Family Migration: Appendix FM Section 1.0b

Family Life (as a Partner or Parent) and Private Life: 10-Year Routes

Version 4.0
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About this guidance

This guidance tells decision makers how to deal with Article 8 applications or claims for leave to remain on the basis of family life as a partner or parent or on the basis of private life, on a 10-year route to settlement.

Contacts

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

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

Publication

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

- version 4.0
- published for Home Office staff on 11 April 2019

Changes from last version of this guidance

Guidance updated to clarify that leave to enter or remain as a fiancé, fiancée or proposed civil partner is to enable the marriage or civil partnership to take place in the UK.

Related content

Contents
Purpose

This section tells decision makers about use of this guidance in considering Article 8 family and private life applications or claims.

Use of this guidance

This guidance must be used for all decisions made on or after xx December 2018, by decision makers considering whether to grant leave to remain on a 10-year route to settlement following a valid human rights application or claim for leave to remain (unless a valid application is not required, including under paragraph GEN.1.9. of Appendix FM or paragraph 276A0 of Part 7) on the basis of family life as a partner or parent or on the basis of private life in accordance with the following parts of the Immigration Rules:

- paragraphs 276A0 – 276A04 and 276ADE(1)-DH of Part 7
- paragraphs A277, 277-280, 289AA, 295AA and 296 of Part 8
- Appendix FM

This guidance must be used together with the exceptional circumstances section of the 5-year partner, parent and exceptional circumstances guidance where the outcome of a consideration on a 10-year basis depends on whether there are exceptional circumstances.

The best interests of a child

The duty in section 55 of the Borders, Citizenship and Immigration Act 2009 to have regard to the need to safeguard and promote the welfare of a child in the UK, together with Article 3 of the UN Convention on the Rights of the Child, means that consideration of the child’s best interests must be a primary consideration in immigration decisions affecting them. This guidance and the Immigration Rules it covers form part of the arrangements for ensuring that we give practical effect to these obligations.

Decision makers must carefully consider all information and evidence provided in the application concerning the best interests of a relevant child (that is a person who is under the age of 18 years at the date of application and it is evident from the information provided by the applicant will be affected by the decision) when assessing whether an applicant meets the requirements of the Immigration Rules. Where they do not otherwise do so, decision makers must carefully consider whether, under paragraph GEN.3.2. of Appendix FM, there are exceptional circumstances which would render refusal of the application a breach of Article 8 (the right to respect for private and family life) of the European Convention on Human Rights (ECHR) because it would result in unjustifiably harsh consequences for the applicant or their family. Further information on considering exceptional circumstances is contained in the 5-year partner, parent and exceptional circumstances guidance or here: Appendix FM 1.0a Family Life (as a Partner or Parent): 5-Year Route (internal link).
Suggested refusal paragraphs are contained in this guidance. The decision letter must demonstrate that all the information and evidence provided in the application concerning the best interests of a relevant child has been considered. Decision makers must carefully assess the quality of any evidence provided. Documentary evidence from official or independent sources will be given more weight in the decision-making process than unsubstantiated assertions about a child’s best interests.

**Other information about this guidance**

Within this guidance there are links to the Horizon ‘work tools and guides’ section of the Home Office intranet for decision makers that are shown as an ‘internal link’ otherwise links are to the same guidance published on [GOV.UK](https://www.gov.uk) for external access.

**Related content**

[Contents](#)
Introduction

This section introduces decision makers to considering applications or claims made on Article 8 family and private life grounds in the UK.

Background

Since 9 July 2012, the Immigration Rules have contained a new framework for considering applications and claims engaging Article 8 of the ECHR (the right to respect for private and family life). Appendix FM to and paragraph 276ADE(1) of the Immigration Rules provide the basis on which a person can apply for entry clearance to the UK or leave to remain in the UK on family life grounds or leave to remain here on private life grounds.

These rules, together with the guidance on exceptional circumstances and children’s best interests contained in the Immigration Directorate Instructions, provide a clear basis for considering immigration cases in compliance with ECHR Article 8, as approved by the Supreme Court in February 2017 in MM (Lebanon) & Others v SSHD [2017] UKSC 10 and Agyarko & Ikuga v SSHD [2017] UKSC 11.

