



Home Office

Fee waiver: Human Rights-Based and other specified applications

Version 2.0

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About this guidance

This guidance concerns the circumstances in which applicants will qualify for a fee waiver in respect of certain types of leave to remain application.

Contacts

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

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

Clearance and publication

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

- version 2.0
- published for Home Office staff on 30 August 2017

Changes from last version of this guidance

- added reference to the following types of application that are eligible for a fee waiver:
 - applications for leave to remain under the **5-year partner route** where the applicant is not required to meet the minimum income threshold because their sponsor is in receipt of one or more specified benefits and instead must demonstrate that their sponsor can provide **adequate maintenance**
 - applications under the **5-year parent route**
 - applications for further leave to remain from a person granted **discretionary leave (DL)** following refusal of asylum or humanitarian protection, where the applicant claims that refusal to grant further leave to remain would breach their rights under the European Convention on Human Rights (ECHR)
 - applications for further DL from **victims of trafficking or slavery** who have had a positive conclusive grounds decision from a competent authority of the national referral mechanism (NRM), have already accrued 30 months' DL and are seeking to extend it for reasons related to trafficking or slavery
- **removed the requirement for parents** to have applied for a fee waiver in order for their children to be eligible to apply for a fee waiver
- applicants who **apply in-time** for an extension of their leave, and whose fee waiver application falls for refusal, will normally be provided with 10 working days in which to validate their application by paying the fee or by demonstrating that they qualify for a fee waiver

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Introduction

This guidance explains the circumstances in which applicants will qualify for a fee waiver in respect of certain types of leave to remain application. This fee waiver policy applies to specified human rights applications where to require payment of the fee before deciding the application would be incompatible with a person's rights under the European Convention on Human Rights (ECHR). In addition, the fee waiver policy applies to applications from victims of trafficking who seek to extend their leave to remain in certain circumstances.

The courts have considered fee waivers in an immigration context in 2 important judgments: [Omar, R \(on the application of\) v Secretary of State for the Home Department \[2012\] EWHC 3448 \(Admin\)](#) and [Carter, R \(on the application of\) v Secretary of State for the Home Department \[2014\] EWHC 2603 \(Admin\)](#). This guidance has taken account of both judgments.

This guidance applies to the following types of application:

- applications for leave to remain under the **5-year partner route** from applicants who are not required to meet the minimum income threshold because their sponsor is in receipt of one or more specified benefits and who instead must demonstrate that their sponsor can provide **adequate maintenance**
- applications for leave to remain under the **5-year parent route**
- applications for leave to remain under the **10-year partner, parent or private life route**, where the applicant claims that refusal of that application for leave to remain would breach their rights (or the rights of other specified persons) under ECHR Article 8 (the right to respect for private and family life)
- applications for leave to remain on the basis of **other ECHR rights**
- applications for further leave to remain from applicants granted **discretionary leave (DL) following refusal of asylum or humanitarian protection**, where the applicant claims that refusal to grant further leave to remain would breach their ECHR rights
- applications for further **DL from victims of trafficking or slavery** who have had a positive conclusive grounds decision from a competent authority of the national referral mechanism (NRM), have already accrued 30 months' DL and are seeking to extend it for reasons related to trafficking or slavery

In assessing the fee waiver application the caseworker must have regard to the duty under [section 55 of the Borders, Citizenship and Immigration Act 2009](#) to safeguard and promote the welfare of any affected child, and therefore to the best interests of any such child as a primary consideration.

When applying for a fee waiver the applicant will be asked to provide **full details of their financial circumstances**, including statements covering the 6 month period prior to the date of application for any bank or building society account they hold. They must also provide a full breakdown of their monthly income and expenditure at the time of application.

Checks may be undertaken with agencies such as HM Revenue & Customs, the Department for Work and Pensions and Equifax to verify information provided by the applicant with regard to their income and finances (see Document Verification guidance). In addition, unannounced home visits may be undertaken to verify information provided by an applicant with regard to their accommodation and assets.

Applicants who fail to disclose their financial circumstances in full, or who provide false information in their fee waiver application, may have current or future applications for leave to enter or remain refused because of their conduct (see General grounds for refusal guidance). They may also be referred for enforcement action, resulting in possible arrest and removal.

