convention on Human Rights (ECHR).

This guidance applies to the following types of application:

- Paragraphs 276U and 276AA (partner or child of a member of HM Forces)
- Paragraphs 276AD and 276AG (partner or child of a member of HM Forces) where the sponsor:
 - is a foreign or Commonwealth member of HM Forces
 - has at least 4 years' reckonable service in HM Forces at the date of application
- Part 8 of these Rules (family members) where the sponsor:
 - is present and settled in the UK
 - has refugee or humanitarian protection status in the UK, but not under paragraphs 319AA to 319J (points-based system (PBS) dependents), paragraphs (281-283), (sponsor granted settlement as a PBS Migrant)
- Part 4 or Part 7 of Appendix Armed Forces (partner or child of a member of HM Forces) where:
 - the sponsor is a British citizen or has at least 4 years' reckonable service in HM Forces at the date of application
- Appendix FM (family members)

Applicants will only be granted a fee waiver on the basis of their Article 8 ECHR rights in cases where the underlying human rights claim on which they rely forms a substantive basis of their application. This will not be the case where, for example, Article 8 is mentioned in passing as part of an application which is primarily made on another basis.

The courts have made plain that the 'strength and force' of the underlying human rights claim is relevant when deciding whether it is appropriate to grant a fee waiver.

If a fee waiver request is not made on the basis of any of the specified applications listed above or where the substantive basis for the claim is not human rights, a fee waiver should not be considered. In these circumstances the applicant should be told that their application is not eligible for a fee waiver and that they must pay the relevant specified fee in order to have their application considered.

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Affordability

Affordability definition

The applicant and sponsor are considered unable to pay the fee when they do not have sufficient funds at their disposal to pay the required fee after meeting their essential living needs, and continuing to meet any child's essential needs, such as housing and food. This is the primary assessment for whether a fee waiver should be granted.

Assessing affordability

The affordability test seeks to assess the amount of income and savings available once accommodation and essential living needs for the applicant, sponsor and any dependants have been met.

The total amount of resource available to the applicant and sponsor must be considered, including any savings the individual or individuals may have. This should be applied to the total amount required by the applicant and sponsor to pay for the applicant's application and the applications of any dependants.

In addition to assessing the applicant, an assessment of the sponsor's ability to pay the fee is undertaken as the sponsor has a financial relationship with the applicant directly pertaining to the applicant coming to the UK.

When assessing a fee waiver application and whether the applicant or sponsor cannot afford to pay the fee, consideration must be given to all the financial circumstances of the applicant and the sponsor, to include whether:

- the applicant has an urgent need to travel to the UK and, if not, whether the applicant and sponsor could reasonably be expected to save for the fee in the coming months. If it is considered that the applicant and sponsor do have sufficient amounts of surplus income to save for the fee in the next few months, the applicant and sponsor should be advised to make efforts to save for the fee before coming to the UK
- an applicant and sponsor are having their, and any dependant's, accommodation and essential living needs met by others but are still in a situation where they can credibly demonstrate they cannot afford the fee - this could be because support is provided by the applicant's and sponsor's family and friends, a charity or NGO, or a local authority or through support provided by their home country's government
- the applicant and sponsor have any savings, or made reasonable efforts to save for the fee across a reasonable amount of time in the past 6 months - this is to ensure that only those who genuinely cannot afford the fee or have not had the ability to save for the foreseeable fee qualify for a fee waiver
- the applicant and sponsor have spent in excess of their essential living needs

The onus on demonstrating that a fee cannot be afforded lies with the applicant and sponsor. They must provide **clear and compelling evidence that they are unable to afford the fee. If both the applicant and sponsor have credibly demonstrated that they meet the affordability test then a fee waiver should be granted.**

Using the information provided, the application needs to be addressed using the questions set out in the **Relevant questions in assessing affordability section** (pages 13 to 15) as a guide, considering the ability of the applicant and the sponsor to pay the fee.

