



Home Office

STATEMENT OF INTENT: FAMILY MIGRATION

June 2012

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Introduction and overview of changes

INTRODUCTION

1. In July 2012, the Government will make changes to the Immigration Rules for family migration as part of its programme of reform of the migration routes. This Statement of Intent explains the changes that will be made, principally in respect of those of non-European Economic Area (non-EEA) nationality applying for leave to enter or remain in the UK on the basis of their family relationship with a British citizen or a person settled in the UK. In 2010, family migration accounted for approximately 18 per cent of all non-EU immigration to the UK – around 54,000 people out of 300,000. The changes will be laid before Parliament shortly and are expected to come into force on 9 July 2012.
2. The Government has already made changes to the Immigration Rules for work, study, work to settlement and visitor routes, in summary as follows:
 - **Tier 1:** closure of Tier 1 (General) and Tier 1 (Post-Study Work); expansion of routes for entrepreneurs and investors; creation of the Exceptional Talent and Graduate Entrepreneur routes.
 - **Tier 2:** limit on numbers of Tier 2 (General) migrants; new rules on intra-company transfers; minimum skills level of NQF4, rising to NQF6 from 14 June 2012; changes to the Resident Labour Market Test; minimum English language requirement of B1 for Tier 2 (General); maximum period of stay for those entering Tier 2 (General) after April 2011 of six years, with a 'cooling off period' of 12 months before any further Tier 2 leave.
 - **New settlement rules for Tiers 1 and 2:** migrants to meet the same pay criteria at settlement as apply at the further leave to remain stage; to be clear of unspent criminal convictions; requirement to pass the Life in the UK test; no settlement for intra-company transferees. From 2016, we will require Tier 2 (General) and sportsperson migrants applying for settlement to be paid at least £35,000 per annum or the appropriate rate for their job, whichever is higher, with some exemptions for PhD and shortage occupations.
 - **Tier 4:** various changes to the sponsorship regime for education providers, English language ability of students, entitlements of students to work and to sponsor dependants; rules restricting extended periods of study.
 - **Tier 5:** certain Government Authorised Exchange schemes (intern/work experience/youth exchange type programmes) are now restricted to 12 months.
 - **Overseas Domestic Workers:** restrictions on entry and limitations on stay for those entering under these routes; a new package of protections to minimise the possibility of abusive relationships.
 - **Visitors:** a new route for Prospective Entrepreneurs with ability to switch into the Tier 1 Entrepreneur route; a new route for Permitted Paid Engagements, to allow a small group of professionals, artists, entertainers and sportspersons entry to undertake short-term paid engagements for up to one month.
3. Throughout this Statement of Intent, 'partner' generally means fiancé(e), proposed civil partner, spouse, civil partner, unmarried partner or same sex partner, unless otherwise stated or the context otherwise requires.

OVERVIEW OF RULE CHANGES COMING INTO EFFECT IN JULY 2012

4. During 2011, the Government consulted on proposed reforms to family migration and on how the qualified nature of Article 8 of the European Convention on Human Rights (ECHR: the right to respect for private and family life) should operate in immigration cases.¹ The consultation generated 5,046 responses and a report giving further details of these responses has been published on the Home Office website.
5. The independent Migration Advisory Committee also consulted on the level at which the proposed minimum income threshold for sponsoring family migrants should be set. The Committee's report on the minimum income threshold is available on the UK Border Agency website.²
6. The Government has now decided on the changes it will make further to those consultations. In summary, they are as follows.
7. **First, we shall end the situation where those claiming the right to enter or remain in the UK on the basis of ECHR Article 8 – the right to respect for private and family life – do so essentially without regard to the Immigration Rules. The new rules will reflect fully the factors which can weigh for or against an Article 8 claim. They will set proportionate requirements that reflect, as a matter of public policy, the Government's and Parliament's view of how individual rights to respect for private or family life should be qualified in the public interest to safeguard the economic well-being of the UK by controlling immigration and to protect the public from foreign criminals. This will mean that failure to meet the requirements of the rules will normally mean failure to establish an Article 8 claim to enter or remain in the UK, and no grant of leave on that basis.**
8. The Immigration Rules will reflect the UK Border Agency's duty under section 55 of the Borders, Citizenship and Immigration Act 2009 to have regard to the need to safeguard and promote the welfare – or 'best interests' – of children who are in the UK. The rules will set clear thresholds for the impact of an applicant's criminality on the scope for them to be granted leave to enter the UK on the basis of their family life or leave to remain in the UK on the basis of their family or private life. The rules will also reflect the fact that family life established when the parties knew one or both of them lacked a valid basis of stay in the UK carries less weight under the case law of the European Court of Human Rights.³
9. In particular:
 - Only in exceptional circumstances will family life, the best interests of a child (even though always a primary consideration) or private life outweigh criminality and the public interest in seeing the foreign national criminal deported where they have received a custodial sentence of at least four years.

¹ www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/consultations/family-migration/consultation

² www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/workingwithus/mac/family-migration-route/family-migration-route

³ Rodrigues da Silva, Hoogkamer v Netherlands (2007) 44 EHRR 729

- Deportation will normally be proportionate where the foreign national criminal has received a custodial sentence of at least 12 months and less than four years, or has received a custodial sentence of less than 12 months and, in the view of the Secretary of State, their offending has caused serious harm or they are a persistent offender who shows a particular disregard for the law. Deportation will not be proportionate if:
 - they have a genuine and subsisting relationship with a partner in the UK (who is a British citizen, settled in the UK or in the UK with refugee leave or humanitarian protection), **and** they have lived here with valid leave continuously for at least the last 15 years (excluding any period of imprisonment) **and** there are insurmountable obstacles to family life with that partner continuing overseas; or
 - they have a genuine and subsisting parental relationship with a British citizen child or a child who has lived in the UK for at least the last seven years, **and** it would be not be reasonable to expect the child to leave the UK with the foreign national criminal **and** there is no other family member who is able to care for the child in the UK; or
 - they have been continuously resident in the UK for at least the last 20 years (excluding any period of imprisonment) and they have no social, cultural or family ties with their country of origin, **or** they are aged under 25 years and have spent at least half of their life residing continuously in the UK (excluding any period of imprisonment) and they have no social, cultural or family ties with their country of origin.

10. With these changes and the others set out in this Statement of Intent, the Immigration Rules will comprehensively reform the approach taken towards ECHR Article 8 in immigration cases. The Immigration Rules will for the first time reflect the views of the Government and Parliament as to how Article 8 should, as a matter of public policy, be qualified in the public interest in order to safeguard the economic well-being of the UK by controlling immigration and to protect the public from foreign criminals.

11. The Immigration Rules will reflect all the factors which, under current statutes and case law, can weigh in favour of an Article 8 claim, e.g. a child's best interests, or against an Article 8 claim, e.g. criminality and poor immigration history. The Courts will continue to determine individual cases according to the law but, in doing so, they will be reviewing decisions taken under Immigration Rules which expressly reflect Article 8. If an applicant fails to meet the requirements of the new Immigration Rules, it should only be in genuinely exceptional circumstances that refusing them leave and removing them from the UK would breach Article 8.

12. In future, whether an applicant makes an application under the family Immigration Rules, or Article 8 is considered under an asylum application, or Article 8 is raised in the appeals or enforcement process, the applicant will be expected to meet the requirements of the Immigration Rules in order to be granted leave on Article 8 grounds.

13. If an applicant makes an application under the family Immigration Rules, on the correct application form and paying the relevant application fee, and meets all the requirements at every stage – entry (including the rules on switching between migration routes in the

UK⁴), further leave to remain and indefinite leave to remain – they will be able to reach settlement in five years (granted in two periods of 30 months, with a third application for indefinite leave to remain).

14. If an applicant cannot make an application for the five year route (e.g. because they cannot meet the rules on switching between migration routes in the UK), they can still make an application under the family Immigration Rules, on the correct application form and paying the relevant application fee, and be granted leave if they can establish an Article 8 claim under the rules, e.g. on the basis of a child's best interests. As they cannot meet the requirements of the five year family route, they will have a longer route to settlement: 10 years (granted in four periods of 30 months, with a fifth application for indefinite leave to remain).⁵
15. A person who does not meet the requirements of the Immigration Rules will no longer be considered for Discretionary Leave outside the rules on Article 8 grounds. A grant of Discretionary Leave provides automatic access to public funds and places the person in a better position than those who meet the rules. In future, if they do not qualify for leave under the rules, or for leave outside the rules on a genuinely exceptional basis, they will not receive any form of leave and will be expected to leave the UK.
16. **Second, in defining the basis on which a person can enter or remain in the UK on the basis of their family life, our approach under the new Immigration Rules will ensure that there is a clear focus on whether the relationship is genuine, that the sponsor can properly support their partner and any dependants financially, and that the partner is able to integrate into British society.**
17. In particular:
 - We will set a minimum income threshold of £18,600 to sponsor the settlement in the UK of a non-EEA partner. There will be a higher threshold to sponsor a child under the age of 18 before the partner reaches settlement: £22,400 for one child in addition to the partner and an additional £2,400 for each further child. The relevant minimum income threshold will apply at every application stage: entry clearance/leave to remain, further leave to remain and indefinite leave to remain (settlement).
 - We will publish new guidance setting out a list of factors associated with genuine and non-genuine relationships, as an objective basis for casework.
 - The minimum probationary period for settlement for a non-EEA spouse, civil partner, unmarried partner or same sex partner will be five years, to test the genuineness of the relationship.
 - We will abolish immediate settlement on arrival in the UK for the non-EEA spouse, civil partner, unmarried partner or same sex partner where a couple have been living together for at least four years overseas. It is not fair that some migrant partners, who may never have been to the UK before or made any tax or National Insurance contribution, should get immediate settlement and full access to the welfare system.

⁴ In order to bring consistency to the migration routes, from 9 July 2012 applications under the five year family route will be refused if the applicant has overstayed their previous leave by more than 28 days. There will be safeguards to ensure that the application of this rule is fair and proportionate.

⁵ Once on the 10 year route, if the applicant overstays by more than 28 days, they will have broken their continuous leave and have to restart the route if they continue to qualify for it.

- Reflecting the significant NHS and social care costs to which such cases can give rise, non-EEA adult dependent relatives will only be able to settle in the UK if they can demonstrate that, as a result of age, illness or disability, they require a level of long-term personal care that can only be provided in the UK by their relative here and without recourse to public funds. The route will be limited to those applying from overseas.
- From October 2013, all applicants for settlement will be required to pass the Life in the UK test **and** present an English language speaking and listening qualification at B1 level or above, unless they are exempt from the requirement to do so. Until October 2013, applicants for settlement, including partners of British citizens and settled persons, will be required to meet the current knowledge of life and language criteria, by passing the Life in the UK test or an English for Speakers of Other Languages (ESOL) course using Citizenship materials.
- The requirements for settlement of a five year probationary period (on a route to settlement), and (from October 2013) to pass the Life in the UK test and present an English language speaking and listening qualification at B1 level or above, will also be applied to the partners of migrants with a route to settlement under the Points Based System.
- Applicants for settlement currently required to take the Life in the UK test will from October 2013 be required additionally to present an English language speaking and listening qualification at B1 level or above.

18. **Appendix A** summarises the key changes to the route for spouses, civil partners, unmarried partners and same sex partners.

19. The 2011 family migration consultation also consulted on whether the full right of appeal should be retained for the refusal of a visa to visit a family member in the UK. In the light of the consultation, the Government has decided that it should not. The Crime and Courts Bill, published on 11 May 2012, contains provision to abolish the full right of appeal.⁶ A limited right of appeal will remain on human rights and race discrimination grounds. Subject to Parliamentary approval and Royal Assent, this provision is expected to be implemented by 2014.

20. In the meantime, subject to Parliamentary approval, new appeal regulations, to be laid before Parliament in June 2012 for implementation in July 2012, will exclude the applicant's uncle, aunt, nephew, niece or first cousin from the categories of family member which apply for appeal purposes. They will also exclude from the full right of appeal an applicant whose sponsor does not have settled, refugee or humanitarian protection status in the UK. All those who are excluded from the full right of appeal by these changes will still be able to apply to come to the UK to visit their family member here and no changes are being made to the rules governing who can qualify for entry on that basis.

⁶ <http://services.parliament.uk/bills/2012-13/crimeandcourts.html>

APPLICATION OF THE NEW RULES

21. The changes set out in this Statement of Intent will for the most part come into effect on 9 July 2012 for new applications made on or after that date to enter or remain in the UK on the basis of family life, or remain in the UK on the basis of private life.
22. Some changes will come into effect at different times and subject in some cases to transitional arrangements: the details are set out later in this Statement of Intent.
23. A partner, child or adult dependent relative who has been granted, or who has applied for, leave to enter or remain in the UK on the family route (or a partner of a migrant with leave under the Points Based System) before 9 July 2012 will remain subject to the rules in force prior to that date. They will be able to reach settlement in the UK (including those granted or who have applied for leave as a fiancé(e) or proposed civil partner) if they qualify for it under the rules in force prior to 9 July 2012, subject to the requirement from October 2013 to pass the Life in the UK test and to present an English language speaking and listening qualification at B1 level or above to qualify for settlement.
24. The necessary changes to the Immigration Rules will be laid before Parliament shortly and are expected to come into force on 9 July 2012. The UK Border Agency will publish guidance associated with the new requirements. In the meantime, this Statement of Intent provides information on how we expect the new arrangements will operate, but it should not be seen as a definitive account of the requirements that will apply in the future. The definitive version will be set out in the Immigration Rules and guidance. All Immigration Rules are subject to review and change and applicants must meet the rules in place at the point of application.
25. References in this Statement of Intent to the UK Border Agency should be read as encompassing Border Force.
26. The Government will review the impact of the changes set out in this Statement of Intent and, if necessary, make further changes in order to meet its objectives of reforming the immigration system and reducing net migration to sustainable levels.

Article 8 of the European Convention on Human Rights

27. Everyone has a right under ECHR Article 8 to respect for their private and family life, but it is a qualified right.⁷ Article 8 itself provides that it can be lawful to interfere with the exercise of that right where it is in the public interest to do so and where the interference is proportionate to the public interest being pursued. In the immigration context, this means where in particular it is necessary and proportionate for public safety or to safeguard the economic well-being of the UK.
28. It has become increasingly clear that the Immigration Rules do not properly embody the qualified right afforded by Article 8. The current requirements of the rules do not adequately reflect the factors which can weigh in favour of a person's Article 8 claim, e.g. a child's best interests, or against, e.g. criminality and poor immigration history. These factors are currently considered separately from the rules, both by the UK Border Agency and the Courts.
29. Family life applications are first considered by the UK Border Agency under the rules and, if the application does not meet the requirements of the rules, the UK Border Agency then considers whether the decision is compatible with Article 8. If the UK Border Agency thinks that the decision is not compatible with Article 8, or the Courts find that to be the case, leave is granted outside the rules. This approach has detracted from clear, consistent, predictable and transparent decision-making.
30. The lack of a clear public policy framework has also effectively left the Courts to develop public policy, e.g. as to what constitutes adequate maintenance for family migrants, through case law.
31. The new Immigration Rules will unify consideration under the rules and Article 8, by defining the basis on which a person can enter or remain in the UK on the basis of their family or private life. They will have to meet clear, transparent requirements on the face of the rules, e.g. that they have no significant criminality, are in a genuine relationship, and meet the minimum income threshold and English language requirements. These requirements are proportionate because there is a strong rationale and evidence base, including in the Migration Advisory Committee's report on the income threshold, for why they serve the public interest.
32. Family life established when the parties knew one or both of them lacked a valid basis of stay in the UK carries less weight under Strasbourg case law. The impact of this is reflected in the new Immigration Rules, for example in the scope for an applicant without extant leave to qualify for a 10 year rather than five year route to settlement on the basis of their family life.
33. The requirements of the new Immigration Rules will themselves reflect the Government's and Parliament's view of how, as a matter of public policy, the balance should be struck between the right to respect for private and family life and the public interest in safeguarding the economic well-being of the UK by controlling immigration and in public safety by protecting the public from foreign criminals.