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Applicants who can apply for a fee waiver

5-year partner and 5-year parent route (ECHR Article 8 rights)

Under the European Convention of Human Rights (ECHR) Article 8 rights, applicants for leave to remain as a **partner** on the 5-year route to settlement whose sponsor is in receipt of one or more of the benefits specified at paragraph E-LTRP.3.3. of [Appendix FM](#) to the Immigration Rules are not required to meet the minimum income threshold. Instead, they are required to demonstrate that their sponsor can maintain themselves, the applicant and any dependants adequately in the UK without recourse to public funds. Such applicants are eligible to apply for a fee waiver.

Applicants for leave to remain as a **parent** on the 5-year route to settlement are not required to meet the minimum income threshold and are required to demonstrate that they are able to maintain themselves and any dependants adequately in the UK without recourse to public funds. Applicants on this route are eligible to apply for a fee waiver.

Applicants who wish to apply for a fee waiver should indicate on the application form that they wish to rely on a fee exemption, complete Appendix 1: Request for Fee Waiver (hereafter referred to as 'Appendix 1') and enclose documentary evidence of their financial circumstances.

10-year partner, parent or private life route (ECHR Article 8 rights)

This fee waiver policy applies to applications for leave to remain under the **10-year partner, parent or private life route** where failure to waive the fee before considering the application would be a breach of the ECHR because the applicant would be unable to establish their right to remain in the UK. In order to apply for a fee waiver, the applicant must indicate on the application form that they wish to rely on a fee exemption, complete Appendix 1 and enclose relevant documentary evidence of their financial circumstances.

Other ECHR rights

Applications for leave to remain based on **ECHR Article 3**, whether as part of a claim for protection or on the basis of a medical condition, are non-charged applications so the fee waiver policy does not apply.

Applications for leave to remain based on **other (non-Article 3) ECHR rights** will be subject to the fee waiver policy where failure to waive the fee before considering the application would be a breach of the ECHR because the applicant would be unable to establish their right to remain in the UK. Where an application makes reference to

a number of ECHR rights including Article 3, the application will be non-chargeable only where the article 3 claim is a genuine basis for claim. This does not mean the Article 3 claim must be one that will succeed but it must have a realistic prospect of success (see Human rights claims on medical grounds).

Applicants will not be granted a fee waiver on the basis of ECHR rights unless the underlying human rights claim on which they rely constitutes a substantive basis of their application. This will not be the case where, for example, an ECHR Article is mentioned in passing as part of an application which is primarily made on another basis. The courts have made plain that the 'strength and force' of the underlying human rights claim is relevant when deciding whether a fee waiver might be appropriate. So, for example, if an application is made for leave principally on the basis of UK ancestry, and the applicant mentions Articles 12 (right to marry) and 14 (non-discrimination) in passing as part of that application, they will not qualify for a fee waiver. The relevant fee must be paid in order for the UK ancestry application to be accepted as a valid application.

A claim by an individual that removal would breach their human rights must be particularised in order to be accepted as a human rights claim. A basic statement made by an applicant that removal, or a refusal to grant them leave, would breach their human rights does not constitute a human rights claim. Caseworkers must assess whether or not a human rights claim has been made on a case-by-case basis.

Extension of leave to remain where applicant was refused asylum or humanitarian protection and granted DL

Applicants who have been **refused asylum or humanitarian protection but granted discretionary leave (DL)**, and who seek to extend their leave, can apply for a fee waiver where they claim that refusal to grant further leave would breach their rights under the ECHR. Applicants must tick the fee exemption box on the application form, complete Appendix 1 and provide documentary evidence of their financial circumstances.

Applicants who have been granted DL and who consider that they require international protection (asylum or humanitarian protection) should not seek to raise the protection claim in a DL extension application. Instead, they should follow the Further submissions policy.

Applicants who have been refused protection (asylum or humanitarian protection) but granted restricted leave (RL) are not charged a fee if they apply to extend their RL. Therefore, the fee waiver policy does not apply to this type of application.