In particular, the Immigration Rules reflect the qualified nature of Article 8, setting requirements which properly balance the individual right to respect for private or family life with the public interest in safeguarding the economic well-being of the UK by controlling immigration, in protecting the public from foreign criminals and in protecting the rights and freedoms of others. The rules also take into account the need to safeguard and promote the welfare of children.

The Immigration Act 2014 received Royal Assent on 14 May 2014. From 28 July 2014, section 19 of the act amended the Nationality, Immigration and Asylum Act 2002 to set out Parliament’s view of what the public interest requires in immigration cases engaging the qualified right to respect for private and family life under ECHR Article 8. It requires the courts to give due weight to that public interest when deciding such cases. This means that the public interest in the maintenance of effective immigration control and in family migrants being financially independent and able to speak English, as required by the family Immigration Rules, is now underpinned in primary legislation.

From 28 July 2014, the Immigration Rules were amended to align them with the public interest considerations for non-foreign criminal cases in sections 117B of the 2002 act, inserted by section 19 of the 2014 act. The amendments to the rules do not represent any substantive change to the policies reflected in the Immigration Rules on family and private life implemented on 9 July 2012 but ensure consistency of language with that used in the 2014 act, which now provides statutory underpinning for those policies.

There are costs to the taxpayer which arise from the migration of children to the UK and their upbringing here. Local authorities have a legal responsibility to ensure that education is available for all children of compulsory school age. Depending on the...
circumstances, a sponsor may be entitled to claim tax credit or child benefit for their partner’s children. There may also be costs arising to the NHS.

It is reasonable to expect those who choose to establish or continue their family life in the UK to support their partner and children financially without relying on the taxpayer for additional support. In today’s global economy it may be that families choose to separate for work or other reasons in order to satisfy the immigration requirements of the country in which they wish to live together.

Where a person is unable to satisfy the requirements of the Immigration Rules, they have no basis to come to or remain in the UK. Where people cannot satisfy the requirements of the 5-year route Immigration Rules to remain in the UK, they are expected to leave, and it is natural to expect that it is reasonable for any child or children to leave with them. Only where there is something in the evidence to suggest it would be unreasonable for a child to leave, where there are insurmountable obstacles to family life with a partner outside of the UK, or exceptional circumstances, that the family who would otherwise be expected to go, will satisfy the requirements under the rules or the exceptional circumstances policies to stay.

Since 9 July 2012, further relevant Statements of Changes have been laid, to reflect the Supreme Court judgment in Alvi and to make corrections and clarifications to the rules.

These statements and the dates they came into force are:

- Cm8423 (20 July 2012)
- HC565 (6 September 2012)
- HC760 (13 December 2012)
- HC820 (13 December 2012)
- HC1038 (6 April 2013)
- HC244 (10 June 2013)
- HC628 (1 October 2013)
- HC803 (1 December 2013)
- HC1138 (6 April 2014)
- HC198 (1 July 2014)
- HC532 (28 July 2014)
- HC693 (6 November 2014)
- HC1025 (6 April 2015)
- HC297 (3 August 2015)
- HC535 (19 November 2015)
- HC877 (6 April 2016)
- HC667 (24 November 2016)
- HC1078 (6 April 2017)
- HC290 (10 August 2017)
- HC309 (11 January 2018)
- HC895 (6 April 2018)
- HC1154 (6 July 2018)
• HC1534 (5 November 2018)

Approach

This guidance reflects a two-stage approach in considering leave to remain applications under the family and private life Immigration Rules in Appendix FM and paragraphs 276ADE(1)-DH of Part 7.

First, the decision maker must consider whether the applicant meets the requirements of the family Immigration Rules without consideration of exceptional circumstances under paragraph GEN.3.1 and GEN.3.2. of Appendix FM, and the private life Immigration Rules under paragraphs 276ADE(1)-DH of Part 7, and if they do, leave under the relevant rules should be granted.