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Family units and ‘partial’ fee waivers

One or more family members who are dependants on an application can be granted a fee waiver. An applicant can complete a fee waiver request form for the relevant individual dependent family members, or by the main applicant stating that **they can pay the fee for their application (and possibly for some dependants) but are unable to pay the fee for all of their dependants**. In these circumstances, the main applicant will be asked to specify which dependants are applying for a fee waiver and which are not. **However, it is not possible for part of the immigration fee to be waived and part of the fee to be paid for individual applicants.**

Applicants should complete the online form and submit documentary evidence of the financial circumstances of the household as detailed in the online form. This could be evidence from the main applicant, their partner (if any), sponsor and any other adult with whom the main applicant lives and from whom they receive financial support. Financial circumstances of all dependants and details of all public benefits that they are claiming should also be included.

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Assessing a fee waiver

Applicants for a fee waiver under this guidance must be seeking Entry Clearance in one of the specified human rights routes set out above and have a substantive basis for being considered for a grant of such leave.

A fee waiver must be granted if the applicant and sponsor are assessed and found either:

- to credibly demonstrate they cannot afford the fee
- their income is not sufficient to meet their child's needs

Financial values must be provided in pounds sterling. If a value has been provided another currency, the caseworker should use the website Oanda to convert the currency to pounds sterling using the current exchange rate.

Evidential flexibility

Evidential flexibility is a principle which allows the decision maker to decide a case without requiring all the evidence or information set out on the application form.

However, this is only likely to be applicable in exceptional circumstances. For example, if the additional missing evidence is unnecessary because the other evidence provided is clear and compelling, or if there is a compelling reason why the evidence cannot be provided, then evidential flexibility should be applied.

The onus is on the applicant and sponsor to provide sufficient evidence to satisfy the decision maker that a fee waiver should be granted, but there will be some cases where providing evidence is more difficult than in others.

If you are satisfied that the applicant and sponsor have provided clear and compelling evidence as to their circumstances and that, without a fee waiver, they will not be able to apply for leave to remain, then evidential flexibility can be applied. **If you are unsure, please refer to an Entry Clearance Manager before applying evidential flexibility.**

In exceptional circumstances, an application may be accepted if an applicant does not complete every section of the relevant application form. Make an assessment based on the information provided to determine if it provides a clear and compelling basis for the decision to be made. It will normally be necessary to have all relevant bank statements to make a decision.

Each case should still be considered on its own individual merits in line with the current guidance. If further evidence is required, further enquiries may be made, especially where the applicant has provided minimal or no evidence in their application and the information is not sufficient to make an informed decision, but it remains the responsibility of the applicant to sufficiently evidence their claimed

financial circumstances, or to provide a credible explanation of why such evidence is not available.

If you believe the applicant may qualify for a fee waiver in circumstances where all requested documentary evidence has not been provided but remain unsure, please refer to a senior caseworker before applying evidential flexibility.

Evidential language requirements

Where any specified documents provided are not in English or Welsh, the applicant must provide the document in the original language and a full translation that can be independently verified by the Entry Clearance Officer, Immigration Officer or the Secretary of State. The translation must be dated and include:

- confirmation that it is an accurate translation of the document
- the full name and signature of the translator or an authorised official of the translation company
- the translator or translation company's contact details
- if the applicant is applying for leave to remain or indefinite leave to remain, certification by a qualified translator and details of the translator or translation company's credentials

Relevant questions in assessing affordability

The applicant and the sponsor should be assessed in the same way, with caseworkers using the below questions as a guide. It would be sensible for the caseworker to assess a UK-based sponsor first as the evidence is likely to be easier to assess than an overseas applicant.

The sponsor

The questions below apply to the applicant's sponsor only.

1. Has the sponsor stated that they cannot afford the fee on behalf of the applicant?
2. If travel to the UK is not urgent is it reasonable to expect the sponsor to make attempts to save in order to be able to afford the fee? What steps have been taken by the sponsor to save for the visa application fee? If this is not the case the sponsor should be asked to provide an explanation about their ability to save. If travel is urgent the sponsor should provide an explanation and evidence as to why travel cannot be deferred to enable sufficient time to save for the fee.
3. Does the sponsor have responsibility for their own finances or is responsibility assumed by another person or persons? If so, who assumes responsibility?
4. Does the sponsor pay for their accommodation? If not, who does?
5. How does the sponsor meet their essential living needs? (i.e. do they pay for them/are they donated? If so, by whom?)