⁷ Article 8(1) Everyone has the right to respect for his private and family life, his home and his correspondence. Article 8 (2) There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

34. Exceptionally for changes to the Immigration Rules, Parliament will be invited to debate and approve the Government's approach to Article 8 and the weight the new Immigration Rules attach to the public interest under Article 8(2), in order to provide the Courts with the clearest possible statement of public policy on these issues. This is consistent with some non-binding comments made by the Courts in recent Article 8 case law⁸, and with the House of Lords' observation in *Huang* in 2007 that immigration lacks a clear framework representing "the competing interests" of individual rights and the wider public interest in Article 8, because the immigration rules "are not the product of active debate in Parliament".⁹
35. The Courts will continue to determine individual cases according to the law but, in doing so, they will be reviewing decisions taken under Immigration Rules which properly reflect the qualified nature of Article 8 and the Government's and Parliament's view of how, as a matter of public policy, that qualification should operate in practice. If an applicant fails to meet the requirements of the new rules, it should only be in genuinely exceptional circumstances that refusing them leave and removing them from the UK would be a breach of Article 8.
36. The current version of the Immigration Rules was first laid in 1994. In setting out, for Parliamentary debate and endorsement, requirements which proportionately qualify the right to respect for private and family life, the Government is filling a vacuum which has existed since 2000, when the Human Rights Act 1998 came into force. At that time, paragraph 2 of the rules was amended to require all UK Border Agency staff to carry out their duties in compliance with the provisions of the Human Rights Act. However, there was no substantive change to the family life part of the Rules to reflect any consideration of proportionality under Article 8, and there has been no attempt since to align the rules with developing Article 8 case law.¹⁰ This vacuum was maintained with the passing of the UK Borders Act 2007: in providing in section 33 that automatic deportation must not breach a person's ECHR rights, no indication was given in that Act or in the rules as to how the proportionality balance should then be struck between individual Article 8 rights and the public interest in deportation.
37. Instead, previous Secretaries of State have asserted that if the Courts think that the rules produce disproportionate results in a particular case, the Courts should themselves decide the proportionate outcome on the facts before them rather than hold that the rule itself is incompatible with Article 8. The Courts have accepted this invitation to determine proportionality on a case-by-case basis and do not – indeed cannot – give due weight systematically to the Government's and Parliament's view of where the balance should be struck, because they do not know what that view is.
38. The new Immigration Rules are intended to fill this public policy vacuum by setting out the Secretary of State's position on proportionality and to meet the democratic deficit by seeking Parliament's agreement to her policy. The rules will state how the balance should be struck between the public interest and individual rights, taking into account relevant case law, and thereby provide for a consistent and fair decision-making process. Therefore, if the rules are proportionate, a decision taken in accordance with the Rules will, other than in exceptional cases, be compatible with Article 8.

⁸ For example *AP (Trinidad & Tobago)* [2011] EWCA Civ 551; *Gurung* [2012] EWCA

⁹ *Huang* [2007] UKHL 11

¹⁰ For example *Chikwamba* [2008] UKHL; *EB (Kosovo)* [2008] UKHL 41

39. This does not mean that the Secretary of State and Parliament have the only say on what is proportionate. The Courts have a very clear role in determining the proportionality of the requirements in the Immigration Rules. It is for the State to demonstrate that measures that interfere with private and family life are proportionate. But a system of rules setting out what is or is not proportionate, outside of exceptional circumstances, is compatible with individual rights, as has been accepted by the Courts in other spheres, e.g. housing law. Where the rules have explicitly taken into account proportionality, the role of the Courts should shift from reviewing the proportionality of individual administrative decisions to reviewing the proportionality of the rules.
40. The starting point of such a review will be that Parliament has decided how the balance should be struck. Although Parliament's view is subject to review by the Courts, it should be accorded the deference due to a democratic legislature. If proportionality has already been demonstrated at a general level, it need not, and should not, be re-determined in every individual case.
41. In future, whether an applicant makes an application under the new Immigration Rules for family members, or Article 8 is considered under an asylum application, or Article 8 is raised in the appeals or enforcement process, the applicant will be expected to meet the requirements of the Immigration Rules to be granted leave on the basis of their family life. For example, a Points Based System applicant who wishes to rely on their family life to remain in the UK will need to make a separate application under the new Immigration Rules for family members, on the correct form and paying the relevant application fee.
42. If an applicant applies under the new Immigration Rules for family members, on the correct form and paying the relevant application fee, and meets all the requirements of the five year family route at every stage – entry (including the rules on switching between migration routes in the UK), further leave to remain and indefinite leave to remain – they will be able to reach settlement in five years.
43. A person who does not meet the requirements of the rules will no longer be considered for Discretionary Leave outside the Immigration Rules on Article 8 grounds. A grant of Discretionary Leave provides automatic access to public funds, which currently places them in a better position than those who meet the rules. In future, if they do not qualify for leave under the rules, or outside the rules on a genuinely exceptional basis, they will not receive any form of leave and will be expected to leave the UK.
44. The new Immigration Rules will provide a basis on which a migrant who cannot meet the income threshold and other requirements of the five year family route to settlement can remain in the UK on the basis of their family life where it would breach Article 8 to remove them.
45. Such a case can apply for leave, on the correct form and paying the relevant application fee, on a 10 year route to settlement. (Where an appeal is, or further submissions are, allowed on Article 8 grounds alone, the applicant will enter the 10 year route on an uncharged basis). Once on the route, all applicants will have to make an application, on the correct form and paying the relevant application fee, at each further leave stage and for indefinite leave to remain. The 10 year route will consist of four periods of 30 months' leave, plus a fifth application for indefinite leave to remain.
46. This means that, if they meet the requirements, an applicant on this route will be able to qualify for indefinite leave to remain at the same point as those who can apply on the basis of long residence under the existing 10 year rule for those with continuous leave (paragraph 276B(i)(a) of the Immigration Rules).
47. To qualify for indefinite leave to remain after 10 years, an applicant must:

- Have no unspent convictions; and
 - Demonstrate a knowledge of language and life in the UK by passing the Life in the UK test and by presenting a speaking and listening qualification at intermediate level (Common European Framework of Reference level B1) or above.
48. If an applicant fails only the knowledge of language and life in the UK requirement at the indefinite leave to remain stage, they will be granted further leave of 30 months to allow them more time to evidence they meet the requirement, at which point they can immediately apply for indefinite leave to remain if they continue to meet the other requirements.
49. Applicants for settlement will be exempt from the knowledge of language and life in the UK requirement if they are aged 65 or over, or have a physical or mental condition that prevents them from meeting the requirement.
50. An applicant for further leave or indefinite leave to remain on the five year family route who fails the new financial requirement will be granted further leave on the 10 year route if they qualify for it on Article 8 grounds. If they applied within 28 days of the expiry of their extant leave, their time on the five year route will count towards the 10 year route. If an applicant for further leave or indefinite leave to remain on the five year route has overstayed by more than 28 days, they will have broken their continuous leave and their time on that route will not count towards the 10 year route if they qualify for it.
51. An applicant without extant leave will be able to qualify for the 10 year route if there is a reason, e.g. a child's best interests, why their removal from the UK would breach Article 8. The period of 28 days from the expiry of extant leave within which an applicant must apply to enter the 5 year family route will not apply to applications to enter the 10 year route.
52. Once on the 10 year route, an applicant for further leave or indefinite leave to remain who has overstayed by more than 28 days will have broken their continuous leave and will have to start the route again if they continue to qualify.
53. Migrants on the 10 year route will have permission to work and will not have automatic access to public funds.

BEST INTERESTS OF A CHILD

54. As well as setting out how the balance should be struck when considering proportionality under Article 8, the new Immigration Rules also reflect the duty on the Secretary of State to ensure that immigration decisions are made having regard to the need to safeguard and promote the welfare of children who are in the UK.¹¹ The assessment of the "best interests of the child" is intrinsic to the proportionality assessment under Article 8, and has therefore also been incorporated into the Immigration Rules.
55. In assessing the best interests of the child, the question in immigration cases where a child would have to leave the UK as a consequence of the decision to remove their parent, is whether it is reasonable to expect the child to live in another country. The new Immigration Rules set out a clear framework for weighing the best interests of the child against the wider public interest in removal cases. The best interests of the child will normally be met by remaining with their parents and returning with them to the country of

¹¹ Section 55 of the Borders, Citizenship and Immigration Act 2009

origin, subject to considerations such as long residence in the UK and any exceptional factors.

56. The Immigration Rules will deal clearly with how to treat a British citizen child or a foreign national child in cases where we would otherwise intend to remove their parent(s) and how countervailing factors should weigh in the decision. There are some circumstances where a child may be allowed to stay on a temporary basis on best interests grounds, e.g. for health or education reasons. The key test for a non-British citizen child remaining on a permanent basis is the length of residence in the UK of the child – which the Immigration Rules will set at at least the last seven years, subject to countervailing factors. The changes are designed to bring consistency and transparency to decision-making.
57. While the best interests of the child are a primary consideration, under some circumstances criminality will be a countervailing factor which outweighs the child's best interests: the criminality thresholds set out in the section below on criminality will apply.

PRIVATE LIFE

58. The Immigration Rules will provide a basis on which a person without family life can remain in the UK through long residence and social integration in the UK, consistent with the approach of Strasbourg and UK case law in this area. Those here lawfully for 10 years will continue to be able to qualify for settlement if they meet the requirements (under paragraph 276B(i)(a) of the Immigration Rules). The current 14 year long residence route to settlement for those in the UK lawfully or unlawfully will be abolished (paragraph 276B(i)(b)).
59. Under the new rules, at least 20 years' continuous residence in the UK, lawfully or unlawfully, will generally be required before a person can apply to start a 10 year route to settlement in the UK on the basis of the Article 8 right to respect for private life. Anything less than 20 years' continuous residence will generally be insufficient to establish private life to the extent that it would be unlawful to remove the person from the UK. The criminality thresholds set out in the section below on criminality will apply.
60. The Immigration Rules will provide that, for leave to remain on the basis of private life in the UK, the applicant must:
- have resided continuously in the UK for at least 20 years (discounting any period of imprisonment, in this and other cases); or
 - be under the age of 18 years and have resided continuously in the UK for at least seven years; or
 - be aged 18 years or above but under 25 years and have spent at least half their life residing continuously in the UK; or
 - be aged 18 years or above, have resided continuously in the UK for less than 20 years but have no social, cultural or family ties with their country of origin.
61. An applicant for leave to remain in the UK on the basis of private life must apply on the correct form and pay the relevant application fee. If they qualify, they will enter a 10 year route to settlement, consisting of four periods of 30 months' leave to remain, plus a fifth application for indefinite leave to remain, if they qualify for it. Once on the route, applicants will have to make an application, on the correct form and paying the relevant application fee, at each further leave stage and for indefinite leave to remain.

62. To qualify for indefinite leave to remain after 10 years, an applicant must:
- Have no unspent convictions; and
 - Demonstrate a knowledge of language and life in the UK by passing the Life in the UK test and by presenting a speaking and listening qualification at intermediate level (Common European Framework of Reference level B1) or above.
63. If an applicant fails only the knowledge of language and life in the UK requirement at the indefinite leave to remain stage, they will be granted further leave of 30 months to allow them more time to evidence they meet the requirement, at which point they can immediately apply for indefinite leave to remain if they continue to meet the other requirements. Applicants for settlement will be exempt from the knowledge of language and life in the UK requirement if they are aged 65 or over, or have a physical or mental condition that prevents them from meeting the requirement.
64. Once on the 10-year private life route, an applicant for further leave or indefinite leave to remain who has overstayed by more than 28 days will have broken their continuous leave and will have to start the route again if they continue to qualify.

CRIMINALITY

65. The Immigration Rules will set clear thresholds for the impact of an applicant's criminality on the scope for them to be granted leave to enter the UK on the basis of their family life or leave to remain in the UK on the basis of their family or private life. The rules will also reflect the fact that family life established when the parties knew one or both of them lacked a valid basis of stay in the UK carries less weight under the case law of the European Court of Human Rights.¹²
66. This will provide clarity in practice as to how Article 8 issues should be determined in immigration applications, taking account of the very clear public interest in deporting serious criminals. In the UK Borders Act 2007, Parliament set the threshold for automatic deportation at a single custodial sentence of 12 months or more, introducing a duty on the Secretary of State to deport non-EEA nationals where the conditions are met whilst acknowledging an exemption to that duty if removal would breach ECHR rights. The new Immigration Rules will set out the Government's practice in respect of that exemption from automatic deportation as it applies to Article 8.
67. The starting point is that there are some offenders who should almost always be removed because of the seriousness of their crime and the overwhelming public interest in their deportation despite their family or private life in the UK; and some other offenders who should normally be deported, but who may be able to argue in individual cases that their family or private life outweighs the strong public interest in deportation. There are also cases where the level of criminality is below the automatic deportation threshold, but the offending is so harmful or persistent that deportation will normally be proportionate.
68. Under the new Immigration Rules:
- Only in exceptional circumstances will family life, the best interests of a child (even though always a primary consideration) or private life outweigh criminality and the public interest in seeing the person deported where they have received a custodial sentence of at least four years.

¹² Rodrigues da Silva, Hoogkamer v Netherlands (2007) 44 EHRR 729

- Deportation will normally be proportionate where the foreign national criminal has received a custodial sentence of at least 12 months and less than four years, or has received a custodial sentence of less than 12 months and, in the view of the Secretary of State, their offending has caused serious harm or they are a persistent offender who shows a particular disregard for the law. Deportation will not be proportionate if:
 - they have a genuine and subsisting relationship with a partner in the UK (who is a British citizen, settled in the UK or in the UK with refugee leave or humanitarian protection), **and** they have lived here with valid leave continuously for at least the last 15 years (excluding any period of imprisonment) **and** there are insurmountable obstacles to family life with that partner continuing overseas; or
 - they have a genuine and subsisting parental relationship with a British citizen child or a child who has lived in the UK for at least the last seven years, **and** it would be not be reasonable to expect the child to leave the UK with the foreign national criminal **and** there is no other family member who is able to care for the child in the UK; or
 - they have been continuously resident in the UK for at least the last 20 years (excluding any period of imprisonment) and they have no social, cultural or family ties with their country of origin, **or** they are aged under 25 years and have spent at least half of their life residing continuously in the UK (excluding any period of imprisonment) and they have no social, cultural or family ties with their country of origin.

69. The Government believes that a custodial sentence of four years or more represents such a serious level of offending that it will almost always be proportionate to outweigh any family issues, even taking into account that the best interests of a child are a primary consideration. This also accords with the rehabilitation periods in the Rehabilitation of Offenders Act 1974, as amended by the Legal Aid, Sentencing and Punishment of Offenders Act 2012. When this is implemented, a four year custodial sentence will be the point at which an offence can never be spent.

Financial requirement

70. In defining the basis on which a person can enter or remain in the UK on the basis of their family life, our approach under the Immigration Rules will qualify the operation of that right with proportionate requirements that reflect the Government's and Parliament's view of the public interest in safeguarding the economic well-being of the UK.
71. The family migration consultation conducted in 2011 proposed that the level of income for those sponsoring a non-EEA partner should represent what is needed to support them at a reasonable level that helps to ensure that they do not become a burden on the taxpayer and allows sufficient participation in everyday life to facilitate integration.
72. The Migration Advisory Committee was commissioned by the Government to advise on what the minimum income threshold should be for sponsoring a partner and dependants in order to ensure that the sponsor can support them independently without them becoming a burden on the State.
73. The Migration Advisory Committee recommended that the minimum gross annual income for sponsoring a partner, without dependants, should be set at between £18,600 (the level at which in most cases a couple receive no income-related benefits) and £25,700 (the level at which the sponsor is a net contributor to the public finances).¹³
74. The Government has decided to set a minimum gross annual income threshold of £18,600 for a British citizen or settled person to sponsor the settlement in the UK of a non-EEA fiancé(e), proposed civil partner, spouse, civil partner, unmarried partner or same sex partner, to ensure that they are not a burden on the taxpayer and to support their integration. There will be a higher threshold to sponsor a child under the age of 18 before the partner reaches settlement: £22,400 for one child in addition to the partner and an additional £2,400 for each further child. The relevant minimum income level will apply at every application stage: entry clearance/leave to remain, further leave to remain and indefinite leave to remain (settlement).
75. This new financial requirement, which will apply to a grant of six months' leave as a fiancé(e) or proposed civil partner and to the five year route to settlement as a spouse, civil partner, unmarried partner or same sex partner, will replace the existing maintenance requirement for those routes in the Immigration Rules, which under case law¹⁴ operates, after housing costs have been deducted, at the equivalent of Income Support levels. That existing requirement will apply where the applicant is exempt from the new financial requirement because their sponsor is in receipt of a specified disability-related benefit or Carer's Allowance.
76. The new requirement reflects the level of income at which a couple, taking account of the number of children they have, generally cease to be able to access income-related benefits. A person sponsoring the settlement of a partner – or the couple, excluding the migrant partner's employment-related earnings overseas – should have the financial wherewithal to ensure that the couple are not a burden on the taxpayer and have enough to live on to be able to support the migrant partner's participation and integration in British society.