Second, if an applicant does not otherwise meet the relevant requirements of the Immigration Rules, the decision maker must move on to consider, under paragraph GEN.3.2. of Appendix FM or outside the rules in the case of an application for leave to remain made solely on the basis of private life in the UK, whether, in the light of all the information and evidence provided by the applicant, there are exceptional circumstances which would render refusal a breach of ECHR Article 8 because it would result in unjustifiably harsh consequences for the applicant, their partner, a relevant child or another family member whose Article 8 rights it is evident from the information provided by the applicant would be affected. If there are such exceptional circumstances, leave to remain should be granted on a 10-year route to settlement (as a partner or parent under Appendix FM or outside the rules on the basis of private life). If not, the application should be refused.

General information about applications

From 6 April 2015, under the Immigration (Health Charge) Order 2015, applications for leave to remain under the 10-year partner, parent and private life routes are subject to the immigration health charge, in addition to the application fee, unless they are not required to pay the immigration health charge.

From 6 April 2015, under changes made by the Immigration Act 2014, all applications for leave to remain under the 10-year partner, parent and private life routes which are refused will attract a right of appeal on the basis that a human rights claim has been refused, regardless of whether the application was made at a time when the applicant had valid leave to remain. The decision maker should refer to the following guidance for further information:

• Immigration Act 2014 Appeals guidance (internal link)
• Immigration Act 2014 Appeals guidance (external link)

From 6 April 2015, the Immigration Rules also contain paragraphs GEN.2.3.(1) and (2) of Appendix FM and paragraph 276A01(1) and (2), which provide for an applicant in the UK, who has been on immigration bail for a continuous period of more than 6 months at the date of application, who qualifies for leave on the basis of their family or private life in the UK, to be granted leave to enter rather than leave to remain.
An applicant granted leave to remain under the 10-year partner, parent or private life routes may be able to qualify for settlement (indefinite leave to remain) after they have completed a continuous period of 10 years (120 months) in the UK with leave under that route. An applicant must choose or meet a route in order to qualify for settlement, they cannot combine different types of leave. They may, however, qualify for settlement more quickly if they are successful in a subsequent valid application for leave under the 5-year partner or 5-year parent route of Appendix FM. Their previous leave under the 10-year partner, parent or private life route would not count towards the continuous period of 60 months with leave under that 5-year route required before the applicant may be able to qualify for settlement under that route.

In an application for leave to remain under the 10-year family or private life routes, paragraph 353 of the Immigration Rules applies where an earlier asylum or human rights claim has been refused, withdrawn or treated as withdrawn under paragraph 333C of the rules. The applicant must have raised asylum or human rights issues by means of an application or claim which was considered by the Home Office.

Paragraph 353 cannot be applied where asylum or human rights grounds are raised for the first time in grounds of appeal.

Paragraph 353 only applies where there is no appeal pending against the refusal of an earlier asylum or human rights claim and the applicant has exhausted their appeal rights: the decision maker must then apply paragraph 353 to any further material raised.

The decision maker should refer to the following guidance for further information:

- Further Submissions guidance (internal link)
- Further Submissions guidance (external link)

**Partner of a permanent member of HM Diplomatic Service, or a comparable UK-based staff member of the British Council, Department for International Development or Home Office**

Under Appendix FM, the partner of a permanent member of HM Diplomatic Service or a comparable UK-based staff member of the British Council, Department for International Development or Home Office on an overseas tour of duty can complete their probationary period overseas after they have arrived in the UK and commenced their leave to enter or once they have been granted leave to remain in the UK, subject to providing the specified evidence set out in paragraph 26A of Appendix FM-SE.

The partner of such a Crown servant serving overseas must return to the UK before the expiry of their leave and apply for further leave to remain. An application for further leave to remain cannot be made from overseas. There is no requirement for the Crown servant to return to the UK with their partner to make this application for
further leave to remain. Following a grant of further leave to remain the Crown servant partner can return overseas.

If the sponsor is still in Crown service overseas when their partner has completed their qualifying period for settlement as a partner under Appendix FM, the partner must return to the UK to apply for indefinite leave to remain.

**Specified evidence**

Appendix FM must be read together with Appendix FM-SE, which sets out the specified evidence which must be submitted with an application for entry clearance or limited leave to remain as a partner or parent. An applicant must provide documentary evidence relating to the relationship requirements specified in Appendix FM-SE when making a leave to remain application on a 10-year route under Appendix FM, such as evidence that the marriage or civil partnership is valid in the UK.