6. What sources of income does the sponsor have? This includes all sources of income including that of their partner/spouse or income provided to them by any adult the sponsor lives with.
 7. Has the sponsor provided evidence of sources of income, including details of all bank accounts or other assets such as bonds or investments that they and their partner/spouse hold? (If not, these details must be requested.) This also applies to any savings or investments that may be held for them by another adult that they live with.
 8. Does the sponsor have surplus income, excluding accommodation and essential living needs, that could be used to pay the fee or to save for the fee in the near future?
 9. Has the sponsor made any non-essential and excessive purchases, such as money spent on holidays or luxury items? Do the bank statements and other financial evidence demonstrate that the sponsor has sufficient savings to pay the fee?
- 10.** Is the information provided, even if not complete, sufficient to indicate that evidential flexibility, as described above, should be applied?

The applicant

The questions below apply to the applicant only.

11. Has the applicant stated that they cannot afford the fee?
12. If travel to the UK is not urgent is it reasonable to expect the applicant to make attempts to save in order to be able to afford the fee? What steps have been taken by the applicant to save for the visa application fee? If this is not the case the applicant should be asked to provide an explanation about their ability to save. If travel is urgent the applicant should provide an explanation and evidence as to why travel cannot be deferred to enable sufficient time to save for the fee.
13. Does the applicant have responsibility for their own finances or is responsibility assumed by another person or persons?? If so, who assumes responsibility?
14. Does the applicant pay for their accommodation? If not, who does?
15. How does the applicant meet their essential living needs? (such as do they pay for them/are they donated? If so, by whom?)
16. What sources of income does the applicant have? This includes all sources of income including that of their partner, sponsor or provided to them by any adult the applicant or sponsor lives with.
17. Has the applicant provided evidence of sources of income, including details of all bank accounts or other assets such as bonds or investments that they, their partner or sponsor hold? (If not, these details must be requested) This also applies to any savings or investments that may be held for them by another adult that they live with.
18. Does the applicant have surplus income, excluding accommodation and essential living needs, that could be used to pay the fee or to save for the fee in the near future?
19. Has the applicant made any non-essential and excessive purchases, such as money spent on holidays or luxury items? Do the bank statements and other financial evidence demonstrate that the applicant has sufficient savings to pay the fee?

20. How is the applicant meeting the cost of travel to the UK?
21. Is the information provided, even if not complete, sufficient to indicate that evidential flexibility, as described above, should be applied?
22. Is the applicant or sponsor financially dependent on someone who can afford to pay the fee?

Saving for the fee

An applicant and sponsor should not be expected to take clear financial risks in saving for the fee, such as cancelling insurance policies or not paying housing costs such as rent in order to save for the fee, and caseworkers are not expected to have a detailed understanding of the financial options available to applicants, for example whether an applicant or sponsor should remortgage their property in order to raise money to pay the fee. **However, if it is clear that there is sufficient income to save for the fee over a reasonable amount of time, then a caseworker may decide that saving for the fee is attainable.**

In addition when looking at the future ability to save, a caseworker will need to consider whether saving over a long period of time, for example 2 years, is reasonable. A caseworker may reasonably feel this is an excessive period of time. However a caseworker may feel a much shorter period of time such as 6 months is reasonable if travel to the UK is not urgent.

A reasonable and discretionary approach should be taken when considering whether sufficient actions have been taken, to date, to save for the fee by both applicant and sponsor over a reasonable amount of time.

For example if it is clear that the applicant and sponsor have had a reasonable amount of disposable income from the evidence provided but cannot adequately explain why they have not saved for the fee over recent months the caseworker may reasonably decide that insufficient efforts have been made to save for the fee. As a guideline a caseworker should look at the applicant's and sponsor's ability to have saved in a period of at least 6 months immediately before the date of the fee waiver application.

Those with a **zero hours contract** or a contract similar to this in principle and whose income is not guaranteed, should be assessed by considering the amount of regular income earned in the 6 months preceding the application.

Surplus income is assessed as income after accommodation and essential living needs have been met. This includes housing or accommodation and utilities, food, clothing, toiletries, non-prescription medication and household cleaning items.