¹³ www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/workingwithus/mac/family-migration-route/family-migration-route

¹⁴ *KA and Others (Pakistan)* [2006] UKAIT 00065

77. The new financial requirement for the family route will not affect those migrants working or studying under the Points Based System who are able and wish to bring a partner to the UK.
78. The Government recognises that £18,600 is not a determinant of a couple's eligibility for income-related benefits in every case. There is no single number which can provide this, but a single threshold provides clarity and simplicity, consistent with a fair, transparent and predictable immigration system. At this level of income, we can be reasonably assured that the sponsor or the couple have sufficient means to support themselves independently and to enable the migrant partner's integration.
79. The Government is not looking to draw up a personal financial balance sheet for each sponsor (outgoings, credit card and other debts, mortgage, etc), but taking £18,600 as a benchmark for financial stability and independence on the part of the sponsor or the couple. We recognise that their circumstances may change over time, so they will be reassessed when the applicant applies for further leave to remain and for indefinite leave to remain (settlement).
80. The Government expects to review the level of the financial requirement (minimum income threshold) annually. In doing so it will take into account the roll-out from October 2013 of Universal Credit, which will replace income-related benefits and Working Tax Credit, as this change may also have an impact on the level at which the financial requirement is set.

KEY OPERATING PRINCIPLES

81. The existing maintenance requirement for partners will be replaced by a financial requirement based in most cases on the sponsor's earnings from employment (or those of the sponsor and applicant where both are in the UK). We will require a minimum gross annual income of £18,600 (or the relevant higher figure where a child or children under the age of 18 are also being sponsored), which can also include the sponsor and applicant's non-employment and pension income and income from certain contributory benefits. There will be scope for cash savings above £16,000 (the level generally disqualifying a person from income-related benefits) to be used to meet all or part of the financial requirement, if they have been held by the sponsor or applicant for at least six months and are under their control.
82. At each stage, the applicant will be able to **meet the financial requirement through one or more of:**
- Income from employment or self-employment of the sponsor (and/or the applicant if they are in the UK with permission to work).
 - Specified non-employment income of the sponsor and/or applicant.
 - State (UK or foreign) or private pension of the sponsor and/or applicant.
 - Any Maternity Allowance and bereavement benefits received in the UK by the sponsor and/or applicant.
 - Cash savings of the sponsor and/or applicant, above £16,000, held by the sponsor and/or applicant for at least six months and under their control.

- Exemption from the financial requirement, where the sponsor is in receipt of a specified disability-related benefit or Carer's Allowance in the UK.

83. The following key principles will govern the operation of the new financial requirement:

- The onus will be on the applicant to demonstrate the financial requirement is met in their case.** Where they have not done so on the basis of the information and documentation they have submitted, the application for the new five year family route will be refused. Entry clearance officers and other caseworkers will not generally be expected to make further enquiries or request further information in an effort to establish whether the financial requirement is met.
- Entry clearance officers and other caseworkers will have discretion to rectify minor errors in an otherwise compliant application,** e.g. where the applicant has made a simple arithmetical error in adding up properly evidenced figures in the application form, or where the application would meet the financial requirement except that a piece of evidence is missing (e.g. one bank statement in a series) and contact with the applicant establishes that this can be submitted quickly. Entry clearance officers and other caseworkers will follow guidance akin to that on evidential flexibility under the Points Based System.
- There will be no casework discretion or flexibility with regard to the level of the financial requirement:** a minimum gross annual income of £18,600 (or the relevant higher figure where a child or children are also being sponsored) is the threshold to be met in all cases through income (and/or the application of cash savings as below). It is a matter of public policy to introduce a financial requirement based on an income threshold for this form of sponsorship, and a threshold means a threshold: it must be clear and consistent in all cases.
- Entry clearance officers and other caseworkers will have discretion to make further enquiries or request further information or evidence if the threshold appears to be met, but where they have concerns about the credibility of the information or evidence submitted and require further information or evidence in order to make a properly evidenced decision on the application.** Entry clearance officers and other caseworkers will be able to discount a document they cannot verify, having taken reasonable steps to do so, as under paragraph 245A(b) of the Immigration Rules for the Points Based System. Entry clearance officers and other caseworkers will be able to refuse the current application (or that at the next leave stage) if they have evidence that the applicant or sponsor has deceived them as to the level and/or source of income, has tried to do so, or has withheld relevant information, e.g. that the cash savings relied upon are a loan. Entry clearance officers and other caseworkers will also be able to refuse an application if they are told by the applicant, or establish, that the applicant's or sponsor's circumstances have changed materially since the point of application, such that the applicant does not meet the requirements.
- We will not take into account the previous, current or prospective employment and earnings, or any job offer, of the migrant applicant at the entry clearance stage.** Employment overseas is no guarantee of finding work in the UK. The family route is not the primary immigration route for a migrant partner coming here with employment: with an appropriate job offer, they can apply under Tier 2 of the Points Based System. Those using the family route to come to the UK must be capable of being independently supported by their sponsor and/or by their joint cash savings or non-employment income.

- f. **Where or once the migrant applicant is in the UK with permission to work, we will take their earnings from employment here into account.** If the applicant is already in the UK with permission to work on another migration route, or once they are here with such permission as a spouse, civil partner, unmarried partner or same sex partner on the family route, it is appropriate that their earnings from employment here should be counted towards the financial requirement. This will apply at the leave to remain, further leave to remain and indefinite leave to remain stages in the UK.
- g. **We will take into account the sponsor and the applicant's non-employment income** (e.g. from rents, interest on savings, dividends from investments), **any State (UK or foreign) or private pension, and any Maternity Allowance and bereavement benefits they receive in the UK.** Any such income can be paid into an account(s) in the name of the sponsor, the applicant or both jointly, held in a regulated financial institution not on the list of excluded institutions under the rules which apply under the Points Based System.
- h. **In respect of paid employment, where the sponsor is in the UK,** they must be in that employment (at the required salary level) at the point of application **and either** have been so continuously for at least the previous six months (at a salary throughout at the level required) **or** have earned the required amount through salaried employment in the 12 months prior to the application. The same applies to counting the applicant's earnings from paid employment where or once they are in the UK with permission to work.
- i. **Where the sponsor is returning to the UK** with the applicant having lived and/or worked abroad, the same financial requirement will have to be met: a minimum gross annual income of £18,600 (or the relevant higher figure where a child or children are also being sponsored). There is no reason why those who have lived and/or worked abroad should get a better deal than sponsors residing, and paying tax, in the UK. However, there will be the flexibility at (j) for sponsors working overseas and returning to work in the UK which enables them some scope to do so without having to leave their partner overseas.
- j. **Where the sponsor has been working overseas and is returning to work in the UK,** there will be scope for them to count a firm, verifiable job offer or signed contract of employment to start work within three months of their return at a salary at the level required to meet the financial requirement. They must **also** demonstrate that **either** they are in employment overseas at the required salary level at the point of application and have been so continuously for at least the previous six months **or** they have earned the required amount through salaried employment in the 12 months prior to the application.
- k. **Cash savings above £16,000, held by the sponsor, the applicant or jointly for at least six months at the point of application and under their control, will be counted using the formula at (l) below against any shortfall against the income threshold.** £16,000 is the level of savings at which a person generally ceases to be eligible for income-related benefits and is therefore consistent with the basis on which the Migration Advisory Committee calculated the income threshold of £18,600. The cash savings must be held in an account(s) in the name of the sponsor, the applicant or both jointly, held in a regulated financial institution not on the list of excluded institutions under the rules which apply under the Points Based System. The applicant must declare the source(s) of the cash savings, which may be a gift from a third party but must not be a loan. The applicant must confirm that the cash

savings are under the control of the sponsor, the applicant or both jointly and theirs to dispose of as they see fit.

- l. **The amount of cash savings above £16,000 can be counted against any shortfall against the £18,600 income threshold (or the relevant higher figure where a child or children are also being sponsored).** This will be done on a basis that **either** multiplies the amount of the shortfall by 2.5 – the probationary period (30 months or 2.5 years) to be served before the applicant has to apply for further limited leave or for indefinite leave to remain – **or**, at the indefinite leave to remain stage, is equal to the amount of the shortfall.

For example, where the sponsor and applicant have no income which may be counted towards the financial requirement, £62,500 in cash savings will be required for the financial requirement to be met at the entry clearance/leave to remain stage or at the further leave stage, i.e. the 'floor' amount of £16,000, plus 2.5 times the shortfall of £18,600. At the indefinite leave to remain stage, the same couple will require £34,600 in cash savings to meet the financial requirement by that means alone, i.e. the 'floor' amount of £16,000, plus the shortfall of £18,600.

- m. **We will not accept promises of support from third parties.** We want the sponsor or the couple to demonstrate sufficient, independent financial standing, with adequate resources under their own control not somebody else's. At (l) above, cash savings above £16,000 now under the sponsor or applicant's control can have originated from a third party, such as a parental gift, but these must be real resources for the couple to use as they see fit, not a loan and not an undertaking that a parent will continue to subsidise the couple or step in with money if they need it. Promises of support from a third party are vulnerable to a change in another person's circumstances or in the sponsor or applicant's relationship with them: that is not the basis for a sustainable system. Accommodation, which is a matter of personal choice (provided it meets the adequacy requirement under the rules, which means that it does not breach the statutory overcrowding definition), can still be provided by a third party.

84. The Immigration Rules will enable an application to be refused where the applicant owes £1,000 or more in unpaid NHS charges.

FINANCIAL REQUIREMENT – CHILDREN

85. Reflecting the education and other costs arising in such cases, there will be a higher financial requirement where the sponsor is sponsoring a child applicant at the same time as the partner, or at any time before the latter reaches settlement. The higher level of income threshold applicable will be determined by the number of children being sponsored at the point of the relevant application.

86. As advised by the Migration Advisory Committee, additional gross annual income of £3,800 will be required for the first child sponsored in addition to the partner and an additional £2,400 for each further child. The financial requirement will therefore be for example:

- 1 child in addition to the partner – £22,400.
- 2 children in addition to the partner – £24,800.
- 3 children in addition to the partner – £27,200.

If the higher financial requirement and other requirements are met, the child or children will be granted leave in line with the migrant partner. If the migrant partner and child or children are applying to come to the UK together, and the higher financial requirement and other requirements are not met, all the applicants will be refused.

87. The higher financial requirement will generally apply to biological children, step-children (in certain circumstances), adopted children (in certain circumstances, including de facto adoptions), and some children coming for the purpose of adoption who are subject to immigration control and applying for limited leave to enter or remain. See Appendix D for details.
88. The higher financial requirement will continue to apply until the migrant partner achieves settlement on the five year family route. This will be the case even if the child turns 18 before the parent qualifies for indefinite leave to remain: the higher level of financial requirement (income threshold) will continue to apply, unless the 18+ year old has been granted immigration status in their own right, e.g. as a student. If they are continuing to attract the application of the higher level of financial requirement, the 18+ year old's income and savings will be permitted to count towards the financial requirement.
89. The new financial requirement will **not** apply to a child who:
- Is a British citizen (including an adopted child who acquires British citizenship);
 - Is an EEA national (except where a non-EEA spouse or partner is being accompanied or joined by an EEA child of a former relationship who does not have a right to be admitted to the UK under the Immigration (EEA) Regulations 2006);
 - Qualifies for indefinite leave to enter; or
 - Qualifies otherwise under Part 8 of the Immigration Rules in a category to which it does not apply. See Appendix D for details.

WAYS OF MEETING THE FINANCIAL REQUIREMENT

90. **Appendix B** summarises the detailed requirements in respect of each way of meeting the new financial requirement and the evidence which must be submitted in support of each.
91. An applicant whose sponsor is in receipt of any of the following disability-related benefits **will be exempt** from the financial requirement in respect of that application stage:
- Disability Living Allowance.
 - Severe Disablement Allowance.
 - Industrial Injuries Disablement Benefit.
 - Attendance Allowance.
 - Carer's Allowance.
92. The applicant will be required to demonstrate that they will be adequately maintained and accommodated without direct recourse to public funds. The new financial requirement will apply at the next application stage if the applicant does not remain exempt from it.
93. The basis for and operation of the new financial requirement will be reviewed in line with the implementation of the Government's welfare reforms. These include the

introduction of Personal Independence Payment from April 2013 and the roll-out of Universal Credit from October 2013. In particular, before April 2013 we will review the treatment under the financial requirement of disabled people and carers, with a view to ensuring that the operation of the financial requirement properly reflects the Government's welfare reforms. We will announce any changes in due course, but an applicant – sponsored by a person in receipt of a disability-related benefit specified above or Carer's Allowance – who will be exempt from the new financial requirement from 9 July 2012 cannot expect that they will necessarily remain exempt from April 2013.

94. The diagram at **Appendix C** summarises the ways of meeting the financial requirement – and the time periods relating to each – according to whether the sponsor is in the UK at the point of application or is returning to the UK with the applicant (to work or not). Appendix C also includes some example scenarios.
95. **Appendix D** summarises the requirements by immigration category.

Genuineness of relationship

96. Family migration must be based on a genuine relationship. There is real concern about people entering into sham marriages to abuse the system and about forced marriages which are a breach of human rights and a form of violence against the victim.
97. When considering whether a partner qualifies for leave to enter or remain or for settlement, entry clearance officers and other caseworkers are required to assess the genuineness of the relationship and make an evidenced decision which is subject to appeal. Decisions on the genuineness of a relationship are taken on a case by case basis taking account of all the circumstances of the application. There is currently limited guidance about how this assessment should be undertaken.
98. Clear guidance will help entry clearance officers and other caseworkers make informed, consistent decisions based on evidence. **Entry clearance officers and other caseworkers will be required to continue to reach a decision on each application on a case by case basis taking account of all the circumstances of each case.** The fact that a case contains one or more of the factors set out in the guidance will **not** necessarily determine the decision: the entry clearance officer or other caseworker will be required to continue to look at the circumstances of the case as a whole.
99. In future any refusal of decision notice will (subject to the need to protect a forced marriage victim unwilling to make a public statement) include a sufficiently detailed explanation of the reason for the refusal, referencing the relevant objective factors and the evidence associated with these. This is intended to assist presenting officers and Immigration Judges at appeal in focusing on the same factual matters.
100. Entry clearance officers and other caseworkers will be required to remain alert and sensitive to the extent to which religious and cultural practices may shape the factors present or absent in a particular case, particularly at the entry clearance/leave to remain stage. For example, couples in arranged marriages may have spent little if any time together prior to the marriage. For many faiths and cultures marriage marks the start of a commitment to a lifelong partnership and not the affirmation of a pre-existing settled partnership. In some cultures it is traditional for household accounts, bills, etc to be in the name of the male head of the household (who could be the male partner or perhaps their father or grandfather).
101. This list of factors associated with genuine and non-genuine relationships will be set out in published UK Border Agency guidance and used in the consideration of partner applications under the Immigration Rules, and of residence document applications from non-EEA partners under the EEA Regulations.
102. In assessing whether a relationship is genuine and subsisting, consideration should be given to the following lists of factors, which are not exhaustive.

FACTORS WHICH MAY BE ASSOCIATED WITH A GENUINE RELATIONSHIP

103. These factors include:
- The couple are in a current, long-term relationship and are able to provide satisfactory evidence of this.
 - The couple have been or are co-habiting and are able to provide satisfactory evidence of this.

- The couple have children together (biological, adopted or step-children) and shared responsibility for them.
- The couple share financial responsibilities, e.g. a joint mortgage/tenancy agreement, a joint bank account and/or joint savings, utility bills in both their names.
- The sponsor and/or applicant have visited the other's home country and family and are able to provide evidence of this. (The fact that an applicant has never visited the UK will not be regarded as a negative factor, but it is a requirement of the Immigration Rules that the couple have met in person).
- The couple, or their families acting on their behalf, have made definite plans concerning the practicalities of the couple living together in the UK. In the case of an arranged marriage, the couple agree with the plans made by their families.

FACTORS WHICH MAY BE ASSOCIATED WITH A NON-GENUINE RELATIONSHIP

104. The factors which **may** prompt additional scrutiny of the application include:

- If the marriage or civil partnership took place in the UK, a report – of a suspected sham marriage or civil partnership – was made by the registration service under section 24 of the Immigration and Asylum Act 1999.
- The applicant or sponsor makes a public statement that their marriage is a sham. An application can be refused on the basis of such a public statement alone.
- The applicant or sponsor makes a public statement (not in confidence) that they have been forced into marriage. An application can be refused on the basis of such a public statement alone.
- A sibling of the sponsor or applicant has been forced into marriage.
- The applicant, sponsor or a family member of either is or has been the subject or respondent of a forced marriage protection order under the Forced Marriage (Civil Protection) Act 1997 or the Forced Marriage etc (Protection and Jurisdiction) (Scotland) Act 1999. An application can be refused on the basis alone of a current order involving the applicant or sponsor.
- There is information from a reliable third party (e.g. the Forced Marriage Unit, police, social services, registration service or a minister of religion) which indicates that the marriage is or may be a sham marriage or a forced marriage. (It may not be possible for this information to be used in any refusal notice). The fact that a third party indicates that in their opinion a marriage, partnership or relationship is genuine must not be afforded any weight.
- The applicant or sponsor does not appear to have the capacity to consent to the marriage, partnership or relationship, e.g. owing to learning difficulties, and independent evidence, e.g. from a social services assessment, has not been provided to confirm that such capacity exists.
- There is evidence of unreasonable restrictions being placed on the applicant or sponsor, e.g. being kept at home by their family, being subject to unreasonable financial restrictions, attempts to prevent the police or other agencies having reasonable, unrestricted access to the applicant or sponsor.