Not all evidence in family or private life applications is specified under Appendix FM-SE, due to the variety of evidence that may be provided for example, to demonstrate a genuine and subsisting relationship to a child, or an unmarried couple having lived together for more than 2 years.

**Related content**

[Contents](#)
Family and Private Life Routes

This section gives decision makers an introduction to the family and private life routes.

Introduction

Appendix FM provides 2 routes to settlement on the basis of family life as a partner or parent. These are a 5-year route and a 10-year route where:

- the 5-year route as a partner or parent is for those who meet all the suitability and eligibility requirements of the Immigration Rules at every stage
- the 10-year route as a partner or parent applies:
  - in respect of applications for leave to remain as a partner or parent, to those who meet all the suitability requirements, but only certain of the eligibility requirements as a partner or parent where paragraph EX.1. of Appendix FM applies and is met- paragraph EX.1. is not an exception to the rules as a whole, but to certain eligibility requirements for leave to remain under the 5-year partner and parent routes under Appendix FM
  - where entry clearance or leave to remain is granted following consideration under paragraph GEN.3.1. or paragraph GEN.3.2. of Appendix FM and in light of the exceptional circumstances to which that paragraph refers

Paragraphs 276ADE(1)-DH of Part 7 of the Immigration Rules provide for leave to remain on a 10-year route to settlement on the basis of private life in the UK. Such applications cannot be made from outside the UK.

In respect of leave to remain as a partner, child or parent under Appendix FM, in all cases that otherwise fall for refusal under the Immigration Rules, the decision maker must consider, under paragraph GEN.3.2. of Appendix FM, whether there are exceptional circumstances which would render refusal of the application a breach of ECHR Article 8 because it would result in unjustifiably harsh consequences for the applicant, their partner, a relevant child or another family member whose Article 8 rights it is evident from the information provided by the applicant would be affected. Where the rules are otherwise not met but there are such exceptional circumstances, leave to remain should be granted on a 10-year route to settlement. Where there are no such exceptional circumstances, the application should be refused.

Where the application is made solely on the basis of private life in the UK, exceptional circumstances must be considered in all cases that otherwise fall for refusal under paragraphs 276ADE(1)-DH of Part 7. Where those rules are not met but it is considered there are exceptional circumstances which would render refusal of the application a breach of ECHR Article 8, leave to remain outside the Immigration Rules should be granted. Where there are no such exceptional circumstances, the application should be refused.

For guidance on exceptional circumstances, the Exceptional Circumstances section of the Family Migration: Appendix FM Section 1.0a Family Life (as a Partner or
Parent) 5-Year Routes and exceptional circumstances guidance which can be found here:

https://www.gov.uk/government/publications/chapter-8-appendix-fm-family-members

- Appendix FM 1.0a Family Life (as a Partner or Parent): 5-Year Route (internal link)
- Appendix FM 1.0a Family Life (as a Partner or Parent): 5-Year Route (external link)

A person in the UK with entry clearance or limited leave to remain granted on the basis of family life on a 10-year route, or limited leave to remain granted on the basis of private life, in an application made from 9 July 2012, should apply for further leave to remain no more than 28 days before their extant leave expires or no more than 28 days before they have completed 30 months in the UK with such leave.

A person granted entry clearance or leave to enter or remain as a fiancé or fiancée or proposed civil partner can apply for further leave to remain as a partner once their marriage or civil partnership has taken place in the UK.

General provisions

Paragraphs GEN.1.1. to GEN.3.3. of Appendix FM and paragraphs 276A00 to 276A04 of Part 7 of the Immigration Rules set out general provisions. The decision maker must refer to the relevant general provisions when deciding an application for leave to remain on the basis of family or private life.

Under paragraph GEN.1.5. of Appendix FM if the Secretary of State has reasonable cause to doubt the genuineness of any document submitted in support of an application, and, having taken reasonable steps to verify the document, is unable to verify that it is genuine, the document will be discounted for the purposes of the application.