It would also include the costs of travel and communication to enable the supported persons to maintain interpersonal relationships and access a reasonable level of social, cultural and religious life. In regards to sponsors who will very likely be in the UK, a broad breakdown of these essential living needs and the weekly cost associated with them can be found in [the latest report on review of cash allowance paid to asylum seekers](#). See also the letter from the Minister for Immigration Compliance and the Courts to Chief Executives of Local Authorities dated 8 June

2020 which sets out a new weekly rate from
<https://static1.squarespace.com/static/5e79d8e733732027022479bb/t/5ee75fd7dd4fcc49482efd6a/1592221655440/08.06.20+Chief+Executives+letter+-+asylum+support+rate+increase.pdf>

These essential living needs and costs are a guide and more broadly caseworkers should consider whether the costs explained by the applicant and sponsor are reasonable. Applicants and sponsors should not be spending excessively on items that are clearly not essential for their living needs.

Taking into account the above, if it is concluded that either insufficient efforts have been made to save for the fee or if the applicant's need to travel to the UK is not urgent and they and the sponsor could save for the fee in the coming months the caseworker can reject the fee waiver application on the grounds that the affordability test has not been met.

Considering whether travel is urgent.

If it is clear that the need for the applicant to travel to the UK is urgent then the caseworker need not consider whether the applicant can defer travel to the UK in order for them or the sponsor to save sufficient funds to pay the fee.

Caseworkers should take a reasonable approach, applying their discretion, when deciding whether an applicant's need to travel to the UK is urgent.

For example if the applicant's partner in the UK was facing serious difficulties and required the applicants urgent support, such as where medical problems had resulted in the partner being unable to go about their lives in a safe and reasonable manner, a caseworker may reasonably consider this as an urgent reason to need to get to the UK.

The applicant's income is not sufficient to meet a child's needs

Although the needs of children may implicitly have been considered in earlier stages of the request for a fee waiver, this part addresses them directly.

The duty in section 55 of the Borders, Citizenship and Immigration Act 2009 to have regard to the need to safeguard and promote the welfare of a child in the UK means that consideration of the child's best interests, which can also be expressed as the child's wellbeing, must be a primary consideration in carrying out immigration functions that affect them. This means careful consideration needs to be given as to whether by paying the fee, the applicant and sponsor are unable to meet the needs of a child.

Caseworkers need to consider on a case-by-case basis whether the impact on the child would be significant and also whether it would be disproportionate when considering this against the public interest of funding the broader functions of the immigration system. For example, if by paying the fee a child may not be able to continue an additional activity such as sport lessons that occur outside of school, and there is no evidence provided that this would cause the child

particular harm to their wellbeing, the caseworker may feel that this is not significant or disproportionate, therefore the fee should be paid. However, if removal of the sport lessons would particularly harm the wellbeing of the child, the caseworker may feel their removal would be significant and disproportionate, therefore a fee waiver should be granted. **Taking this into account, if clear evidence is provided by the applicant and sponsor, that by paying the fee the needs of a child will not be met, then a fee waiver should be granted. This applies whether a child is within the UK or abroad.**

When considering a situation where both the parent and child are abroad due consideration must be given as to whether the child's welfare would be at risk by the parent travelling to the UK ahead of the child in order to be in the UK for the child to join them. Our section 55 duty potentially may only be met by the parent and child travelling to the UK together.

This applies to both the applicant and the sponsor. For example if the applicant cannot afford the fee as it would jeopardise the welfare of a child but the sponsor can afford the fee, then a fee waiver would not be granted. If payment of the fee would cause the welfare of a child, under the care of either the sponsor or the applicant, to be at risk then a fee waiver would be granted. If the child is under the care of BOTH the applicant and the sponsor and payment of the fee by both applicant and sponsor will put the welfare of the child at risk then a fee waiver should be granted.

The following questions, in addition to the earlier questions, are relevant to assessing if the request should be granted because the applicant and sponsor are faced with:

- meeting the needs of a child or children, and are unable to do so on account of their low income
- being required to find the amount necessary for the fee would deprive the child of having these needs met

It is also important to understand if the child is supported only by one parent or by both.