- Failure by the applicant or sponsor to attend an interview, without reasonable explanation, where required to do so to discuss the application or their welfare, or seeking to undermine the ability of the UK Border Agency to arrange an interview, e.g. by unreasonable delaying tactics by the couple or a third party.
- The couple are unable to provide any information about their intended living arrangements in the UK or about the practicalities of the applicant moving to the UK.
- The circumstances of the wedding ceremony or reception held or planned, e.g. few details, no or few guests, and/or no significant family members present.
- The couple are unable to provide accurate personal details about each other (e.g. name, age, nationality, employment, parent's names and place of residence), provide inconsistent evidence, appear to have been coached on information about the other party rather than offer information spontaneously or do not have a shared understanding of the core facts of their relationship, e.g. how and where they met for the first time.
- The couple are unable to communicate with each other in a language understood by them both.
- There is evidence of money having been exchanged for the marriage to be contracted (unless this is part of a dowry).
- There is a lack of appropriate contribution to the responsibilities of the marriage, partnership or relationship, e.g. a lack of shared financial or other domestic responsibilities.
- Matrimonial co-habitation is not maintained (except where one party is legitimately working or studying away from home) or there is no evidence that they have ever co-habited since the marriage.
- The applicant is a qualified medical professional or has worked as a nurse or carer, and the sponsor has a mental or physical impairment which currently requires medical assistance/personal care in their own accommodation.
- The sponsor has previously sponsored another partner to come to or remain in the UK.
- The sponsor has previously been sponsored as partner to come to or remain in the UK (i.e. the sponsor has obtained settlement on this basis) and that marriage, partnership or relationship ended shortly after the sponsor obtained settlement. This excludes circumstances where the sponsor is a bereaved partner, or where the sponsor obtained settlement on the basis of domestic violence perpetrated by their former partner.
- If the sponsor was married to or in a partnership with the applicant at an earlier date, married or formed a partnership with another person and gained settlement in the UK on that basis, and is now sponsoring the original partner to come to or remain in the UK.
- The past history of the sponsor and/or the applicant contains evidence of a previous sham marriage or forced marriage, or of unlawful residence in the UK or elsewhere.

- The applicant has applied for leave to enter or remain in the UK in another category and been refused.

PROBATIONARY PERIOD

105. The probationary period before spouses, civil partners, unmarried partners and same-sex partners can apply for settlement on the family route will be extended from two years to a minimum of five years, as a proportionate means of testing the genuineness of the relationship on the basis of which settlement in the UK is sought. The five year family route will involve two periods of leave of 30 months (in entry clearance cases, an initial period of 33 months will be granted to allow time for the applicant to make the necessary arrangements to travel to the UK), plus a third application for indefinite leave to remain.
106. For the same reason, the partner of a migrant under the Points Based System who wishes to settle with the main applicant will be required to have been in a relationship in the UK with them for at least five years, as well as serving five years on a route to settlement, before they can apply for indefinite leave to remain. Currently they can apply for settlement at the same time as the main applicant, provided they have been living together in the UK for at least two years.
107. Immediate access to indefinite leave to remain on the family route will continue to be available to bereaved partners.
108. Immediate access to indefinite leave to remain on the family route will also continue to be available to victims of domestic violence. The UK Border Agency considers domestic violence applications on a case-by-case basis, taking account of all the available information and all the circumstances of the case, and does not rely solely on official reports as the victim may never have approached the authorities before. Since April 2012, those victims of domestic violence who meet the eligibility criteria have been able to claim welfare benefits while the UK Border Agency considers their application for indefinite leave to remain, helping them where appropriate to leave the family home.

Settlement

109. Settlement – or indefinite leave to remain (ILR) – is permission to remain in the UK without any time restriction on the length of stay. It provides the individual with full access to the welfare system. Settlement is not an entitlement: the basis on which it can be achieved is dependent on immigration category, but overall must reward compliance with the rules, be fair as between different categories of migrant, and promote integration and participation in British society.

COUPLES LIVING TOGETHER OVERSEAS FOR FOUR YEARS OR MORE

110. We will abolish immediate settlement on arrival in the UK for the migrant spouse, civil partner, unmarried partner or same sex partner where a couple have been living together overseas for at least four years and require the migrant partner to complete five years' probation in the UK (granted in two 30-month periods) before they can apply for settlement. In 2010, 2,055 such settlement visas were granted. It is unfair that a migrant partner who may never have been to the UK or made any tax or National Insurance contribution should get immediate settlement and full access to the welfare system.

PRESENCE OF THE SPONSOR AND APPLICANT IN THE UK

111. Settlement is not an entitlement and those who do not make the UK their home and are not cohabiting here as a genuine couple should not expect to obtain settlement in the UK on the basis of their marriage or partnership.

112. The Immigration Rules will require that:

- To demonstrate the genuineness of their relationship, the applicant must satisfy the UK Border Agency at every stage that they and the sponsor **intend to live together permanently in the UK**. In assessing that intention at the further leave and indefinite leave to remain stages, caseworkers may consider the evidence that the applicant and sponsor have been living together permanently in the UK, subject to reasonable separation, e.g. where the sponsor works elsewhere in the UK or overseas for part of the year.
- As now, the **sponsor must remain ordinarily resident** in the UK (broadly, here more of the year than not and subject to UK taxation) and, except where they are returning to the UK with an applicant for entry clearance, they must be **physically present** in the UK at each application stage. The current exemption from this for sponsors who are members of HM Forces or FCO, DFID or British Council staff will be extended to UK Border Agency and other Home Office staff.
- Any time the applicant spends in prison that does not lead to refusal will not count towards the probationary period.

ENGLISH LANGUAGE AND LIFE IN THE UK TEST

113. English language is the corner-stone of integration. Since 2010, the Government has been increasing language requirements across the immigration system, including by introducing in November 2010 a requirement for those applying to enter or remain in the UK as a partner of a British citizen or person settled in the UK to demonstrate that they can speak and understand basic English (Common European Framework of Reference level A1). This requirement will remain for entry as a partner, but it is still possible for some groups to qualify for settlement with only a very limited command of English.

114. From October 2013, **all applicants for settlement** will be required to demonstrate a knowledge of language and life in the UK by passing the Life in the UK test and by presenting a speaking and listening qualification at intermediate level (Common European Framework of Reference level B1) or above. This language requirement, together with a knowledge of the values that underlie British society, will help ensure that those who settle here are able to participate in British life and are better able to gain employment.
115. The speaking and listening qualification must be secure, robust and generally available in the UK. We will consider these criteria over the coming months and will publish details of acceptable speaking and listening qualifications early next year. An applicant who presented, and had accepted, an English language qualification at B1 level or above in connection with a previous application to the UK Border Agency should be able to continue to rely on the qualification as evidence of B1 level speaking and listening skills, provided that no doubts have arisen about its genuineness.
116. If an applicant fails only the knowledge of language and life in the UK requirement at the indefinite leave to remain stage, they will be granted further leave of 30 months to give them more time to meet the requirement, at which point they can immediately apply for indefinite leave to remain if they continue to meet the other requirements. If they remain unable to meet the knowledge of language and life in the UK requirement, they will be able to apply for further leave until they can do so.
117. As now, an applicant for settlement will be exempt from the knowledge of language and life in the UK requirement if they are aged 65 or over, or have a physical or mental condition that prevents them from meeting the requirement. Refugees, those with humanitarian protection, bereaved partners, and victims of domestic violence will continue to be exempt from the knowledge of language and life requirement at the settlement stage.

ADULT DEPENDENT RELATIVES

118. The new Immigration Rules will change the basis on which non-EEA adult dependent relatives can settle in the UK, in view of the significant NHS and social care costs to which these cases can give rise.
119. We will close the route to applicants seeking to switch into it in the UK: anyone coming here to visit a family member (for up to six months) must return home at the end of it. They will only be able to apply for a settlement visa from overseas.
120. The route will be limited to close family aged 18 or over: parents, grandparents, sons, daughters, brothers and sisters. This means that uncles and aunts will be excluded from the route.
121. We will end the routine expectation of settlement in the UK for parents and grandparents aged 65 or over who are financially dependent on a relative here. Non-EEA adult dependent relatives will only be able to settle in the UK if they can demonstrate that, as a result of age, illness or disability, they require a level of long-term personal care that can only be provided in the UK by their relative here and without recourse to public funds.
122. In particular, this will mean:

- The applicant must, as a result of age, illness or disability, require long-term personal care: that is help performing everyday tasks, e.g. washing, dressing and cooking;
- The applicant must be unable, even with the practical and financial help of the sponsor, to obtain the required level of care in the country where they are living because it is not available and there is no person in that country who can reasonably provide it, or because it is not affordable there.
- The entry clearance officer must be satisfied that the applicant will be adequately maintained, accommodated and cared for in the UK by the sponsor without recourse to public funds.

123. This reflects the intended thrust of the current rules applying to parents and grandparents aged under 65 and to all other adult dependent relatives using the route, including those aged 65 or over.

124. The UK sponsor will not be required to meet the new financial requirement of a gross annual income of £18,600 to sponsor an adult dependent relative, who will continue to qualify for immediate settlement in the UK. If the applicant's sponsor is a British citizen or settled in the UK, the applicant must provide an undertaking signed by the sponsor confirming that the applicant will have no recourse to public funds, and that the sponsor will be responsible for their maintenance, accommodation and care without such recourse, for a period of five years from the date the applicant enters the UK.

125. The following evidence will need to be provided in support of an application for leave to enter as an adult dependent relative:

- **Evidence of the family relationship:** Evidence of the relationship between the applicant and the sponsor will need to be provided, e.g. birth or adoption certificates. The entry clearance officer will need to assess whether other evidence is needed.
- **Evidence that, as a result of age, illness or disability, the applicant requires long-term personal care, that is help performing everyday tasks, e.g. washing, dressing and cooking:** Medical evidence that the applicant's physical or mental condition means that they cannot perform everyday tasks. This must be from a doctor or health professional. Under paragraphs 36-39 of the Immigration Rules, entry clearance officers have the power to refer an applicant for medical examination and to require that this be undertaken by a doctor or other health professional on a list approved by the British Embassy or High Commission.
- **Evidence that the applicant, even with the practical and financial help of the sponsor in the UK, is unable to make arrangements for the required level of care to be provided to the applicant in the country where they are living:**
 - (a) evidence that the required level of care is not, or is no longer, available in the country where the applicant lives. This could be from a central or local health authority, a local authority, or a doctor or other health professional. If the required care has been provided through a private arrangement, the applicant must provide details of that arrangement and why it is no longer available.
 - (b) evidence that the required level of care is not, or is no longer, affordable in the country where the applicant lives. If payment was made for arranging this care, the entry clearance officer will ask to see records and an explanation of why this payment cannot continue. If financial support has been provided by the sponsor

or other close family in the UK, the entry clearance officer will ask for an explanation of why this cannot continue or is no longer sufficient to enable the required level of care to be provided.

- **Evidence of adequate maintenance, accommodation and care in the UK:** The applicant must provide a signed undertaking from the sponsor that the sponsor will maintain, accommodate and care for the applicant adequately for five years without recourse to public funds. In addition, the applicant must provide evidence from the sponsor that the sponsor can provide the maintenance, accommodation and care required, in the form of any or all of the following:
 - (a) Original bank statements covering the last six months;
 - (b) Other evidence of income – such as pay slips, income from savings, shares, bonds – covering the last six months;
 - (c) Relevant information on outgoings, e.g. Council Tax, utilities, etc, and on support for anyone else who is dependent on the sponsor;
 - (d) A copy of a mortgage or tenancy agreement showing ownership or occupancy of a property; and
 - (e) Planned care arrangements for the applicant in the UK (which can involve other family members in the UK) and the cost of these (which must be met by the sponsor, without undertakings of third party support).

- **No unspent convictions:** The applicant must not have any unspent convictions in the UK or overseas.

Parents and children

126. The Government has decided that a minimum gross annual income of £18,600 will be required for a British citizen or settled person to sponsor the settlement in the UK of a non-EEA partner, to ensure that they are not a burden on the taxpayer and to support their integration. Reflecting the education and other costs arising in such cases, there will be a higher financial requirement where the sponsor is sponsoring a child applicant at the same time as the partner, or at any time before the latter reaches settlement. The higher level of income threshold applicable will be determined by the number of children being sponsored at the point of the relevant application. The relevant minimum income level will apply at every application stage until the migrant partner qualifies for settlement: entry clearance/leave to remain, further leave to remain and indefinite leave to remain (settlement).

127. As advised by the Migration Advisory Committee, additional gross annual income of £3,800 will be required for the first child sponsored in addition to the partner and an additional £2,400 for each further child. The financial requirement will therefore be for example:

- 1 child in addition to the partner – £22,400.
- 2 children in addition to the partner – £24,800.
- 3 children in addition to the partner – £27,200.

If the higher financial requirement and other requirements are met, the child or children will be granted leave in line with their migrant parent. If the migrant parent and child or children are applying to come to the UK together, and the higher financial requirement and other requirements are not met, all the applicants will be refused.

128. The Immigration Rules will provide or reflect that:

- A British citizen child is not subject to immigration control and is not therefore subject to the financial requirement (income threshold). Where one parent is a British citizen and the other parent is a migrant and the child is a British citizen, the financial requirement (income threshold) will apply to the migrant parent, but not the child.
- On the five year family route, a migrant partner joining, accompanied by or joined by a migrant child will remain subject to the relevant higher level of financial requirement (income threshold) at every stage until the migrant partner has qualified for indefinite leave to remain. The child will continue to get limited leave in line with the parent until they can qualify for indefinite leave to remain once the parent has done so.
- This will be the case even if the child turns 18 before the parent qualifies for indefinite leave to remain: the higher level of financial requirement (income threshold) will continue to apply, unless the 18+ year old has been granted immigration status in their own right, e.g. as a student. If they are continuing to attract the application of the higher level of financial requirement, the 18+ year old's income and savings will be permitted to count towards the financial requirement.
- The sponsorship under the family immigration rules of an EEA child of the migrant partner by a previous relationship with an EEA national will be subject to the higher level of financial requirement (income threshold) if the child does not have a right to be admitted to the UK under the Immigration (EEA) Regulations 2006.

- If the migrant partner qualifies for indefinite leave to remain, they will be able to sponsor a child to settle in the UK after that without having to meet the financial requirement (income threshold). But they will have to demonstrate that (a) they now have 'sole responsibility' for a child who has lived apart from them overseas for a long period; and (b) they will be able to maintain and accommodate the child adequately without recourse to public funds.
- A child joining parents who both have settled status in the UK will not be subject to the financial requirement (income threshold) and will continue to get settlement on arrival (indefinite leave to enter).
- If a couple comprising two persons with settled status in the UK bring a child to the UK with a view to adoption here, the financial requirement (income threshold) will not apply.
- If a settled sponsor/migrant partner couple bring a child to the UK with a view to adoption here, the financial requirement (income threshold) will apply to the child in certain circumstances, in addition to the migrant partner.
- If a settled sponsor/migrant partner couple adopt a child overseas under a system recognised in the UK that child will acquire British citizenship on adoption. They will therefore not be subject to the financial requirement (income threshold).
- Some children will continue to apply under Part of 8 of the Immigration Rules on or after 9 July 2012 and in some of those cases the new financial requirement will not apply. See Appendix D for details.
- A parent or carer exercising sole responsibility for or access rights to a child (under court-ordered or voluntary arrangements) will be able to apply for leave (in periods of 30 months) on a 5 year route to settlement. The parent or carer must be able to speak and understand English at level A1 of the Common European Framework of Reference, and to maintain and accommodate themselves, and any dependants, adequately without recourse to public funds.
- On the 10 year family route, the limited leave period of 30 months will not be shortened if a child in whose best interests the migrant is to remain in the UK will turn 18 before that leave period expires. But, to continue on or complete the route, the migrant parent or carer will have to satisfy the UK Border Agency at the next application stage that, where the child has turned 18, there continues to be a reason why it would breach Article 8 for the migrant parent/carer to be removed from the UK.