Paragraph GEN.1.14. of Appendix FM and paragraph 276A03 of Part 7 introduce a condition on all applicants aged 18 or over granted leave to enter or remain under Appendix FM or on the basis of private life, whether this leave is granted under the rules or outside the rules, prohibiting them from undertaking studies in a discipline listed in Appendix 6 of the Immigration Rules without first obtaining an Academic Technology Approval Scheme (ATAS) clearance certificate from the Counter-Proliferation Department of the Foreign and Commonwealth Office. This also applies to those who will be 18 before that period of entry clearance or limited leave expires.

For guidance on paragraphs GEN.3.1. to 3.3., see the Exceptional Circumstances section of the Family Migration: Appendix FM Section 1.0a Family Life (as a Partner or Parent) 5-Year Routes and exceptional circumstances guidance, which can be found here:

https://www.gov.uk/government/publications/chapter-8-appendix-fm-family-members
• Appendix FM 1.0a Family Life (as a Partner or Parent): 5-Year Route (internal link)
• Appendix FM 1.0a Family Life (as a Partner or Parent): 5-Year Route (external link)

Overview of the 10-year partner route

The 10-year partner route is available to those in the UK as the partner of someone who is British or settled in the UK or is in the UK with limited leave as a refugee or granted humanitarian protection (excluding those pre-flight family members who can qualify under Part 11 of the Immigration Rules).

Requirements to be met for leave to remain under the 10-year partner route are set out in paragraph R-LTRP.1.1.(a), (b) and (d) of Appendix FM. To qualify for leave, the applicant must meet all these requirements, subject to the exceptions set out in GEN.1.9. of Appendix FM and as outlined in the following section of this guidance: decisions in cases where a valid application is not required.

Guidance on considering the requirements of paragraph R-LTRP can be found in the following sections of this guidance:

- R-LTRP.1.1.(a)
- R-LTRP.1.1.(b)
- R-LTRP.1.1.(d)(i) – Suitability
- R-LTRP.1.1.(d)(ii) – Eligibility
- R-LTRP.1.1.(d)(iii) – EX.1. Exceptions to certain eligibility requirements for leave to remain as a partner

Any period of entry clearance or limited leave as a fiancé or fiancée or proposed civil partner does not count towards the continuous period of leave as a partner required for settlement.

Where an applicant for the 10-year partner route meets the relevant requirements of Appendix FM, leave to remain under that route should be granted.

If an applicant for the 10-year partner route does not otherwise meet the requirements of the Immigration Rules, the decision maker must consider, under paragraph GEN.3.2. of Appendix FM, whether there are exceptional circumstances which would render refusal of the application a breach of ECHR Article 8 because it would result in unjustifiably harsh consequences for the applicant or their family.

Where the rules are otherwise not met but there are such exceptional circumstances, leave to remain should be granted on the 10-year partner route to settlement.

Where an application or claim is made by a partner, although the definition of partner cannot be met, but there are exceptional circumstances that following consideration of GEN.3.2. mean that refusal would result in unjustifiably harsh consequences for the applicant or their family, leave should be granted under D-LTRP.1.2 on the 10-year partner route. This is the case even though the requirements for a grant of
leave on that basis could not be met before consideration was given to exceptional circumstances.

Where Appendix FM and 276ADE(1) cannot be met, decision-makers should consider exceptional circumstances with regard to GEN.3.2. rather than outside of the Immigration Rules where possible. It is preferable to grant people under rather than outside of the Immigration Rules.

It is possible that each individual member of a family can meet the requirements for leave on a different basis, where for example the child meets the private life provisions, a parent may be granted as a parent or parents may be granted as partners following consideration of exceptional circumstance in accordance with GEN.3.2.

Where there are no such exceptional circumstances, the application should be refused under Appendix FM.