Extension of DL for victims of trafficking or slavery

Applicants who have received a positive conclusive grounds decision from a competent authority of the national referral mechanism (NRM) and who were granted DL because of their compelling personal circumstances, to pursue a claim for compensation against their traffickers, or to assist with police enquiries, can apply for

a fee waiver. The circumstances for this include where they have already accrued 30 months' DL, are seeking to extend it for reasons related to trafficking or slavery as set out in the Competent Authority Guidance. Applicants must tick the fee exemption box on the application form, complete Appendix 1 and provide documentary evidence of their financial circumstances.

This category of applicant can qualify for a fee waiver even though they are not seeking to extend their leave to remain on the basis of their ECHR rights.

See Victims of modern slavery: Competent Authority guidance for details of the NRM and the circumstances in which victims can be granted DL.

Family units

Where the **main applicant states that they can pay the fee for their application** (or for their application and for the application of some of their dependants) **but are unable to pay the fee for the application of one or more of their dependants**, the dependants may apply for a fee waiver. In these circumstances, the main applicant will be asked to specify which dependants are applying for a fee waiver and must enclose an Appendix 1. The Appendix 1 must include the financial circumstances of the household, including the main applicant, their partner (if any) and any other adult with whom the main applicant lives and from whom they receive financial support, as well as the financial circumstances of all dependants.

Applications for further leave to remain where previous fee waived

When an applicant who qualified for a fee waiver for the application for their previous grant of leave applies for further leave to remain, and again requests a fee waiver, their eligibility for a fee waiver must be reassessed. They must continue to qualify for a fee waiver in order for the fee to be waived, but they can generally be expected to do so if they can evidence that their underlying financial circumstances have not changed.

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Applicants who cannot apply for a fee waiver

Applications on non-human rights grounds

If an application has been submitted with Appendix 1, but the application is not on the basis of any of the [specified applications](#), a fee waiver must not be considered. In these circumstances the applicant should be told that their application is not eligible for a fee waiver and that they must pay the specified fee in order to have their application considered (see Applications for leave to remain: validation, variation and withdrawal).

Applications for the 5-year partner route that require the minimum income threshold to be met

There is no fee waiver available for applicants for leave to remain under the 5-year partner route whose sponsor is not in receipt of one or more of the benefits specified at paragraph E-LTRP.3.3. of [Appendix FM](#) to the Immigration Rules. Such an applicant must meet the minimum income threshold and so they are not eligible for a fee waiver.

Applications for indefinite leave to remain (ILR)

Applications for ILR are not covered by the fee waiver policy. ILR applications need to be accompanied by the correct fee in order to be considered.

The fee waiver policy makes provision for those applicants who would otherwise be unable to establish their right to remain in the UK on the basis of the European Convention on Human Rights (ECHR) Article 8 or other ECHR rights. Grants of limited leave allow applicants to exercise their ECHR rights. Applicants who establish an ECHR right to remain in the UK may continue to apply for and be granted successive periods of limited leave to remain, qualifying for a fee waiver in respect of each application if they meet the terms of this policy.

However, applicants who make an application for limited leave to remain may request a longer period of limited leave than would normally be granted, or ILR, and where full reasons are provided for why this is appropriate in their case, this will be considered. Guidance on when a longer period of limited leave, or ILR, might be appropriate is available in the Immigration Directorate Instruction Family Migration: Appendix FM Section 1.0b Family life (as a partner or parent) and private life: 10-year routes.

There is also further guidance in the Asylum Policy Instruction on Discretionary leave (DL).

Applicants granted DL on the basis of being a victim of trafficking or slavery are not on a route to ILR.

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Qualifying for a fee waiver

An applicant (including a dependant who is seeking a fee waiver) who meets one of the 3 criteria listed below will qualify for a fee waiver:

- where the applicant has demonstrated, by way of evidence, that they are **destitute**
- where the applicant has demonstrated, by way of evidence, that they would **be rendered destitute by payment of the fee**, because whilst they have adequate accommodation and can meet their other essential living needs:
 - **they have no disposable income** such that, without compromising their ability to accommodate themselves adequately or meet their other essential living needs, they could now either pay the fee or save the required amount within a reasonable period (and it would be reasonable in all the circumstances to expect the applicant to delay their application for this length of time, taking into account in particular the potential impact of such a delay on their immigration status and access to work and benefits)
 - they are **unable to borrow** the required amount from family or friends
 - there is **no basis for believing that the applicant's financial circumstances are likely to change** within a reasonable period (and it would be reasonable in all the circumstances to expect the applicant to delay their application for this length of time)
- where the applicant has demonstrated, by way of evidence, that notwithstanding the fact that neither of the above criteria apply, there are **exceptional circumstances in their case such that a fee waiver should be granted** (see [Assessing whether there are exceptional circumstances](#))

Destitution

Consistent with the provision of support to asylum seekers and their dependants under [section 95 of the Immigration and Asylum Act 1999](#), a person should be regarded as destitute if either:

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

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

Reasonable period

A 'reasonable period' over which an applicant could be expected to save from their disposable income in order to pay the specified fee should be assessed in light of all the circumstances of the case. The reasonable period would not generally be expected to exceed the period of any extant leave or the period for which they would

be entitled to reside here under the European Economic Area (EEA) regulations (for example as the primary carer of an EU citizen). An applicant would normally be expected to make their application for leave to remain close to the expiry date of their current basis of lawful stay and could reasonably be expected to save towards the fee during that period but not beyond it.

Such a 'reasonable period' would not arise in respect of an application made out-of-time or made within the period of 28 days before the expiry of their extant leave in which applicants for further leave are normally advised to make their application.

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Assessing the application

The fee waiver application **must be assessed on the basis of the information provided in the completed Appendix 1 and the accompanying documentary evidence**. If the applicant does not complete every section of Appendix 1, their application for a fee waiver should not be rejected on that basis alone. In every case where an applicant submits an Appendix 1 and makes an application for a fee waiver, the caseworker should assess the information provided to see whether they qualify.

It is the **responsibility of the applicant to fully evidence their claimed financial circumstances**. Caseworkers should not normally make additional enquiries to try to establish whether an applicant qualifies for a fee waiver. The applicant may be requested to provide a missing document (or part of one) to which the fee waiver application refers where the caseworker anticipates that its provision will lead to a grant of a fee waiver. Caseworkers should otherwise base the decision on a fee waiver on the information and evidence provided and any verification checks.

If the applicant (or a dependent family member) has a **physical or mental disability**, this does not itself determine the assessment under this fee waiver policy, but it is relevant to the assessment of the fee waiver application insofar as it affects the applicant's financial circumstances and ability to pay the fee. Where the caseworker believes that the issue of disability may be material to the decision on the fee waiver application and there is insufficient information in this respect on which to base their decision, they may invite the applicant to submit further information or evidence. The applicant will need to establish any disability (or that of a dependent family member) by means of independent documentary evidence, such as a letter from a hospital consultant. If there is evidence that the applicant has special needs and may need assistance to present their case clearly, the caseworker can signpost them to other agencies who may be able to assist, such as [Citizens Advice](#).

Any **individual circumstances raised should be considered**. These include age, disability, gender reassignment, pregnancy and maternity, race (including ethnic or national origins, colour or nationality), religion or belief (including lack of belief), sex or sexual orientation of the applicant or any dependent family member, or regarding a related issue such as caring or childcare responsibilities. Any individual circumstances raised may be relevant to the consideration of whether the applicant is destitute, or would be rendered destitute by payment of the fee, or whether there are exceptional circumstances relating to their financial circumstances and ability to pay the fee such that the fee waiver should be granted.

Assessing fee waiver for dependants

Where a dependant has or dependants have applied for a fee waiver in their own right, the assessment of whether or not they qualify for a fee waiver should be based on **the financial circumstances of the household**. This includes those of the main applicant, their partner, and any other adult with whom the main applicant lives and

from whom they receive financial support, along with the financial circumstances of all the dependants, including themselves.

Timeframe for assessing the application

No service standards apply to the assessment of whether the applicant qualifies for a fee waiver, but caseworkers must make reasonable efforts to decide such applications promptly, especially those involving a child or an applicant who is street homeless, disabled or otherwise in **vulnerable circumstances**. Where the applicant qualifies for a fee waiver and their application is passed to a caseworking team for substantive consideration, normal service standards will apply to the consideration of the application.