Refugee family reunion

129. Special arrangements reflecting our international obligations allow refugees and those granted humanitarian protection in the UK to be joined by existing members of their nuclear family. These are contained in Part 11 of the Immigration Rules (paragraphs 352A-352F1) and will be unaffected by the new financial requirement or other changes set out in this Statement of Intent. Those who enter the UK under these provisions will continue to be granted settlement in line with the refugee or person granted humanitarian protection.
130. The sponsorship by a refugee or person granted humanitarian protection, with limited or indefinite leave to remain in the UK, of a partner with whom they formed a relationship **after** they left the country in which they were resident (their post-flight family), or of an adult dependent relative, is currently subject to the same requirements as the family route and will remain so.
131. The Immigration Rules will provide that:
- Like those with indefinite leave to remain, those with **limited** leave in the UK as a refugee or person with humanitarian protection who wish to sponsor a **post-flight** partner and dependent child or children will continue to do so on an equivalent basis to a settled person. This means that they will be subject to the new family Immigration Rules, including the income threshold and the five year probationary period (after which they can apply for indefinite leave to remain provided their sponsor is settled in the UK). They should not be in a better position to sponsor than a person who is settled in the UK.
 - The criteria that will apply to the sponsorship of all adult dependent relatives will apply to those of refugees and persons with humanitarian protection, but their dependent relatives will continue to get limited leave until their sponsor is granted indefinite leave to remain when they can also apply for settlement.
 - Refugees and persons with humanitarian protection will continue to be able, in exceptional circumstances, to sponsor a child relative, e.g. the child of a dead or displaced brother or sister, and without having to meet the income threshold.

Transitional arrangements

132. Some changes will come into effect at different times and subject, in some cases, to transitional arrangements:

- **A fiancé(e), proposed civil partner, spouse, civil partner, unmarried partner, same sex partner, child or adult dependant with leave to enter or remain in the UK on the family route granted before 9 July 2012 will remain subject to the rules in force prior to that date.** Likewise, those with leave granted before 9 July 2012 as a partner of a migrant with leave under the Points Based System, or as an adult dependant or post-flight family member of a refugee or person granted humanitarian protection in the UK, will also remain subject to the rules in force prior to that date.
- All the above categories will be eligible to apply for settlement in the UK (including those granted leave as a fiancé(e) or proposed civil partner) under the rules in force before 9 July 2012, subject to the requirement below from October 2013 to pass the Life in the UK test and for B1 level English to qualify for settlement. In particular, this means that the new financial requirement (income threshold) and the new minimum probationary period of five years for partners will not apply; the existing maintenance requirement (including for any dependent child accompanying them or who applies to join them in the UK) and the existing two year probationary period will continue to apply to those already on these routes.
- The minimum income threshold for sponsoring the settlement in the UK of a non-EEA fiancé(e), proposed civil partner, spouse, civil partner, unmarried partner, same sex partner or child; the minimum probationary period of five years for settlement for all non-EEA partners; and the changes for non-EEA adult dependent relatives, will apply to all new applications to join the family route made on or after 9 July 2012.
- The requirement for a five year probationary period for settlement in the UK as the partner of a migrant with leave under the Points Based System will apply to all new applicants to enter or remain as such a partner made on or after 9 July 2012.
- The abolition of immediate settlement for migrant partners where a couple have been living together overseas for at least four years will apply to all applications made on or after 9 July 2012, with the exception of applications from those granted limited leave before 9 July 2012 (because they met all the requirements for immediate settlement apart from knowledge of language and life in the UK). That group will continue to be able to apply for immediate settlement as soon as they are able to meet the existing knowledge of language and life in the UK requirement.
- The requirement to pass the Life in the UK test and present an English language speaking and listening qualification at B1 level or above will apply, from October 2013, to all applicants for settlement, unless they are exempt from it. The categories covered by this requirement will include those granted leave to enter or remain on the family route, or as the partner of a migrant under the Points Based System or otherwise with a route to settlement, prior to 9 July 2012 who have not applied for settlement before the date in October 2013 on which the requirement is introduced.
- Main applicants under the Points Based System must already pass the Life in the UK test for settlement. From October 2013, they will also have to present an English language speaking and listening qualification at B1 level or above.

133. The following additional transitional arrangements will apply:

- **Those who, before 9 July 2012, have applied for initial or further leave under the rules in force prior to that date will, if they qualify for it, be granted leave under those rules and will continue to be dealt with under those rules through to indefinite leave to remain if they qualify for it** (including those who have applied for leave as a fiancé(e) or proposed civil partner), subject to the requirement from October 2013 to pass the Life in the UK test and present an English language speaking and listening qualification at B1 level or above to qualify for settlement. The new criminality thresholds will also apply to such cases.
- Those who, before 9 July 2012, have applied for initial or further leave under the rules in force prior to that date, but do not qualify for it, will not be considered under the Discretionary Leave policy. If they do not qualify under the rules applicable to them, their application will be refused. Any fresh application on or after 9 July will be considered under the new rules.
- Those granted leave following an appeal allowed on or after 9 July 2012 against a refusal under the rules in force prior to that date will get leave under those rules. They will continue to be dealt with under those rules through to indefinite leave to remain if they qualify for it, subject to the requirement from October 2013 to pass the Life in the UK test and present an English language speaking and listening qualification at B1 level or above to qualify for settlement. The new criminality thresholds will also apply to such cases.
- Those granted leave following an appeal allowed on or after 9 July 2012 on Article 8 grounds against a refusal under other rules (not family) in force prior to that date will not be granted leave under the Discretionary Leave policy, but will instead be granted 30 months' leave on the new 10 year family route.
- Those who withdraw an appeal against a refusal under the family rules in force prior to 9 July 2012 and reapply will be considered under the new rules.

134. The following additional transitional arrangements will apply:

- Those who, before 9 July 2012, have been granted leave under the Discretionary Leave policy will continue to be dealt with under that policy through to indefinite leave to remain if they qualify for it (normally after two periods of three years' Discretionary Leave), subject to the application of the new criminality thresholds, including in respect of cases awaiting decision on a further period of Discretionary Leave on that date.
- The thresholds in the new Immigration Rules on the impact of criminality on the scope for leave to enter or remain in the UK on the basis of family life will apply in all cases in which the UK Border Agency makes a decision on or after 9 July 2012 under the family rules in force before 9 July 2012, the Discretionary Leave policy or the new family rules, including cases awaiting decision on that date.
- The thresholds in the new Immigration Rules on the impact of criminality on the scope for leave to remain in the UK on the basis of private life will apply in all cases in which the UK Border Agency makes a decision on or after 9 July 2012 under the Discretionary Leave policy or the new private life rules, including cases awaiting decision on that date.

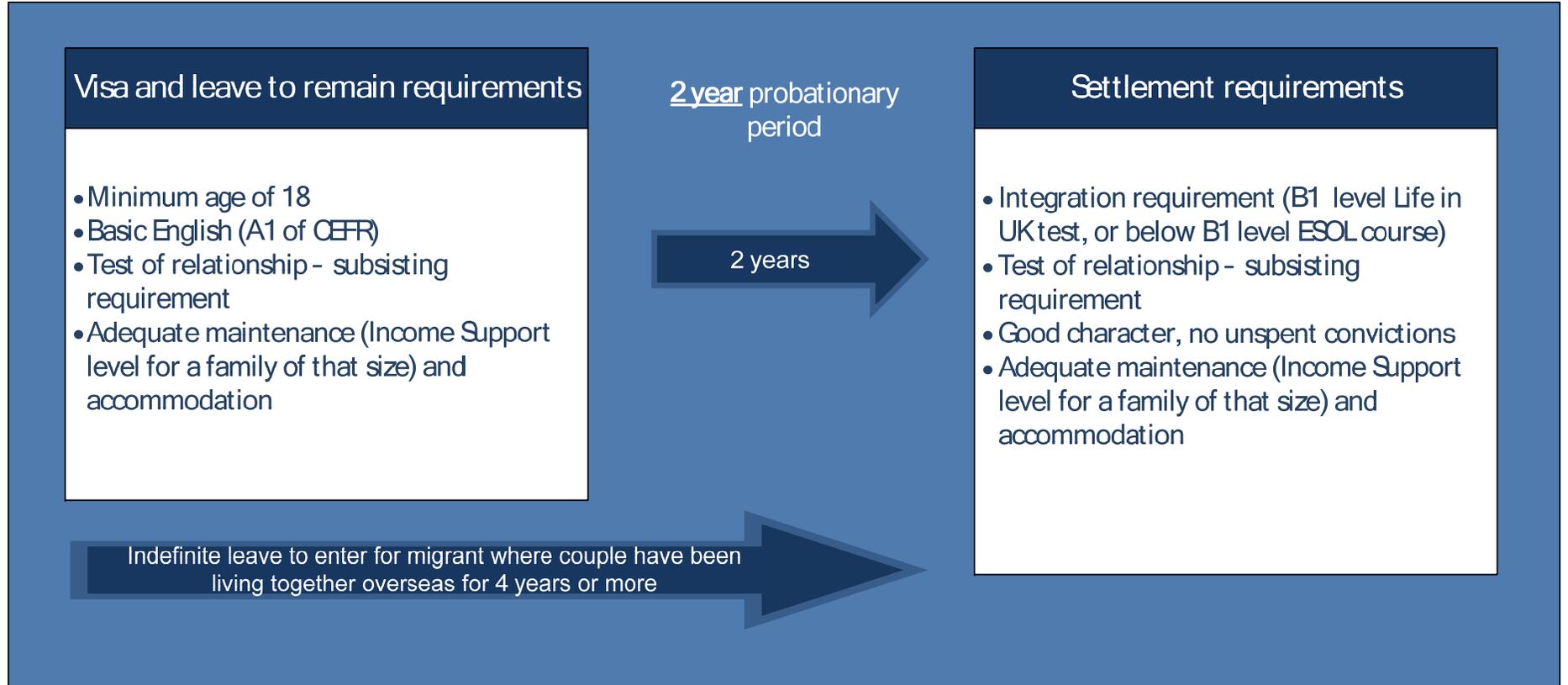
- Paragraph 276B(i)(b) of the Immigration Rules providing for settlement in the UK after 14 years' residence, lawful or unlawful, will be withdrawn from 9 July 2012, with the exception of applications under those provisions awaiting decision on that date (subject to the application of the new criminality thresholds).
- The new Immigration Rules providing that at least 20 years' residence will, subject to criminality and other criteria, generally be necessary to establish a claim to remain in the UK on the basis of private life will apply in all other cases from 9 July 2012.
- Paragraphs 276B(i)(a) of the Immigration Rules allowing those with 10 years' continuous lawful leave in the UK to apply for indefinite leave to remain will continue to operate, subject to the application, from 9 July 2012, of the new criminality thresholds, including in respect of cases awaiting decision on that date, and from October 2013, of the requirement to pass the Life in the UK test and present an English language speaking and listening qualification at B1 level or above to qualify for settlement.

135. A partner or dependant of a British citizen serving in HM Forces will remain subject to the rules in force before 9 July 2012, including in respect of applications on or after that date. This temporary transitional arrangement will ensure that they do not suffer differential treatment by comparison with family members of Foreign and Commonwealth personnel serving in HM Forces who are dealt with under a different part of the Immigration Rules. We will be reviewing the rules affecting dependants of Armed Forces personnel over the coming months with a view to aligning them with the new family migration framework where appropriate. We intend to make any necessary changes by April 2013. From October 2013, adult dependants will need to pass the Life in the UK test and present an English language speaking and listening qualification at B1 level or above to qualify for settlement.

136. The table at **Appendix E** summarises the operation of the transitional provisions.

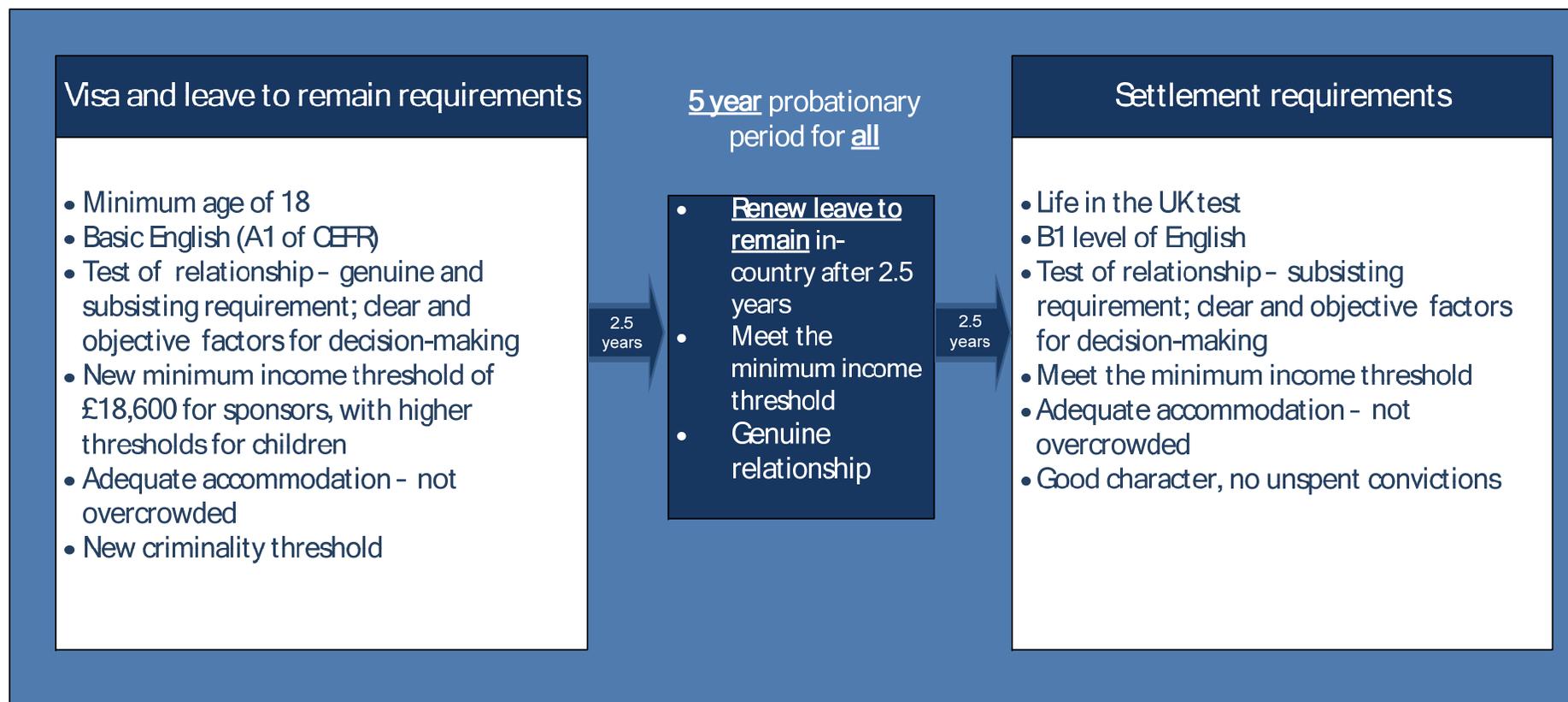
APPENDIX A: SUMMARY OF KEY CHANGES FOR PARTNERS

Current 2 year route



APPENDIX A: SUMMARY OF KEY CHANGES FOR PARTNERS

New 5 year route



APPENDIX B – MEETING THE FINANCIAL REQUIREMENT

137. At each stage, an applicant will be able to **meet the financial requirement through one or more of:**

- Income from employment or self-employment of the sponsor (and/or the applicant if they are in the UK with permission to work).
- State (UK or foreign) or private pension of the sponsor and/or applicant.
- Any Maternity Allowance and bereavement benefits received in the UK by the sponsor and/or applicant.
- Specified non-employment income of the sponsor and/or applicant.
- Cash savings of the sponsor and/or applicant, above £16,000, held by the sponsor and/or applicant for at least the last six months and under their control.
- Exemption from the financial requirement (income threshold), where the applicant's sponsor is in receipt of a specified disability-related benefit or Carer's Allowance in the UK.

138. This Annex summarises the detailed requirements in respect of each way of meeting the financial requirement and the evidence which must be submitted in support of each.

139. Entry clearance officers and other caseworkers will be able to refuse an application if they are told by the applicant, or establish, that the applicant's or sponsor's circumstances have changed materially since the point of application, such that the applicant does not meet the requirements.

140. Where the applicant is not exempt, **the financial requirement can be met in one of the following seven ways:**

Category A: salaried employment for the last six months

141. Where the sponsor and/or the applicant (if they are in the UK with permission to work) is in salaried employment at the point of application and has been with the same employer for at least the last six months, the applicant can count the gross **annual** salary (at its lowest level in those six months) towards the financial requirement.