**Overview of the 10-year parent route**

The 10-year parent route provides a basis on which leave to remain can be granted to a parent who has sole responsibility for or direct access to a child following the breakdown of their relationship with the child’s other parent. The route is for applicants who meet one of the following:

- has sole parental responsibility for their child
- does not live with the child (who lives with a parent or carer who is a British citizen or settled here), but they have direct access (in person) to the child, as agreed with the parent or carer with whom the child normally lives or as ordered by a court in the UK
- is the parent with whom the child normally lives, rather than the child’s other parent who is British or settled

The parent route is not for couples who are living together in a genuine and subsisting partner relationship. An applicant cannot meet the parent route if they are or will be eligible to apply under the partner route, including where for example the definition of partner cannot be met, or other eligibility criteria for access to a 5-year route are not met. Applicants in this position must apply or will only be considered (where they are not required to make a valid application), under the partner route, or under the private life route.

The 10-year parent route is available to those who are in the UK and who meet the relevant suitability and eligibility requirements, including the fact that the child with whom the applicant has a genuine and subsisting parental relationship must meet all of the following:

- is under the age of 18 years at the date of application
- is living in the UK
• is a British citizen, or has lived in the UK continuously for at least the 7 years immediately preceding the date of application (whether or not the child has settled status here)
• it would not be reasonable to expect the child to leave the UK

Where a child has turned 18 years of age since the applicant was first granted entry clearance or leave to remain as a parent under Appendix FM, the child must not have formed an independent family unit or be leading an independent life.

Requirements to be met for leave to remain under the 10-year parent route are set out in paragraph R-LTRPT.1.1.(a), (b) and (d) of Appendix FM. To qualify for leave, the applicant must meet all these requirements, subject to the exceptions set out in GEN.1.9. of Appendix FM and as outlined in the following section of this guidance: decisions in cases where a valid application is not required.

Guidance on considering the requirements of paragraph R-LTRPT.1.1.(d) can be found in the following sections of this guidance:

• R-LTRPT.1.1.(a)
• R-LTRPT.1.1.(b)
• R-LTRPT.1.1.(d)(i) – Suitability
• R-LTRPT.1.1.(d)(ii) – Eligibility
• R-LTRPT.1.1.(d)(iii) – EX.1. Exceptions to certain eligibility requirements for leave to remain as a parent

Where an applicant for the 10-year parent route meets the relevant requirements of Appendix FM, leave to remain under that route should be granted.

If an applicant for the 10-year parent route does not otherwise meet the requirements of the Immigration Rules, the decision maker must consider, under paragraph GEN.3.2. of Appendix FM, whether there are exceptional circumstances which would render refusal of the application a breach of ECHR Article 8 because it would result in unjustifiably harsh consequences for the applicant or their family.

Where the rules are otherwise not met but there are such exceptional circumstances, leave to remain should be granted on the 10-year parent route to settlement.

Where the application or claim is made by a parent, although the definition of parent cannot be met, but there are exceptional circumstances that following consideration of GEN.3.2. mean that refusal would result in unjustifiably harsh consequences for the applicant or their family, leave should be granted under D-LTRPT.1.2. on the 10-year parent route. This is the case even though the requirements for a grant of leave on that basis could not be met before consideration was given to exceptional circumstances.

Where Appendix FM and 276ADE(1) cannot be met, decision-makers should consider exceptional circumstances with regard to GEN.3.2. rather than outside of the Immigration Rules where possible. It is preferable to grant people under rather than outside of the Immigration Rules.
It is possible that each member of a family can be granted leave on a different basis, where for example the child meets the private life provisions, and the parent may be granted as a parent following consideration of GEN.3.2.

Where there are no such exceptional circumstances, the application should be refused under Appendix FM.

**Overview of the 10-year private life route**

Consistent with the public interest considerations set out in section 117B of the Nationality, Immigration and Asylum Act 2002, inserted by section 19 of the Immigration Act 2014, and as upheld in the Supreme Court in the case of Rhuppiah [2018] UKSC 58 which provide that little weight should be given to a private life established by a person who is in the UK unlawfully or with precarious immigration status, the private life rules set stringent requirements for leave to remain on the basis of private life in the UK.

A person is in the UK unlawfully if they require leave to enter or remain in the UK but do not have it. For the purposes of this guidance, a person’s immigration status is precarious if they are in the UK with limited leave to enter or remain but without settled or permanent status, or if they have obtained leave fraudulently or been notified that they are liable to deportation or removal.