Considering documentary evidence

The assessment of whether the applicant qualifies for a fee waiver will be made on the basis of their own individual circumstances and those of any dependent family members. **The onus is on the applicant to demonstrate that they qualify for a fee waiver.** The applicant must provide relevant documentation to evidence their fee waiver application, including detailed evidence as to their financial circumstances.

For example, caseworkers should normally expect to see information and evidence relating to the applicant's income, their accommodation, the type and adequacy of this, and the amount of their rent/ mortgage or of their contribution towards this, and their outgoings in terms of spending on things like food, utility bills. This information should be supported by independent evidence, such as their pay slips, bank statements, tenancy agreement, utility bills. The nature of the evidence provided will vary depending on the individual circumstances of the applicant, but the caseworker should expect to see evidence appropriate to the circumstances claimed.

If the applicant is being supported by family or friends, a local authority or a registered charity, the caseworker should expect to see corroborating documentary evidence confirming provision of support and detailing the nature and amount of the support provided. In all cases evidence must be up-to-date. Documents dating back more than a couple of months will be useful in establishing how the person's finances have changed over time, but should be given little weight in establishing whether the applicant meets the fee waiver policy now.

Where the applicant states that relevant documentary evidence cannot be provided, for example where an applicant is street homeless, the caseworker will need to be satisfied that the person's circumstances are as they claim, by making an assessment of their credibility. The applicant should be able to provide information as to how their financial position has changed over time, and may still be able to provide some evidence, depending on the nature of their circumstances, such as bank statements, an eviction notice, or written testimonies from people previously or currently providing them with support. If the caseworker believes that the applicant may qualify for a fee waiver in circumstances where all requested documentary evidence has not been provided, the application should be referred to a senior caseworker for decision.

Applicants in receipt of asylum support

Applicants are granted asylum support under the [Immigration and Asylum Act 1999](#) if they are destitute. However, once they are in receipt of this support, their accommodation and other essential living needs are met and so they are no longer destitute.

Failed asylum seekers may make a human rights claim by means of further submissions in person at the Further Submissions Unit in Liverpool. This does not require payment of a fee. Alternatively, an applicant in receipt of asylum support may make a (non-protection based) human rights claim. Such an applicant may apply for a fee waiver. In order to be eligible for a fee waiver, the applicant will have to demonstrate, by way of evidence that they would be rendered destitute by payment of the fee (which is likely in most cases, as they would be destitute but for the provision of asylum support). Otherwise they will have to demonstrate that there are exceptional circumstances relating to their financial circumstances and ability to pay the fee such that the fee should be waived. They will not be able to rely solely on the fact that they are in receipt of asylum support if there is evidence that they have additional assets or income.

Applicants in receipt of local authority support

Where an applicant is receiving support from a local authority, for example under [section 17 of the Children Act 1989](#), the local authority will have conducted their own assessment of the applicant's needs before making a decision to grant support and those needs will generally involve or include destitution. Such a person may apply for a fee waiver. They will no longer be destitute where the local authority support is providing for their accommodation and other essential living needs.

But, where the applicant can demonstrate, by way of evidence, that they would be destitute but for the local authority's support (particularly on the basis of evidence from the local authority), they should be granted a fee waiver, on the basis that they would be rendered destitute by payment of the fee.

Likewise, where the applicant can otherwise demonstrate, by way of evidence, that they would be rendered destitute by payment of the fee or that there are exceptional circumstances relating to their financial circumstances and ability to pay the fee such that the fee should be waived, they should be granted a fee waiver.

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

Caseworkers should consider the information and evidence that the applicant has provided in making their assessment of whether the applicant qualifies for a fee waiver. If there is some evidence that local authority support may be being provided,

but insufficient detail to make a decision, the caseworker may contact the local authority to request more detail.

Applicants in receipt of support from a registered charity

Applicants who are being supported by a registered charity will need to provide evidence of their financial position and accommodation arrangements. They should be able to provide documentary evidence from the registered charity explaining the nature and amount of the support being provided and why the applicant is being provided with support.