142. If necessary to meet the level of the financial requirement applicable to the application, the applicant can add to this:

- The gross amount of any specified non-employment income received by the sponsor, the applicant or both jointly in the 12 months prior to the application, provided they continue to own the relevant asset (e.g. property, shares) at the point of application;
- An amount based on the cash savings **above** £16,000 held by the sponsor, the applicant or both jointly for at least the six months prior to the application and under their control. At the entry clearance/initial leave to remain stage and the further leave stage, the amount above £16,000 must be divided by 2.5 (to reflect the 2.5 year or 30 month period of limited leave sought) to give the amount which

can be added to income. At the indefinite leave to remain stage, the whole of the amount above £16,000 can be added to income; and/or

- The gross **annual** income received by the sponsor or the applicant from any State (UK or foreign) or private pension.

Where the sponsor is returning with the applicant to the UK to work

143. **In addition**, where the sponsor is returning with the applicant to the UK to work, the sponsor **must** have confirmed salaried employment to return to in the UK (starting within three months of their return). This must have an **annual** starting salary sufficient to meet the financial requirement applicable to the application, alone or in combination with any or all of the items in the last paragraph.

Category B: salaried employment for less than the last six months

144. Where the sponsor and/or the applicant (if they are in the UK with permission to work) is in salaried employment at the point of application and has been with the same employer for less than the last six months, the applicant can count the gross **annual** salary at the point of application towards the financial requirement.

145. If necessary to meet the level of the financial requirement applicable to the application, the applicant can add to this:

- The gross amount of any specified non-employment income received by the sponsor, the applicant or both jointly in the 12 months prior to the application, provided they continue to own the relevant asset (e.g. property, shares) at the point of application;
- An amount based on the cash savings **above** £16,000 held by the sponsor, the applicant or both jointly for at least the six months prior to the application and under their control. At the entry clearance/initial leave to remain stage and the further leave stage, the amount above £16,000 must be divided by 2.5 (to reflect the 2.5 year or 30 month period of limited leave sought) to give the amount which can be added to income. At the indefinite leave to remain stage, the whole of the amount above £16,000 can be added to income; and/or
- The gross **annual** income from any State (UK or foreign) or private pension received by the sponsor or the applicant.

146. **In addition**, the couple must have received **in the 12 months prior to the application** the level of income required to meet the financial requirement applicable to it, based on:

- The gross salaried income of the sponsor and/or the applicant (if they are in the UK with permission to work);
- The gross amount of any specified non-employment income received by the sponsor, the applicant or both jointly; and/or
- The gross amount of any State (UK or foreign) or private pension received by the sponsor or the applicant.

Where the sponsor is returning with the applicant to the UK to work

147. In Category B, where the sponsor is returning with the applicant to the UK to work, the sponsor does **not** have to be in employment at the point of application.
148. The couple returning to the UK must have received in the 12 months prior to the application the level of income required to meet the financial requirement applicable to it, based on:
- The gross salaried income overseas of the sponsor;
 - The gross amount of any specified non-employment income received by the sponsor, the applicant or both jointly; and/or
 - The gross amount of any State (UK or foreign) or private pension received by the sponsor or the applicant.
149. **In addition**, the sponsor must have confirmed salaried employment to return to in the UK (starting within three months of their return). This must have an **annual** starting salary sufficient to meet the financial requirement applicable to the application, alone or in combination with any or all of the items in the paragraph 142.

Category C: specified non-employment income

150. The specified non-employment income (excluding pension) of the sponsor and/or the applicant has received in the 12 months prior to the application can count towards the financial requirement applicable to it, provided they continue to own the relevant asset (e.g. property, shares) at the point of application.
151. This income can be used in combination with other categories as described.

Category D: Cash savings

152. An amount based on the cash savings **above** £16,000 held by the sponsor, the applicant or both jointly for at least six months prior to the application and under their control can count towards the financial requirement applicable to it.
153. At the entry clearance/initial leave to remain stage and the further leave stage, the amount above £16,000 must be divided by 2.5 (to reflect the 2.5 year or 30 month period of limited leave sought) to give the amount which can be used.
154. At the indefinite leave to remain stage, the whole of the amount above £16,000 can be used.
155. The amount based on cash savings can be used in combination with other categories as described.

Category E: Pension

156. The gross **annual** income from any State (UK Basic State Pension and Additional or Second State Pension, or foreign) or private pension received by the sponsor or the applicant can count towards the financial requirement applicable to the application. The annual amount may be counted where the pension has become a source of income at least 28 days prior to the application.

157. This can be used in combination with other categories as described.
158. The gross amount of any State (UK or foreign) or private pension received by the sponsor or the applicant in the 12 months prior to the application can be used in combination with other income for that period as described.
159. UK Maternity Allowance, Bereavement Allowance, Bereavement Payment and Widowed Parent's Allowance received by the sponsor or the applicant in the 12 months prior to the application can also be used in combination with other income for that period as described.

Category F: Self-employment (last financial year)

160. The sponsor and/or the applicant (if they are in the UK with permission to work) is in self-employment at the point of application and **in the last full financial year** received self-employment and other income (salaried, specified non-employment and pension) sufficient to meet the financial requirement applicable to the application.

Category G: Self-employment (last two financial years)

161. The sponsor and/or the applicant (if they are in the UK with permission to work) is in self-employment at the point of application and **as an average of the last two full financial years** received self-employment and other income (salaried, specified non-employment and pension) sufficient to meet the financial requirement applicable to the application.

What can be counted

162. In all cases:
- All employment and income must be lawful.
 - The applicant has to demonstrate and evidence the income/savings required to meet the financial requirement applicable to their application. They do not need to provide information in the first instance about any income/savings which they and/or the sponsor may have beyond this. But entry clearance officers and caseworkers may request further information and evidence where they have concerns about the credibility of the application or supporting evidence submitted with it.
 - Where the gross (pre-tax) amount of income cannot be properly evidenced, the net (post-tax) income will be counted towards the gross income requirement.
163. In respect of **earnings from salaried employment**:
- Employment can be full-time or part-time.
 - Employment can be permanent, a fixed-term contract or with an agency.
 - Where the applicant and sponsor are in the UK, the sponsor may work overseas, subject to the sponsor being settled in the UK and the couple intending to live together permanently in the UK.

- The sponsor and/or applicant in the UK must be in employment at the required level of income at the point of application.
- Moving to another position with the **same** employer will not restart the six month period over which employment at the required salary level can be demonstrated, provided the employment is paid at at least the level of salary on which the application relies throughout that period. That period will restart where the sponsor or applicant changes employer.
- When assessing salary, basic pay, plus skills-based allowances and UK location-based allowances (e.g. London weighting), will be counted as income. Any such allowances must form part of the contracted salary package and, if they exceed 30% of the total salary, only the amount which would correspond to 30% of the total salary will be counted towards the financial requirement.
- UK and overseas travel, subsistence and accommodation allowances, and overseas allowances relating to the additional cost of living, will not be counted.
- Overtime, commission-based pay and bonuses will be counted as earnings from salaried employment.
- Statutory or contractual maternity, paternity or adoption pay, or sick pay, will be counted.

164. In respect of **earnings from self-employment**:

- There must be evidence of ongoing self-employment at the point of application.
- In demonstrating the required level of income to meet the financial requirement, earnings from self-employment can be combined with income from another source(s), including salaried employment, for the relevant financial year(s).
- The sponsor (or the applicant where they are in the UK) must be registered as self-employed in the UK.
- Employment can be cash-in-hand if the correct tax is paid.
- Where the self-employed person is a sole trader or is in a partnership or franchise agreement, the income will be the gross taxable profits from their share of the business. Allowances or deductible expenses which are not taxed will not be counted towards income.
- Where the self-employed person has set up their own registered company and is listed as a director of that company, the income that will be assessed will be any salary drawn from the post-tax profits of the company.

165. In respect of **non-employment sources of income**:

- This must be in the name of the sponsor, the applicant or both jointly.
- The relevant asset (e.g. shares, property) must be held by the sponsor, the applicant or both jointly at the point of application.

- **Property rental income:** The property, in the UK or overseas, must be owned by the sponsor, the applicant or both jointly, and must not be their main residence (and therefore income from a lodger in that residence cannot be counted). If the sponsor or applicant shares ownership of the property with a third party, only income received from the sponsor and/or applicant's share of the property can be counted. Income from property which is rented out for only part of the year (e.g. a holiday let) can be counted. The equity in a property cannot be used to meet the financial requirement.
- **Dividends or other income from investments, stocks and shares, bonds or trust funds:** These must be owned by the sponsor, the applicant or both jointly.
- **Interest from savings:** The savings must be held in the name of the sponsor, the applicant or both jointly.

166. Maintenance payments from a former partner in relation to the applicant and former partner's child or children cared for by the applicant can be counted as non-employment sources of income

167. Income from the following sources **will not be counted** towards the financial requirement:

- Any subsidy or promised financial support from a third party (other than maintenance payments from a former partner in relation to the applicant and former partner's child or children cared for by the applicant).
- Income from those who live in the same household (except any child of the applicant who has turned 18 and continues to be counted towards the higher income threshold the applicant has to meet until they qualify for settlement on the five year family route).
- Loans and credit facilities.
- Income-related benefits: Income Support, income-related Employment and Support Allowance, Pension Credit, Housing Benefit, Council Tax Benefit and income-based Jobseeker's Allowance.
- The following contributory benefits: contribution-based Jobseeker's Allowance, contribution-based Employment and Support Allowance and Incapacity Benefit.
- Child Benefit.
- Working Tax Credit.
- Child Tax Credit.
- Any other source of income not specified as counting towards the financial requirement.

168. An applicant whose sponsor is in receipt of any of the following disability-related benefits or Carer's Allowance **will be exempt** from the financial requirement in respect of that application stage:

- Disability Living Allowance.
- Severe Disablement Allowance.
- Industrial Injuries Disablement Benefit.
- Attendance Allowance.
- Carer's Allowance.

169. The applicant will be required to demonstrate that they will be adequately maintained and accommodated without recourse to public funds. The new financial requirement will apply at the next application stage if the applicant does not remain exempt from it.

170. In respect of the **use of cash savings to meet any shortfall** against the income threshold under the financial requirement:

- To be counted, the sponsor, the applicant or both jointly must have cash savings of **more than £16,000** (the level of savings at which a person generally ceases to be eligible for income-related benefits), **held by the sponsor, applicant or both jointly (but not with a third party) for at least 6 months at the point of application and under their control.**
- The amount of cash savings **above** £16,000 can be counted against any shortfall against the £18,600 income threshold (or the relevant higher figure where a child or children are also being sponsored).
- This will be done on a basis that **either** multiplies the amount of the shortfall by 2.5 – the probationary period (30 months or 2.5 years) to be served before the applicant has to apply for further limited leave or for indefinite leave to remain – **or**, at the indefinite leave to remain stage, is equal to the amount of the shortfall.
- For example, where the sponsor and applicant have no income which may be counted towards the financial requirement, £62,500 in cash savings will be required for the financial requirement to be met at the entry clearance/leave to remain stage or at the further leave stage, i.e. the 'floor' amount of £16,000, plus 2.5 times the shortfall of £18,600. At the indefinite leave to remain stage, the same couple will require £34,600 in cash savings to meet the financial requirement by that means alone, i.e. the 'floor' amount of £16,000, plus the shortfall of £18,600.
- The level of savings required to meet the shortfall income must be based on the level of employment-related and/or other income at the date of application.
- The following table sets out some examples where £18,600 is the level of income threshold which applies:

Income (£)	Leave to enter/remain: Savings required	Further leave to remain: Savings required	Indefinite leave to remain: Savings required
No income	£62,500 (16k+ (18,600 x 2.5))	£62,500 (16k+ (18,600 x 2.5))	£34,600 (16k+ 18,600)
Income of £15,000	£25,000 (16k+ (3,600 x 2.5))	£25,000 (16k+ (3,600 x 2.5))	£19,600 (16k+ 3,600)
Income of £18,000	£17,500 (16k+ (600 x 2.5))	£17,500 (16k+ (600 x 2.5))	£16,600 (16k+ 600)

- The source of the cash savings must be declared. Any legal source, including a family member or other third party, will be permitted, provided that the sponsor, the applicant or couple (as appropriate) can confirm that the money – which cannot be borrowed – is under their control.
- The cash savings must be held in a regulated financial institution not on the list of excluded institutions under the rules of the Points Based System.
- The cash savings may be held in any form of bank/savings account. In the US (and any other country with such provision), this can include, for those of retirement age, savings held in a pension savings accounts which can be immediately withdrawn: 401k, Roth IRA.
- Paid out competition winnings or a legacy which has been received can contribute to cash savings.

Evidential requirements

171. In respect of the **required evidence of income**:

- This must be in the name of the sponsor, the applicant or both, as appropriate.
- All the evidence set out in each category below must be provided unless otherwise stated.
- For employment-related earnings, bank statements covering the period(s) of employment relied upon must be provided.
- For non-employment income, only those bank statements which show the income being relied upon need to be provided.

172. Entry clearance officers and other caseworkers will follow guidance akin to that on **evidential flexibility** under the Points Based System. This provides that, if the applicant does not provide the specified documents, the UK Border Agency will contact the applicant to ask for them only when the applicant has submitted:

- A sequence of documents, and some of the documents in the sequence have been omitted (e.g. if one bank statement from a series is missing);
- A document in the wrong format; or
- A document that is a copy and not an original document.

173. The UK Border Agency will contact the applicant or their representative in writing or otherwise, and the evidence must be received by the UK Border Agency processing

centre quickly. If the applicant does not send in the correct document(s), the UK Border Agency may refuse the application. The UK Border Agency will not ask for further information where none of the information has been submitted (e.g. an English language certificate is missing), or where the UK Border Agency does not anticipate that a correction of a minor error(s) or omission(s) will lead to a grant of leave because the application will fail for other reasons.

174. The evidential requirements are:

a. **Salaried employment: All** of the following must be submitted:

- P60 (if this has been issued) and wage slips for the six month period prior to the application, or as appropriate, for the 12 month period prior to the application.
- Letter from the employer confirming the person's employment and annual salary, the length of their employment (and the period over which they have been or were paid the level of salary relied upon in the application), and the type of employment (permanent, fixed-term contract or agency).
- A copy of the employment contract.
- Bank statements corresponding to the same period as the wage slips, showing that the salary has been paid into the person's account.

b. **Job offer in the UK (returning sponsor):**

- Letter from the employer confirming the job offer and salary or enclosing a signed contract of employment, to commence within three months of the sponsor's return to the UK.

c. **Self-employment – partnership, sole trader, franchise:** Evidence of **all** of the following must be submitted:

- The amount of tax payable for the last financial year; the amount of tax paid for the last financial year; and the amount of any unpaid tax for the last financial year.
- Latest annual self-assessment tax return to HMRC and Statement of Account (SA300 or SA302). If necessary, the same for the previous financial year if the latest return does not show the necessary level of income, but the average of the last 2 financial years does.
- Proof of registration with HMRC as self-employed. Proof of registration must be original or certified copy of documentation issued by HMRC only.
- Each partner's Unique Tax Reference Number (UTR) and/or the UTR of the partnership or business.
- Where the person holds or held a separate business bank account(s), monthly bank statements, from a regulated financial institution not on the list of excluded institutions under the rules of the Points Based System, for the same 12-month period as the tax return(s).
- Monthly personal bank statements, from a regulated financial institution not on the list of excluded institutions under the rules of the Points Based System, for the same 12-

month period as the tax return(s). These statements must show that the income from self-employment has been paid into the person's account.

- Evidence of ongoing self-employment: for self-employed persons, evidence of payment of Class 2 National Insurance contributions. For Directors, Current Appointment Reports from Companies House.

One of the following documents must also be submitted:

- Organisation's latest annual audited accounts with the name of the accountant clearly shown. The accountant must be a member of an accredited accounting body (CIMA, CIPFA, ACCA, ACA, etc).
- Certificate of VAT registration and latest VAT return confirming VAT registration number if turnover in excess of £73,000.
- Evidence to show appropriate planning permission or local planning authority consent is held to operate the type/class of business at the trading address (where this is a local authority requirement).
- Franchise agreement signed by both parties. This is a mandatory document for any organisation that is a franchise.

d. **Self-employment – limited company based in the UK: All** of the following must be submitted:

- Evidence of registration with the Registrar of Companies at Companies House.
- Latest Notice to file a Company Tax Return – CT603 and Company Tax Return – CT600. Both parts must be supplied.
- Organisation's latest audited annual accounts with the name of the accountant clearly shown. The accountant must be a member of an accredited accounting body (CIMA, CIPFA, ACCA, ACA, etc).
- Monthly corporate/business bank statements, from a regulated financial institution not on the list of excluded institutions under the rules of the Points Based System, covering the same 12-month period as the tax return(s).
- Monthly personal bank statements from a regulated financial institution not on the list of excluded institutions under the rules of the Points Based System, covering the same 12-month period as the tax return(s). These statements must show that the income from self-employment has been paid into the person's account.
- Evidence of ongoing self-employment: for self-employed persons, evidence of payment of Class 2 National Insurance contributions. For Directors, Current Appointment Reports from Companies House.