Questions to consider when assessing an application in relation to children:

1. Do the children live with one parent, both parents, or a legal guardian who is not their parent?
2. Who provides support? One parent, both parents, or a legal guardian who is not their parent?
3. Have the absent parent(s) ever provided support? If so, could they reasonably provide support in this case?
4. What impact will paying the fees have, given the parent's income, on the ability of the child to enjoy or maintain full participation in school activities?
5. If it will have an impact, which are the activities in which the child cannot participate (private lessons and activities not provided by the school are not included unless part of a plan approved by the school)?
6. Does the child have further needs based on a protected characteristic, such as extra travel costs through participating in a faith or other centre providing for

children and young people, or does the child have needs based on making adjustments for a disability?

If the applicant and sponsor are the parents of the child and the sponsor is based in the UK it would be prudent to assess the impact on the child's welfare by considering the sponsors financial situation first as this will likely be easier to establish. If it is clear that by the sponsor paying the fee the child's welfare will be at risk, then move on to assess the applicants financial situation before making a decision.

The purpose of this consideration is to assess whether a fee waiver rejection would have a disproportionate impact on the child's wellbeing or best interests.

The question is not whether a fee waiver would make more money available to a parent that may then be spent on a child. It is whether paying the fee would lead to a disproportionate impact on the child in terms of experiencing a lower level of wellbeing than they currently enjoy, being deprived of something that contributes to their wellbeing, or not having access to a specific item or items of recognised benefit.

Grounds for rejection of a fee waiver request

The fee waiver request may be rejected if the applicant or sponsor has not provided reliable information about availability of accommodation, provision of essential living needs, income level and outgoings, and overall financial circumstances.

It may be rejected if it is reasonable to conclude that the applicant or sponsor has intentionally disposed of funds, for instance, by voluntarily giving or loaning funds to a third party.

It may also be rejected if the applicant or sponsor has been purchasing items that are within their income but outside of what is considered as essential living needs and the evidence is that they are not taking reasonable and proportionate steps to ensure that they have sufficient funds to pay a foreseeable fee.

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Assessing information provided

Considering documentary evidence

The assessment of whether the applicant qualifies for a fee waiver will be made on their own individual circumstances and those of any dependent family members. This also applies to the sponsor.

The applicant must provide sufficient relevant documentation to evidence their need for a fee waiver, including detailed evidence as to their and their sponsor's financial circumstances.

For example, caseworkers should normally expect to see information and evidence relating to the applicant's and sponsor's income, their accommodation, the type and adequacy of accommodation, the amount of their rent/mortgage or of their contribution towards this, and their outgoings in terms of spending on things like food and utility bills. This information should be supported by independent evidence, such as their pay slips, bank statements, tenancy agreement and utility bills. The nature of the evidence provided will vary depending on the individual circumstances of the applicant, but the caseworker should expect to see evidence appropriate to the circumstances being claimed. It is likely that assessing information from the sponsor, who will very likely be living in the UK will be easier than an applicant who is overseas. Caseworkers will need to be satisfied that the evidence from overseas is adequate and clearly demonstrates the applicant's ability to afford/not afford the fee.

If the applicant and or sponsor is being supported by family or friends, by central or local government or a registered charity, **the caseworker should expect to see corroborating documentary evidence confirming provision of support, particularly from charities and government authorities, which details the nature and amount of the support provided.** This can include an explanation as to why support will not be continuing. For friends and families this may be more difficult, so an assessment should be made on the credibility of the account provided by the applicant.

In all cases evidence must be up to date. Documents dating back more than a few months may be useful in establishing how the person's finances have changed over time, but those that confirm the applicant's current circumstances and finances will clearly have greater relevance.

If there is some evidence that support from a registered charity may be being provided, but there is insufficient detail to make a decision, the caseworker should contact the charity to request more detail.

Where the applicant or sponsor states that relevant documentary evidence cannot be provided, the caseworker will need to be satisfied that the person's account for why this evidence is unavailable and the circumstances are as they claim, by making an assessment of their credibility. The applicant and sponsor should be able to provide information as to how their financial position has

changed over time, and may still be able to provide some evidence, depending on the nature of their circumstances, such as bank statements, or an eviction notice, or written testimonies from people previously or currently providing them with support.