Caseworkers should consider the information and evidence that the applicant has provided in making their assessment of whether the applicant qualifies for a fee waiver. If there is some evidence that support from a registered charity may be being provided, but insufficient detail to make a decision, the caseworker may contact the charity to request more detail.

Assessing destitution

An applicant claiming to be destitute will need to provide evidence that they are destitute. In all cases the onus is on the applicant to provide evidence that they are destitute by providing information in Appendix 1 and any documentary evidence of their financial circumstances.

In considering whether an applicant qualifies for a fee waiver on the basis of destitution, the caseworker should have in mind that:

Those who already have limited leave to remain will normally be entitled to work in the UK.

Where the applicant is applying for the 10-year partner route, their partner will be a British Citizen or settled in the UK and will have access to work and to any public funds for which they qualify. It is therefore unlikely that the applicant will be destitute. In these circumstances the applicant should provide an explanation of why their partner's income is insufficient to be able to support them.

Where the applicant is applying for the private life route, they will generally have lived in the UK for a significant period. To show that they are currently destitute the applicant will have to explain how they have previously supported themselves in the UK and why their previous means of support are no longer available to them

If a person has been without any formal or obvious means of support (such as income from employment or local authority support) for a prolonged period, it may be reasonable for the caseworker to assume that the person has had, and may continue to have, access to an alternative form of support (for example, income from overseas or from a relative or friend), unless the applicant provides evidence that this is not the case or that their circumstances have changed and that they are now without any means of support

The applicant will need to provide relevant evidence of their income and expenditure so that their disposable income can be calculated. Caseworkers will need to use their judgement in assessing the applicant's spending habits to decide whether or not they are considered to have disposable income and the amount of this.

Intentional disposal of funds

Caseworkers should also consider whether the applicant has intentionally disposed of funds. This could include circumstances where the applicant or their dependants voluntarily give funds away to a third party, pay debts before they are required to do so, pay more in response to a debt than is required, buy a personal possession that is clearly not essential to their living needs, or spend extravagantly. An example of this might be where an applicant was in possession of disposable funds of £4,000 when they applied for a visit visa to come to the UK, but presents themselves as destitute 3 months later, claiming to have spent all their disposable funds. Applicants who intentionally deprive themselves of capital in order to avoid paying an application fee should normally be refused a fee waiver on the basis that they may be able to recover their funds (see [Assets](#)).

Assessing whether there are exceptional circumstances

An applicant who cannot provide evidence of destitution or show that they would be rendered destitute by paying the fee will not normally qualify for a fee waiver. However, there may be exceptional circumstances which mean that a fee waiver should be granted. Exceptional circumstances in this context relate only to the applicant's financial circumstances and their ability to pay the application fee and not to consideration of their substantive human rights claim.

An example of exceptional circumstances may be where the applicant is not destitute and would not be rendered destitute by paying the fee but cannot afford to pay it because they need to spend the money on essential child welfare needs, because of their child's illness or disability. A decision on whether there are exceptional circumstances should be made on a case-by-case basis, taking into account the applicant's individual circumstances and those of any dependent family member and all the information and evidence the applicant provides in support of their fee waiver application.

The applicant will need to demonstrate that there is something exceptional about their financial circumstances and ability to pay the fee such that a fee waiver should be granted, despite the fact that they have not provided evidence of destitution or that they would be rendered destitute by payment of the fee. If the caseworker considers a fee waiver may be appropriate on the basis of exceptional circumstances, the application should be referred to a senior caseworker for a decision.

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Income and assets

The caseworker must take into account the applicant's **household income and assets**, including income and assets belonging to the applicant's spouse or partner (as well as any other adult with whom the applicant lives and from whom they receive financial support) and to their children and any other dependants. Provision of financial information relating to a parents will be required only where the applicant is financially dependent on their parents.