One of the following documents must also be submitted:

- Certificate of VAT registration and latest VAT return confirming VAT registration number if turnover in excess of £73,000.
- Proof of ownership or lease of business premises.
- Proof of registration with HMRC as an employer for the purposes of PAYE and National Insurance. Proof of PAYE Reference Number and Accounts Office

Reference Number. Evidence of registration must be original or certified copy of documentation issued by HMRC only.

- Proof of registration with the London Stock Exchange or with an international stock exchange approved by the Financial Services Authority in the UK. This is a mandatory document for a company registered on the London Stock Exchange or an FSA-approved international stock exchange.

e. **Statutory/contractual maternity/paternity/adoption leave (in the UK):**

- P60 and wage slips for the six month period prior to the period of maternity/paternity/adoption leave.
- Letter from employer confirming the length of the person's employment, salary (and the period over which this has been paid), entitlement to maternity/paternity/adoption leave, and date of commencement and end-date of maternity/paternity/adoption leave.

f. **Statutory/contractual sick pay (in the UK):**

- P60 and wage slips for the six month period prior to the period of sick leave.
- Letter from employer confirming the length of the person's employment, salary (and the period over which this has been paid), that the person is in receipt of statutory/contractual sick pay, and the date of commencement of sick leave.

g. **Property rental income:**

- Evidence confirming that the sponsor and/or the applicant owns the property for which the rental income is received, e.g. title deeds of the property (if held), mortgage statement.
- All bank statements required to show the income relied upon was paid into the sponsor or the applicant's account in the 12-month period prior to the application.
- Rental agreement, e.g. tenancy agreement, contract.

h. **Dividends or other income from investments, stocks and shares, bonds or trust funds:**

- Certificate showing proof of ownership and amount of investment.
- Portfolio report (for a financial institution regulated by the Financial Services Authority in the UK).
- All bank statements required to show the income relied upon was paid into an account in the name of the sponsor, the applicant or both jointly in the 12-month period prior to the application.
- Profits from the sale of investments can contribute to cash savings and will **not** be treated as income from investments.

i. **Interest from savings:**

- Bank statements showing the amount of the savings held by the sponsor and/or the applicant and that the interest has been paid into an account in the name of the sponsor, the applicant or both jointly in the 12-month period prior to the application.

j. **State or private pension:**

- Official documentation from HMRC (in respect of the Basic State Pension and the Additional (Second) State Pension), an overseas pension authority, and/or a pension company confirming pension entitlement and amount.
- At least one bank statement showing payment of the pension into an account in the name of the sponsor, the applicant or both jointly.

k. **Maintenance payments (from a former partner to maintain their and the applicant's child or children):**

- Evidence of maintenance agreement, e.g. court order, voluntary agreement, Child Support Agency documentation.
- All bank statements required to show the income relied upon was paid into the applicant's account in the 12 month period prior to the application.

l. **Contributory benefits:** One or more of:

- Maternity Allowance.
- Bereavement benefits – Bereavement Allowance, Bereavement Payment and Widowed Parent's Allowance.
- Department for Work and Pensions documentation confirming the sponsor (or, where they have paid sufficient National Insurance contributions, the applicant) is in receipt of the benefit.
- All bank statements required to show the income relied upon was paid into an account in the name of the sponsor, the applicant or both jointly in the 12 month period prior to the application.

175. In respect of **cash savings, bonds or trust funds:**

- They must be held in the sponsor and/or the applicant's name, be under their control, and be held in a financial institution regulated by the appropriate regulatory body for the country in which that institution is operating.
- The funds/savings must not be held in a financial institution on the list of excluded institutions under the rules of the Points Based System.
- Funds or income in a foreign currency will be converted to pounds sterling (£) using the closing spot exchange rate which appears on www.oanda.com* on the date on which the application is made.
- Where there is income in different foreign currencies, each will be converted into pounds sterling (£) before being added together, and then added to any UK earnings, to give a total amount.

APPENDIX C: ASSESSING THE FINANCIAL REQUIREMENT

Sponsor in the UK	24 months before Point of Application (POA)	18 months before POA	12 months before POA	6 months before POA	
Option A: Salaried income from employment¹				Annual salary level, taken from 6 months with the same employer, prior to POA	Still with the same employer at POA
Option B: Salaried income from employment²			Total salaried income from employment in the 12 months prior to POA		In employment at POA
Option C: Non-employment income (excluding pension)³			Non-employment income received in the 12 months prior to POA		Asset still held at POA
Option D: Cash savings⁴				Cash savings held continuously in the 6 months prior to POA	Still held at POA
Option E: Pension⁵			1 month's state and/or private pension annualised		Still in receipt at POA
Option F: Self employment⁶		Earnings from last financial year			Still self employed at POA
Option G: Self employment⁷		Average earnings over the last 2 full financial years			Still self employed at POA

¹Sponsors must be employed by the same employer for 6 months prior to POA and at POA. Where the sponsor's income from the same employer has increased within the 6 month period, the lower amount is the level that will count towards the threshold.

²The threshold is measured twice for this option. Firstly, the sponsor must be in employment at the point of application and the annual salary, together with any of the other options being relied upon, must be £18,600. Secondly, the sponsor's total income from salaried employment over the last 12 months must, together with any of the other options being relied upon, must also be £18,600. Cash savings (Option D) can be used to meet the threshold at POA; they cannot be used to meet the threshold over the previous 12 months.

³Total earnings from non-employment income over the 12 months prior to POA will be taken as regular annual income if the assets are still held at POA. Where the income is taxable and sponsor is using option C in conjunction with options F or G to meet the threshold, this income must not be double counted.

⁴Cash savings being used to offset any shortfall in income at POA must have been held at the required level for 6 months prior to POA. The required level is $(£18,600 - \text{sponsor's income}) \times \text{the period of leave being applied for} + £16,000$

⁵Sponsors must be in receipt of state or private pension (UK or foreign) for 1 month prior POA for it to be taken into consideration. Pension will be annualised unless it is being used in combination with Option B, in which case the total pension received in the 12 months prior to POA will be taken into consideration.

⁶Earnings from the last financial year, as evidenced in the most recent tax return, will be taken into consideration. Income from any of the other options used in combination must be received over the same period.

⁷Average earnings from the last 2 financial years will be taken into consideration. Average income from any of the other options used in combination must be calculated over the same period.

APPENDIX C: ASSESSING THE FINANCIAL REQUIREMENT

Sponsor returning to the UK

	24 months before POA	18 months before POA	12 months before POA	6 months before POA	
Option A: Salaried income from employment⁸				Annual salary level, taken from 6 months with the same employer, prior to POA	Has a firm job offer or signed contract to start work in the UK within 3 months
Option B: Salaried income from employment⁹			Total salaried income from employment in the 12 months prior to POA		Has a firm job offer or signed contract to start work in the UK within 3 months
Option C: Non-employment income (excluding pension)			Non-employment income received in the 12 months prior to POA		Asset still held at POA
Option D: Cash savings				Cash savings held continuously in the 6 months prior to POA	Still held at POA
Option E: Pension				1 month's state and/or private pension annualised	Has been in receipt for 1 month
Option F: Self employment¹⁰		Earnings from last financial year			Has a firm job offer or signed contract to start work in the UK within 3 months or business is still operating
Option G: Self employment¹⁰		Average earnings over the last 2 full financial years			Has a firm job offer or signed contract to start work in the UK within 3 months or business is still operating

⁸Sponsors must be employed by the same employer for the 6 months prior to POA and have a firm job offer or contract of employment in the UK to return to, starting within 3 months. Where the sponsor's income from the same employer has increased within the 6-month period, the lower amount is the required level.

⁹The threshold is measured twice for this option. Firstly, the sponsor must have a firm job offer or contract of employment to start within 3 months at POA and the annual salary, together with any of the other options being relied upon, must be £18,600. Secondly, the sponsor's total income from salaried employment over the last 12 months must, together with any of the other options being relied upon over the last 12 months, must also be £18,600. Cash savings (Option D) can be used to meet the threshold at POA; they cannot be used to meet the threshold over the previous 12 months.

¹⁰The sponsor will only be considered as still being self employed if the company they owned is still operating. Sponsors will be considered as employed when returning to the UK if they have a firm offer of salaried employment or a contract to start work within 3 months.

EXAMPLE SCENARIOS FOR A FINANCIAL REQUIREMENT OF £18,600

Sponsor in the UK

1. Leon

Leon works in a bank in the UK earning £19,000 a year. He has been with the bank for over a year. Leon will meet the financial requirement using Option A.

If Leon had been promoted into his current role within the last 6 months from a salary of £15,000, he would not be able to use this option. Leon would either have to wait until he had completed 6 months at his new salary of £19,000, or use non-employment income or savings as well.

2. Kavita

Kavita works as an IT consultant. She started a new job last week, paying £45,000. She has had two other jobs over the last 12 months and has earned a total of £40,000.

Kavita will not qualify under Option A as she has not been with the same employer for at least 6 months but she will qualify under Option B as she has earned more than £18,600 in the last 12 months and is currently in a job paying at least £18,600.

3. Brian

Brian retired 1 month ago and has received his first monthly pension payment of £1,250. He has £24,000 in savings but no other form of income.

The annualised value of Brian's pension is £15,000. He will therefore need £25,000 in savings to make up the shortfall. This is because $(£18,600 - £15,000) \times 2.5 + £16,000 = £25,000$.

Brian will not meet the financial requirement under a combination of Options D and E as he only has £24,000 in savings. He will need to save a further £1,000 in savings to meet the financial requirement.

4. Kim

Kim works part time in retail and earns £8,000 a year. She also receives rental income of £9,000 a year from a property she lets out, left to her by her grandmother. She has £21,000 in savings.

Based on her total income of £17,000, Kim will need £20,000 in savings to meet the threshold because $(£18,600 - £17,000) \times 2.5 + £16,000 = £20,000$. As she has £21,000 she will meet the financial requirement using a combination of Options A, C and D.

5. Gina

Gina is a self-employed artist and in the last financial year earned £20,000.

Gina will meet the financial requirement using Option F.

Sponsor returning to the UK with the applicant

6. Leroy

Leroy has been studying in Australia for 4 years and has entered into a civil partnership with an Australian national. He has not been working. At the end of his course he gets a job offer in the UK to start in 6 weeks, paying £25,000. Leroy has no other income or savings.

Leroy will not meet the financial requirement under Option A or B. Leon can only rely on the income from a job offer in the UK if he has also been in employment at the required level of income overseas.

7. Imran

Imran has been a self-employed financial adviser in Uganda for 2 years. In the last financial year he earned £26,000. He is returning to the UK with his partner and has a job offer to start within a month, paying £20,000.

Imran will meet the financial requirement through Option F. As he has been in self-employment overseas and has a job offer in the UK, both at the required levels of income, he is able to rely on both.

8. Katy

Katy has been travelling across the USA for 18 months with her American partner. Katy has investments that pay her £10,000 a year and she has £40,000 cash in the bank. She has not been working in the USA and has no job in the UK to return to.

Katy will meet the financial requirement through a combination of Options C and D. As she is not relying on any income from employment, she does not need to have a job offer in the UK and can meet the threshold in other ways.

Based on her non-employment income of £10,000, Katy will require £37,500 in savings to meet the threshold: $(£18,600 - £10,000) \times 2.5 + £16,000$. As she has more than this, the financial requirement is met.

9. Craig

Craig has been working as a barman in Greece for 2 years, earning £17,000 a year. He owns property that gives him an income of £2,000 a year. He has a job offer in the UK to start in 2 months, paying £16,000 a year. He has £18,000 in savings.

Craig will meet the financial requirement through a combination of Options A, C and D.

He has an income overseas of $£17,000 + £2,000 = £19,000$ a year at the point of application. He will have an income of £18,000 a year on his return to the UK, plus he has the savings he needs to top this up: $(£18,600 - £18,000) \times 2.5 + £16,000 = £17,500$.

If his income overseas fell short of £18,600, he could also use his savings to top it up.

10. Alan

Alan has been working in Thailand for 1 year but has only been with his current employer for 3 months, earning a salary of £17,500 a year; Alan's total earnings from all employment over the last year are £16,000. Alan also has savings of £17,000 and has income from investments of £600 a year. He has a job offer in the UK paying £16,500 a year.

As Alan has not been with his current employer for 6 months or more he cannot use his salary of £17,500 to meet the threshold. Instead he must use his total employment earnings over the last 12 months, which are £16,000, plus income from investments of £600, giving a total income of £16,600. Alan cannot use his savings retrospectively to offset his shortfall in income over the last year and so he will not meet the financial requirement.

Even if Alan had earned more over the last year and met the requirement overseas, he would also have to meet it on his return to the UK. His savings could, in that case, be used to offset the shortfall. However, his total income will be $£16,500 + £600 = £17,100$, which would require savings of £19,750 to meet the financial requirement. As he his savings are £17,000, Alan would still fail the requirement.

APPENDIX D: CATEGORIES AND HOW THEY ARE AFFECTED BY THE RULE CHANGES¹⁵

Applicant category		Requirements	Immigration Rule
PARTNER OF A PERSON WITH SETTLED STATUS			
Fiancé(e) Proposed civil partner	Leave to enter	<ul style="list-style-type: none"> • Applicant and partner are aged 18 or over • Applicant and partner have met in person • Relationship is genuine and subsisting • Applicant and partner intend to live together permanently in the UK • Minimum annual income of £18,600 (and an additional £3,800 for first child and £2,400 for each additional child sponsored) • Applicant has English speaking and listening skills at level A1 or above • Adequate accommodation for the family • Applicant has no significant criminality • Applicant has no NHS debt of £1,000 or more 	Was 290, now must apply under Appendix FM.
	Extension/leave to remain	Same requirements as leave to enter	Was 293, now must apply under Appendix FM.
Spouse Civil partner	Leave to enter	Same requirements as leave to enter as a fiancé(e) or proposed civil partner plus: <ul style="list-style-type: none"> • Applicant and partner are married or in a civil partnership with each other 	Was 281, now must apply under Appendix FM.
	Indefinite leave to enter	ABOLISHED	Was 281. Can no longer apply.
	Leave to remain	Same requirements as leave to enter as a spouse or civil partner plus: <ul style="list-style-type: none"> • Applicant must previously have been granted leave for 	Was 284, now must apply under Appendix FM.

¹⁵ New criminality thresholds will apply to all routes

Applicant category		Requirements	Immigration Rule
		<p>a period of more than 6 months (other than as a fiancé(e) or proposed civil partner)</p> <ul style="list-style-type: none"> • Applicant has no significant criminality 	
	Indefinite leave to remain	<p>Same requirements as leave to remain as a spouse or civil partner plus:</p> <ul style="list-style-type: none"> • Applicant has adequate knowledge of language and life in the UK. From October 2013: applicant has English speaking and listening skills at B1 level or above, and has passed the Life in the UK test • Applicant has completed a period of 60 months as a partner • Applicant has no unspent convictions 	Was 287a, now must apply under Appendix FM.
Unmarried partner Same sex partner	Leave to enter	<p>Same requirements as leave to enter as a fiancé(e) or proposed civil partner plus:</p> <ul style="list-style-type: none"> • Applicant and their partner have been living together in a relationship akin to marriage or civil partnership for at least two years prior to the application 	Was 295A, now must apply under Appendix FM.
	Indefinite leave to enter	ABOLISHED	Was 295A. Can no longer apply.
	Leave to remain	<p>The same requirements as leave to enter as an unmarried partner or same sex partner plus:</p> <ul style="list-style-type: none"> • The applicant has been granted leave for a period of more than 6 months (other than as a fiancé(e) or proposed civil partner) 	Was 295D, now must apply under Appendix FM
	Indefinite leave to remain	<p>Same requirements as leave to remain as an married partner or same sex partner plus:</p> <ul style="list-style-type: none"> • Applicant has adequate knowledge of language and life in the UK. From October 2013: applicant has English speaking and listening skills at B1 level or above, and has passed the Life in the UK test • Applicant has completed a period of 60 months as a partner 	Was 295G, now must apply under Appendix FM.