The applicant and sponsor will need to establish any physical or mental disability (or that of a dependent family member) by means of independent documentary evidence, such as a letter from a hospital consultant. If the applicant/sponsor (or a dependent family member) has a physical or mental disability, this does not itself determine the outcome of the application, other than insofar as it affects the applicant's/sponsor's financial circumstances and ability to pay the fee. Where the caseworker believes that the issue of disability may be material to the decision on the fee waiver request and there is insufficient information in this respect on which to base their decision, they may invite the applicant to submit further information or evidence.

If there is evidence that the applicant or sponsor has a disability and may need additional support to present their request for a fee waiver clearly, the caseworker can signpost them to other agencies who may be able to assist, such as [Citizens Advice](#).

Timeframe for assessing the request

No specific service standards apply to the assessment of whether the applicant qualifies for a fee waiver. However, **caseworkers must make reasonable efforts to decide such requests promptly**, especially those involving a child or an applicant who is disabled or otherwise in **vulnerable circumstances**.

UK based sponsors in receipt of asylum support

A UK based sponsor may have been granted asylum support under the [Immigration and Asylum Act 1999](#) if they are destitute. However, once they are in receipt of this support, their accommodation and other essential living needs are met and so they are no longer destitute. They may still be able to afford the fee. They will not be able to rely solely on the fact that they are in receipt of asylum support if there is evidence that they have additional assets or income.

UK-based sponsors in receipt of local authority support

A UK based sponsor may be receiving support from a local authority, for example under [section 17 of the Children Act 1989](#). The local authority will have conducted their own assessment of the individuals needs before making a decision to grant support and those needs will generally involve or include destitution.

Such a person may pass the affordability test, even though they are being provided with accommodation and essential living needs by the local authority as long as it is clear, by way of evidence (particularly based on evidence from the local authority), that they meet the criteria in this guidance.

However, the individual will not be able to rely solely on the fact that they are in receipt of local authority support if there is evidence that they have additional assets or income or if support is being provided for social care reasons which do not include preventing destitution.

If there is some evidence that local authority support may be being provided, but there is still insufficient detail to make a decision, the caseworker should contact the local authority to request more detail.

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Assessing income and assets

The following must be taken into account and applies to both the applicant and the sponsor:

- income:
 - from employment or self-employment
 - from non-employment sources
 - from their spouse or partner (as well as any other adult with whom the applicant and sponsor live and from whom they receive financial support) or parents from employment or other sources
 - from government support received by them or their spouse or partner (as well as any other adult with whom the applicant and sponsor live and from whom they receive financial support) or parents
 - from other family or friends
- assets:
 - cash
 - money held in bank and building society accounts (including non-UK based accounts), including accounts belonging to the spouse or partner (as well as any other adult with whom the applicant and sponsor live and from whom they receive financial support), parents or children
 - investments, including any investments belonging to the spouse or partner (as well as any other adult with whom the applicant and sponsor live and from whom they receive financial support), parents or children
 - land or property, particularly any property that is not their current secure accommodation
 - goods held for the purpose of a trade or other business

The following items need not be declared but it is expected that expenditure on them will be reflected in the financial statements provided:

- cars or other vehicles
- other personal possessions, such as mobile phones, computers

Checks may be undertaken with agencies such as HM Revenue & Customs, the Department for Work and Pensions and Equifax and overseas equivalents to verify information provided by the applicant with regard to their income and finances (see Document verification guidance).

Intentional disposal of funds

Caseworkers should consider whether the applicant and sponsor has intentionally disposed of funds. This could include circumstances where the applicant, sponsor or their dependants are:

- providing support or loans to others without any detail as to how these are being applied
- voluntarily giving funds away to a third party

- paying debts before they are required to do so or paying more in response to a debt than is required
- buying a personal possession that is clearly not essential to their living needs.
- spending extravagantly or excessively

For instance, if a sponsor was in possession of sufficient funds for their support when they applied for a visa to come to the UK, but at a subsequent further leave to remain stage presents themselves as unable to afford the fee, claiming to have used all their funds and to have not been able to replenish them, then an explanation is needed as to why this has happened.

Similarly, those applicants with significant fluctuations in income should be expected to account for this and to provide an explanation of how payments for regular outgoings are maintained despite these fluctuations.