The following must be taken into account:

- income:
 - from employment or self-employment
 - from non-employment sources
 - of the applicant's spouse or partner (as well as any other adult with whom the applicant lives and from whom they receive financial support) or parents from employment or other sources
 - from welfare benefits or tax credits received by the applicant or their spouse or partner (as well as any other adult with whom the applicant lives and from whom they receive financial support) or parents
 - from other family or friends
- assets:
 - cash
 - money held in bank and building society accounts (including non-UK based accounts), including accounts belonging to the applicant's spouse or partner (as well as any other adult with whom the applicant lives and from whom they receive financial support), parents or children
 - investments, including any investments belonging to the applicant's spouse or partner (as well as any other adult with whom the applicant lives and from whom they receive financial support), parents or children
 - land or property
 - cars or other vehicles
 - goods held for the purpose of a trade or other business
 - jewellery (except for wedding jewellery such as the applicant's engagement and wedding rings)
 - other personal possessions, such as mobile phones, computers

Employment and self-employment income

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

Illegal working

If a person discloses in their fee waiver application that they are, or have been, receiving income through working, but they do not have permission to work, their earnings and any cash or savings derived from this work will still be an asset when

assessing eligibility for a fee waiver. The applicant should be informed that they may be committing a criminal offence and should stop working immediately.

Welfare benefits and tax credits

If an applicant (for example on account of their previous National Insurance contributions) or their spouse or partner (or any other adult with whom the applicant lives and from whom they receive financial support) or parents is in receipt of welfare benefits, child benefit or tax credits, this support should be taken into consideration as income when assessing eligibility for a fee waiver.

Support from family or friends

Support provided to the applicant or a dependent family member by family or friends must be considered in assessing their income and outgoings. Such support could be financial or in terms of providing accommodation or meeting other essential living needs, such as providing food or paying bills.

If this support is of a limited duration or is about to end, the applicant must provide a full explanation of why this is so, along with relevant documentary evidence. An example of the sort of documentary evidence which could be provided might include a signed statement from the person who has been providing them with support explaining why they are no longer able to do so. Documentary evidence of that person's financial situation showing the support provided, such as regular payments to the applicant's bank account, and demonstrating that the person's financial circumstances have changed such that they cannot continue to support the applicant should also be provided.

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

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

Assets

Assets can be in the UK or overseas.

If an applicant or a dependent family member has assets, this may indicate the [intentional disposal of funds](#). Applicants in this position may be able to raise funds by selling the asset.

Caseworkers will need to consider on a case-by-case basis whether the value of an asset is reasonably realisable.

The value of an asset must be the value that applies at the time the decision is taken on the application for a fee waiver. If the asset has been valued in another currency,

the caseworker should use the website: [Oanda](#) to convert the currency to pounds sterling using the current exchange rate.

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

It may be that in order to realise an asset, its value is necessarily diminished such as the cashing of an endowment policy before its maturity date. In such circumstances, the caseworker must consider the 'current surrender value' of the asset. This requires an examination of the terms of the applicant's agreement with the holding financial organisation to establish the date the applicant is due to realise the asset or capital under the terms of the agreement and whether, and if so on what terms, it allows for the withdrawal of the funds before the specified date. If the agreement does not permit the applicant to withdraw the funds prematurely, they must be disregarded until such time as they can be realised. In all other cases, the caseworker must establish the funds that would be realised if the applicant were to withdraw the funds on a particular date, in other words its current surrender value.

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

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

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Granting the fee waiver application

If the applicant qualifies for a fee waiver, their application form for leave to remain will be passed to the relevant caseworking unit for consideration.

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Rejecting the fee waiver application

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

If the applicant made their **application in time** (for example they had valid leave on the date their application was submitted), they should normally be advised that they do not qualify for a fee waiver and that if they wish to validate their application, they must, within 10 working days, either pay the specified fee or submit additional evidence that demonstrates they qualify for a fee waiver. If the fee is paid within that period or additional evidence is provided within that period that demonstrates the applicant qualifies for a fee waiver, and the application meets the other validation criteria, it should be forwarded to the relevant caseworking section for consideration. If the applicant provides further evidence within 10 working days but this does not demonstrate that they qualify for a fee waiver, the application should be rejected as invalid. If no further evidence is provided and the fee is not paid within 10 working days, the application should be rejected as invalid.

If the applicant had **no valid leave at the date of application**, they should normally be advised that they do not qualify for a fee waiver and their application should be rejected as invalid. In order to have their application considered, the applicant would need to reapply with the specified fee or make a new application for a fee waiver.

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