Applicant category		Requirements	Immigration Rule
		<ul style="list-style-type: none"> Applicant has no unspent convictions 	
Bereaved spouse Bereaved civil partner	Indefinite leave to remain	No change	Was 287b, now must apply under Appendix FM.
Bereaved unmarried partner Bereaved same sex partner	Indefinite leave to remain	No change	Was 295M, now must apply under Appendix FM.
Victim of domestic violence	Indefinite leave to remain	No change	Was 289A, now must apply under Appendix FM.
CHILDREN			
Child of a settled person (parent, parents or relative)	Indefinite leave to enter	No change	Was and remains 297. Appendix FM does not apply. Application can still be made under existing rules.
	Indefinite leave to remain	No change	Was and remains 298. Appendix FM does not apply. Application can still be made under existing rules.
Child of a parent or parents with limited leave to enter or remain (i.e. spouse, civil partner, unmarried partner or same sex partner)	Leave to enter or remain (in line with parent)	<ul style="list-style-type: none"> New financial requirement Longer period to settlement (in line with migrant parent) 	Was 301, now must apply under Appendix FM.
Child of parent	Leave to enter (in line with	<ul style="list-style-type: none"> New financial requirement 	Was 303A, now

Applicant category		Requirements	Immigration Rule
admitted as a fiancé(e) or proposed civil partner	parent)		must apply under Appendix FM.
	Leave to remain (in line with parent)	<ul style="list-style-type: none"> New financial requirement 	Was 303D, now must apply under Appendix FM.
Child born in the UK who is not a British citizen	Leave to enter or remain (in line with parent/parents whichever is the longer period or leave in line with parent with day to day responsibility for child if parents separated) Indefinite leave to enter or remain (if one parent is a British citizen, has the right of abode or ILR or child in the sole care of a local authority)	No change	Was and remains 305. Appendix FM does not apply. Application can still be made under existing rules.
ADOPTION			
Adopted child (including de facto adoption) of a settled parent or parents [Adoption took place in a designated country]	Indefinite leave to enter	No change	Was and remains 310, Appendix FM does not apply. Application can still be made under existing rules.
	Indefinite leave to remain	No change	Was and remains 311. Appendix FM does not apply. Application can still be made under existing rules.
Adopted child	Leave to enter or leave to	<ul style="list-style-type: none"> New financial requirement 	Was and remains

Applicant category		Requirements	Immigration Rule
(including de facto adoption) of a parent or parents given limited leave to enter or remain [Adoption took place in a designated country]	remain – 12 months		314. Application can still be made under existing rules except the financial requirement in Appendix FM applies to applications under 314 (i)(a) and (d) unless both parents are settled.
Child coming for the purpose of adoption in the UK – both parents settled	Leave to enter – 24 months	No change	Was and remains 316A (i) (a-c). Appendix FM does not apply. Application can still be made under existing rules.
Child coming for the purpose of adoption in the UK – one parent is settled (with sole responsibility/serious or compelling family or other considerations)	Leave to enter – 24 months	No change	Was and remains 316A (i)(f) and (g). Application can still be made under existing rules.
Child coming for the purpose of adoption in the UK – one parent settled and the other granted limited leave to enter or remain	Leave to enter – 24 months	<ul style="list-style-type: none"> New financial requirement 	Was and remains 316A (i)(d) and (e). Application can still be made under existing rules except the financial requirement in Appendix FM

Applicant category		Requirements	Immigration Rule
			applies.
Child coming for the purpose of adoption under the Hague Convention – one or both parents are habitually resident	Leave to enter – 24 months	No change	Was and remains 316D. Appendix FM does not apply. Application can still be made under existing rules.
ADULT DEPENDENT RELATIVES			
Parents, grandparents and other dependent relatives of British and settled person.	Indefinite leave to enter	<ul style="list-style-type: none"> The applicant must be the parent, grandparent, brother, sister, son or daughter aged 18 years or over of the sponsor in the UK The applicant must be living in the most exceptional compassionate circumstances There must be no son, daughter, brother, sister, grandchild or grandparent in the country where the applicant is living who can provide the necessary care to the applicant The applicant must be adequately maintained, accommodated and cared for without recourse to public funds. The sponsor must sign a 5-year undertaking to this effect. No significant criminality 	Was 317, now must apply under Appendix FM.
	Indefinite leave to remain	ABOLISHED	Was 317.Can no longer apply.
FAMILY MEMBERS OF PERSONS WITH LIMITED LEAVE TO ENTER OR REMAIN AS A REFUGEE OR BENEFICIARY OF HUMANITARIAN PROTECTION			
Spouse Civil partner	Leave to enter – leave in line	<ul style="list-style-type: none"> New financial requirement Genuineness criteria 	Was 319L, now must apply under Appendix FM.

Applicant category		Requirements	Immigration Rule
	Indefinite leave to remain	<ul style="list-style-type: none"> • New financial requirement • Genuineness criteria • 5 year probationary period • B1 speaking and listening skills • Life in the UK test 	Was 287, now must apply under Appendix FM.
Unmarried partner Same sex partner	Leave to enter – leave in line	<ul style="list-style-type: none"> • New financial requirement • Genuineness criteria 	319O, now must apply under Appendix FM.
	Indefinite leave to remain	<ul style="list-style-type: none"> • New financial requirement • Genuineness criteria • 5 year probationary period • B1 speaking and listening skills • Life in the UK test 	295G, now must apply under Appendix FM.
Child of parent or parents	Leave to enter – leave in line	<ul style="list-style-type: none"> • New financial requirement 	319R, now must apply under Appendix FM.
	Indefinite leave to remain	<ul style="list-style-type: none"> • New financial requirement 	298, now must apply under Appendix FM.
Parents, grandparents and other dependent relatives	Leave to enter or leave to remain – leave in line	<ul style="list-style-type: none"> • The applicant must be the parent, grandparent, brother, sister, son or daughter aged 18 years or over of the sponsor in the UK • The applicant must as a result of age, illness or disability require long –term personal care to perform everyday tasks • The applicant must be unable even with the practical and financial help of the sponsor to obtain the required level of care in the country where they are living because it is a) not available b) not affordable and the applicant has no other person who can reasonably provide it. • The applicant must be adequately maintained, 	319V, now must apply under Appendix FM.

Applicant category		Requirements	Immigration Rule
		<p>accommodated and cared for without recourse to public funds. The sponsor must sign a 5-year undertaking to this effect.</p> <ul style="list-style-type: none"> No significant criminality 	
	Indefinite leave to remain	The same requirements as for indefinite leave to enter	319V, now must apply under Appendix FM.
Child of a relative	Leave to enter or leave to remain – leave in line	No change	319X, Appendix FM does not apply. Application can still be made under existing rules.
	Indefinite leave to remain	No change	298, Appendix FM does not apply. Application can still be made under existing rules.
UNMARRIED PARTNERS AND SAME SEX PARTNERS OF A PERSON GRANTED LIMITED LEAVE TO ENTER OR REMAIN UNDER PARAGRAPHS 128-193, 200-239 AND 263-270			
Unmarried partner Same sex partner	Leave to enter or leave to remain	No change to the requirements	295J
OTHER CATEGORIES CURRENTLY WITHIN PART 7 OF THE RULES			
Person exercising access rights	Leave to enter	<ul style="list-style-type: none"> A1 speaking and listening skills 	Was 246, now must apply under Appendix FM.
	Leave to remain	<ul style="list-style-type: none"> A1 speaking and listening skills 	Was 248A, now must apply under Appendix FM.
	Indefinite leave to remain	<ul style="list-style-type: none"> 5 year probationary period B1 speaking and listening skills 	Was 248D, now must apply under Appendix FM.

Applicant category		Requirements	Immigration Rule
		<ul style="list-style-type: none"> Life in the UK test 	
14 year long residence	Indefinite leave to remain	ABOLISHED	Was 276B(i)(b). Can no longer apply.
DEPENDANTS OF HM FORCES PERSONNEL WHO ARE BRITISH CITIZENS			
Fiancé(e) Proposed civil partner	Leave to enter	No change	Was and remains 290-291. Appendix FM does not apply. Application can still be made under existing rules.
Spouse Civil partner	Leave to enter	No change	Was and remains 281. Appendix FM does not apply. Application can still be made under existing rules.
	Leave to remain	No change	Was and remains 284. Appendix FM does not apply. Application can still be made under existing rules.
	Indefinite leave to enter	No change	Was and remains 281. Appendix FM does not apply. Application can still be made under

Applicant category		Requirements	Immigration Rule
			existing rules.
	Indefinite leave to remain	No change	Was and remains 287. Appendix FM does not apply. Application can still be made under existing rules.
Unmarried partner Same sex partner	Leave to enter or leave to remain	No change	Was and remains 295A. Appendix FM does not apply. Application can still be made under existing rules.
	Leave to remain	No change	Was and remains 295D. Appendix FM does not apply. Application can still be made under existing rules.
	Indefinite leave to enter	No change	Was and remains 295A. Appendix FM does not apply. Application can still be made under existing rules.
	Indefinite leave to remain	No change	Was and remains 295G. Appendix FM does not apply.

Applicant category		Requirements	Immigration Rule
			Application can still be made under existing rules.
DEPENDANTS OF HM FORCES PERSONNEL WHO ARE FOREIGN AND COMMONWEALTH CITIZENS			
Spouse Civil partner Unmarried partner Same sex partner	Leave to enter or leave to remain	No change	Was and remains 276AD. Appendix FM does not apply. Application can still be made under existing rules
	Indefinite leave to enter	No change	Was and remains 276R. Appendix FM does not apply. Application can still be made under existing rules
	Indefinite leave to remain	No change	Was and remains 276U. Appendix FM does not apply. Application can still be made under existing rules
Children	Leave to enter or leave to remain	No change	Was and remains 276AG. Appendix FM does not apply. Application can still be made under existing rules
	Indefinite leave to enter	No change	Was and remains 276X. Appendix FM does not apply. Application can still be made under

Applicant category		Requirements	Immigration Rule
			existing rules
	Indefinite leave to remain	No change	Was and remains 276AA. Appendix FM does not apply. Application can still be made under existing rules

APPENDIX E: KEY TRANSITIONAL ARRANGEMENTS

Scenario	Arrangements applicable
<p>Before 9 July 2012 you were granted entry clearance, leave to enter or leave to remain as a spouse, civil partner, unmarried or same sex partner of a British or settled person, or you have applied for this and are awaiting a decision.</p>	<p>The immigration rules in force before 9 July 2012 will still apply to you from 9 July 2012 until settlement, if you qualify for it. This includes the existing maintenance requirement and a two year probationary period to settlement. From October 2013 you will need to pass the Life in the UK test and a B1 level English speaking and listening qualification to qualify for settlement.</p> <p>These arrangements also apply to post-flight spouses and partners of refugees and persons granted humanitarian protection in the UK.</p>
<p>Before 9 July 2012 you were granted immediate settlement as a spouse, civil partner, unmarried or same sex partner of a British or settled person in a relationship overseas for four years or more, or you have applied for this and are awaiting a decision.</p>	<p>The immigration rules in force before 9 July 2012 will still apply to you from 9 July 2012, including a grant of immediate settlement if you qualify for it.</p> <p>If you were or are granted limited leave because you met or meet all the requirements for immediate settlement apart from knowledge of language and life in the UK, you will be able to apply for settlement as soon as you are able to meet the knowledge of language and life in the UK requirement in force at the time of your application.</p>
<p>On or after 9 July 2012 you apply for entry clearance, leave to enter or leave to remain as a spouse, civil partner, unmarried or same sex partner of a British or settled person.</p>	<p>The new family immigration rules apply to you, including the new financial requirement (minimum income threshold) and a five year probationary period to settlement. From October 2013 you will need to pass the Life in the UK test and a B1 level English speaking and listening qualification to qualify for settlement.</p> <p>These arrangements also apply to post-flight spouses and partners of refugees and persons granted humanitarian protection in the UK.</p>
<p>Before 9 July 2012 you were granted entry clearance, leave to enter or further leave to remain as a fiancé(e) or proposed civil partner of a British or settled person, or you have applied for this and are awaiting a decision.</p>	<p>The immigration rules in force before 9 July 2012 will still apply to you from 9 July 2012. You can still apply to switch into the partner route on the basis of the existing maintenance requirement and a two year probationary period before settlement. From October 2013 you will need to pass the Life in the UK test and a B1 level English speaking and listening qualification to qualify for settlement.</p>
<p>On or after 9 July 2012 you apply for entry clearance, leave to enter or further leave to</p>	<p>The new family immigration rules apply to your application, including the new financial</p>

remain as a fiancé(e) or proposed civil partner of a British or settled person.	requirement. If after marrying or entering into a civil partnership you apply on that basis, the new family immigration rules will apply to your application, including the new financial requirement and the five year probationary period to settlement. From October 2013 you will need to pass the Life in the UK test and a B1 level English speaking and listening qualification to qualify for settlement.
Before 9 July 2012 you were granted indefinite leave to enter or remain as an adult dependent relative of a British or settled person or you have applied for this and are awaiting a decision.	The immigration rules in force before 9 July 2012 will still apply to you from 9 July 2012. These arrangements also apply to adult dependent relatives of refugees and persons granted humanitarian protection in the UK.
On or after 9 July 2012 you apply for entry clearance or leave as a partner (or dependent child) or other dependent relative of a serving member of HM Forces.	As a temporary arrangement pending a review of the immigration rules on Armed Forces dependants, the immigration rules in force before 9 July will continue to apply to you on or after 9 July. You will have to meet the existing maintenance requirement and will still be eligible for settlement after a two year probationary period. From October 2013, adult dependants will need to pass the Life in the UK test and a B1 level English speaking and listening qualification to qualify for settlement.
On or after 9 July 2012 you apply for entry clearance, leave to enter or leave to remain as an adult dependent relative of a British or settled person.	The new family immigration rules apply to your application. These arrangements also apply to adult dependent relatives of refugees and persons granted humanitarian protection in the UK.
Before 9 July 2012 you were granted entry clearance, leave to enter or leave to remain as a child on the family route or you have applied for this and are awaiting a decision.	The immigration rules in force before 9 July 2012 will still apply to you from 9 July 2012.
On or after 9 July 2012 you apply for entry clearance, leave to enter or leave to remain as a child on the family route.	The new family immigration rules apply to your application unless otherwise specified in the immigration rules.
Before 9 July 2012 you were granted entry clearance, leave to enter or leave to remain as the partner of a migrant under the Points Based System, or you have applied for this and are awaiting a decision.	The immigration rules in force before 9 July 2012 will still apply to you from 9 July 2012. From October 2013 you will need to pass the Life in the UK test and a B1 level English speaking and listening qualification to qualify for settlement.
On or after 9 July 2012 you apply for entry clearance, leave to enter or leave to remain as the partner of a migrant under the Points Based System.	The new immigration rules apply to your application. A five year probationary period to settlement applies. You will need to pass the Life in the UK test and a B1 level English speaking and listening qualification to qualify for settlement.
Before October 2013 you are a migrant who applies for settlement.	Existing requirements on knowledge of language and life in the UK apply to your

	application.
From October 2013 you are a migrant who applies for settlement.	<p>You will need to pass the Life in the UK test and a B1 level English speaking and listening qualification to qualify for settlement, subject to any exemptions which apply.</p> <p>This includes partners of a British or settled person, including of British personnel serving in the Armed Forces; post-flight partners of refugees and persons granted humanitarian protection; partners of migrants under the Points Based System; main applicants under the Points Based System and any other settlement applicants to whom this change applies, including other migrant workers with a route to settlement.</p>
Before 9 July 2012 you applied for leave under the rules in force prior to that date and were refused leave. You do not appeal or your appeal is not allowed.	<p>You do not qualify for a grant of leave under the immigration rules.</p> <p>You cannot apply for discretionary leave outside the immigration rules on Article 8 grounds from 9 July.</p> <p>You can apply under the new immigration rules.</p>
Before 9 July 2012 you applied for leave under the rules in force prior to that date, were refused leave but your appeal is allowed on or after 9 July.	<p>If your appeal determination states that the family immigration rules in force before 9 July 2012 were met, those rules will still apply to you from 9 July 2012 and you will be granted leave on that basis. You will continue to be able to extend your leave and apply for settlement under the rules in force on 8 July.</p> <p>If your appeal against a refusal under other rules (not family) is allowed on or after 9 July 2012 on Article 8 grounds, you will not be granted discretionary leave. You will be granted 30 months' leave on the new 10 year family route under the new immigration rules.</p> <p>From October 2013 you will need to pass the Life in the UK test and a B1 level English speaking and listening qualification to qualify for settlement.</p>
Before 9 July 2012 you applied for leave under the rules in force prior to that date and you withdraw your appeal.	If you reapply, you will be considered under the new immigration rules.
Before 9 July 2012 you were granted discretionary leave.	You will continue to be dealt with under the discretionary leave policy through to settlement if you qualify for it.
Before 9 July 2012 you were notified of your liability to deportation and have raised ECHR Article 8 grounds why you should remain in the UK.	The criminality thresholds in the new immigration rules will apply.



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