Applicants and sponsors who intentionally deprive themselves of capital in order to avoid paying an application fee should normally be rejected a fee waiver on the basis that they may be able to recover their funds (see [Assets](#)).

Employment and self-employment income

Applicants must provide full details of any employment, including how much and how often they are paid. They should include evidence such as pay slips, tax returns, details of their own business if they are self-employed for example invoices.

Welfare benefits and government support

If an applicant or sponsor are in receipt of welfare benefits or other government financial support, then this support should be taken into consideration as income when assessing eligibility for a fee waiver.

Assessing joint income and assets with a spouse or partner or child and parent

Where an applicant or sponsor has a spouse or partner, their joint income and assets should be taken into account. Where the applicant is a child, the joint income of their parents should be taken into account.

Assets

Assets can be overseas or in the UK.

Applicants and sponsors may be able to raise funds by selling an asset.

An asset could be property or land held in the UK or abroad. It could be a second car or a car that will not be needed as the applicant is coming to the UK. It could be an investment or cash held in a bank account. This is not an exhaustive list.

Caseworkers will need to consider on a case-by-case basis whether it is reasonable, on the basis that an asset has been recently acquired or is not being used, or of any other value to the applicant and sponsor, for it to be an item that counts against the grant of a fee waiver.

If a secondary applicant, dependent or family member has recently acquired an asset in their name this may indicate the intentional disposal of funds by the main applicant(s) and should be scrutinised.

The value of an asset must be the value that applies at the time the decision is taken on the application for a fee waiver.

If an asset can be sold to release funds, the 'current market value' is the price a willing buyer would pay for that asset.

The value of an asset may be reduced as a result of the expense incurred in selling it, such as a fee payable in respect of the sale of shares. However, expenses of sale will vary and should be assessed on a case-by-case basis.

The value of an asset may be reduced because a third party has a right to the released funds, either in their entirety or in part, for example where a mortgaged property is sold. The caseworker should reduce the current market or surrender value of the asset accordingly.

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Granting the fee waiver request

Decision makers are required to take into account the whole of the amount to be paid by an applicant when a fee waiver request is made. The whole of the amount means the immigration application fee and the Immigration Health Surcharge (IHS) combined.

Where an applicant can pay the whole of the immigration fee but none, or only part, of the IHS, the immigration fee will be required, and the waiver will be applied to the IHS. If the applicant is unable to pay the fee, the IHS will be waived automatically.

If an applicant is granted a fee waiver, they will be issued with a token to be used when applying for Entry Clearance online. This application should be submitted within 28 calendar days of the actual date of the fee waiver decision and followed by the submission of biometrics at a Visa Application Centre (VAC). Failure to do this could result in the token no longer being valid and a new fee waiver application may be required.

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Rejecting the fee waiver request

After the caseworker is not satisfied the applicant qualifies for a fee waiver then:

- they should normally be advised that they do not qualify for a fee waiver within 14 calendar days - in order to have their immigration application considered, the applicant would need to apply with the specified fee or make a new application for a fee waiver

Applicants who do not respond to requests for further evidence

If an applicant has provided minimal or no evidence in their application, and the information provided is not sufficient to make an informed decision, **their application can be rejected if after a further request to submit further information it still has not been provided.** 14 calendar days should be allowed for further information requested. In exceptional circumstances, where it is clear an applicant needs more time to submit evidence, it may be necessary to make an additional request or to provide more time for the evidence to be provided. But this should only be in exceptional circumstances, such as victims of domestic abuse or if the applicant is homeless. **Applicants should be told in this correspondence that if they fail to provide additional information, their application will be rejected.**

Part payment rejections

A fee waiver request will be decided in relation to the whole of the fee for the individual making the request. Thus, it is possible within a family application for some individual requests to be granted and others not. But it is not possible in respect of any one individual applicant for part of the fee to be waived.

Requests for reconsideration

A fee waiver decision is not subject to a reconsideration request and has no right of appeal as it is not an immigration decision. A decision regarding the fee waiver application will be made on the basis of the information set out in their application and any supplementary information about their circumstances which they provide in support of their application. It is open for an applicant to make a further request for a fee waiver by way of a new fee waiver application.

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