The 10-year private life route is available to those who meet the suitability and eligibility requirements of paragraphs 276ADE(1). To qualify for leave, the applicant must meet all these requirements, subject to the exceptions set out in paragraph 276A0 of Part 7 and as outlined in the following section of this guidance: decisions in cases where a valid application is not required.

Guidance on considering the requirements of paragraph 276ADE(1) can be found in the following sections of this guidance:

- 276ADE(1)(i) – Suitability
- 276ADE(1)(ii) – Valid application
- 276ADE(1)(iii) to 276ADE(1)(vi)

In addition to the suitability requirements, any application on the basis of private life in the UK under paragraph 276ADE(1) is subject to provisions of the General Grounds for Refusal under paragraph A320 of Part 9 of the Immigration Rules. Further guidance on this can be found in the following section of this guidance: General Grounds for Refusal.

The decision maker must consider separately the private life of all the persons included in the application – the main applicant and also any other family members included in the application individually.

Where an applicant for the 10-year private life route meets the relevant requirements of the Immigration Rules, leave to remain under that route should be granted.
If an applicant solely for the 10-year private life route does not otherwise meet the requirements of those Immigration Rules, the decision maker must move on to consider whether, in light of all the information and evidence provided by the applicant, there are exceptional circumstances which would render refusal a breach of ECHR Article 8 because it would result in unjustifiably harsh consequences for the applicant or their family. Where there are, leave to remain outside the Immigration Rules should be granted, on a possible 10-year route to settlement.

Related content

Contents
General Grounds for Refusal

This section tells decision makers about the General Grounds for Refusal.

Applicants applying for leave to remain on the basis of family life as a partner or parent under Appendix FM to the Immigration Rules are not subject to the General Grounds for Refusal under Part 9 of the Immigration Rules.

Applicants applying for leave to remain on the basis of private life under paragraph 276ADE(1) of the Immigration Rules are not subject to the General Grounds for Refusal, except for the provisions in paragraph 322(1):

“322(1) the fact that variation of leave to enter or remain is being sought for a purpose not covered by these Rules.”

Guidance on considering the General Grounds for Refusal can be found here:

- General Grounds for Refusal (internal link)
- General Grounds for Refusal (external Link)

If the General Grounds for Refusal above apply, the application must be refused. Guidance on relevant refusal wordings can be found using the links to the guidance above.

Related content
Contents
Suitability requirements

This section tells decision makers about the suitability requirements of the family and private life rules.

Leave to remain

In considering all applications for leave to remain in the UK on the basis of a person’s family life as a partner or parent, or on the basis of a person’s private life in the UK, the decision maker must consider whether the suitability requirements under paragraphs S-LTR.1.1. to 4.5. of Appendix FM of the Immigration Rules are met.

Under paragraph S-LTR.1.1., an applicant will be refused leave to remain on the grounds of suitability if any of the paragraphs S-LTR.1.2. to S-LTR.1.8. apply.

Under paragraph S-LTR.2.1., an applicant will normally be refused leave to remain on the grounds of suitability if any of the paragraphs S-LTR.2.2. to S-LTR.2.5. apply.

Under paragraph S-LTR.3.1. – when considering whether the presence of an applicant in the UK is not conducive to the public good, any legal or practical reasons why the applicant cannot presently be removed from the UK must be ignored.

Under paragraph S-LTR.4.1., an applicant may be refused leave to remain on the grounds of suitability if any of the paragraphs S-LTR.4.2. to S-LTR.4.5. apply.

Addressing suitability

In considering the suitability criteria under paragraphs S-LTR.1.2. to S-LTR.1.6. of Appendix FM, decision makers must refer to the Criminality guidance:

- Criminality guidance in ECHR Cases (internal)
- Criminality guidance in ECHR Cases (external)

In considering the suitability criteria under paragraph S-LTR.1.8. of Appendix FM, decision makers must refer to the Restricted Leave guidance:

- Restricted Leave guidance (internal)
- Restricted Leave guidance (external)

In considering the suitability criteria under paragraphs S-LTR.1.7, S-LTR.2.2., S-LTR.2.4., S-LTR.3.1. and S-LTR.4.2 to S-LTR.4.5. of Appendix FM, decision makers must refer to the General Grounds for Refusal guidance:

- General Grounds for Refusal guidance (internal)
- General Grounds for Refusal guidance (external)

In considering the suitability criteria under paragraph S-LTR.2.5. of Appendix FM, decision makers should consider whether the Secretary of State has given notice to
the applicant and their partner under section 50(7)(b) of the Immigration Act 2014, that one or both of them have not complied with the investigation of their proposed marriage or civil partnership under the marriage and civil partnership referral and investigation scheme.

Where a proposed marriage or civil partnership referred to the Home Office under the 2014 act scheme is investigated by the Home Office because we have reasonable grounds to suspect it is a sham, and where we have notified the parties that one or both of them have not complied with the investigation, the marriage or civil partnership will not be able to proceed on the basis of that notice. The referral, the non-compliance decision and any information or evidence as to sham will be recorded.

Where the decision maker is aware that a non-compliance decision has been made and the non-EEA national is applying for leave to remain as a partner on the basis of a relationship with the same person, the application should normally be refused. However, the decision maker should take account of any evidence that the couple are in a genuine and subsisting relationship and do meet the relevant eligibility requirements of the rules.

Where the couple have since married or formed a civil partnership having given notice again and complied with any further investigation under the 2014 act scheme, the application should not be refused on the basis of the earlier non-compliance decision but may be refused if the decision maker is not satisfied that the couple are in a genuine and subsisting relationship.

Under paragraphs S-LTR.2.2, to S-LTR.2.5, where an applicant will normally be refused if they fail to meet these suitability requirements, and under paragraphs S-LTR.4.2, to S-LTR.4.5, where an applicant may be refused if they fail to meet these suitability requirements, the decision maker should look at the nature of the suitability issues being considered in the context of the application as a whole, and decide whether those issues are sufficiently serious to refuse on the basis of suitability (bearing in mind that anything which comes within these criteria should normally or may be refused) or whether there are compelling reasons to decide that the applicant meets the suitability criteria. This will be a case-specific consideration.

Criminality

Where an application for further leave to remain on the basis of Article 8 is received from a foreign criminal, and that foreign criminal meets all the following:

- they have previously been considered for deportation
- their deportation was not effected (because Criminal Casework decided that it would breach Article 8, or an appeal against the deportation was allowed)
- they were granted leave to remain on the basis of Article 8

then the application should not be considered under Appendix FM, but under Part 13 of the Immigration Rules. This is because deportation remains conducive to the public good and in the public interest. The relevant Immigration Rules are set out in paragraph A362 and paragraphs A398 to 399D of Part 13. Such cases should be
referred to Criminal Casework Directorate following the appropriate referral guidance.

The decision maker must consider whether criminality which does not fall within paragraphs S-LTR.1.2. to S-LTR.1.4. may fall for refusal under paragraphs S-LTR.1.5. to S-LTR.1.6.

In doing so, the decision maker should look at whether the applicant's conduct (including any convictions which do not fall within paragraphs S-LTR.1.3. to S-LTR.1.4.) means that their presence in the UK is undesirable or non-conducive to the public good under conduct, character, associations or other reasons. It is possible for an applicant to meet the suitability requirements, even where there is some criminality.

Refusal on the grounds of suitability

If the applicant falls for refusal on the grounds of suitability under any of the requirements in S-LTR, the application will be refused.

Guidance on refusal wordings under suitability can be found in the following section of this guidance: Example suitability refusal paragraphs.

Related content
Contents
Family Life as a Partner

This section tells decision makers how to consider applications under the Immigration Rules based on family life as a partner.

General

A summary of the stages a decision maker will go through when considering the 10-year partner route is provided in the following section of this guidance: Overview of the 10-year partner route.

This section applies to applications for leave to remain and further leave to remain as a partner of a person who is one of the following:

- a British citizen
- present and settled in the UK
- in the UK with limited leave as a refugee or granted humanitarian protection (where family reunion under Part 11 of the Immigration Rules does not apply)

Under paragraph GEN.1.2. of the General Provisions in Appendix FM, a “partner” is defined as one of the following:

- the applicant’s spouse (which must be evidenced by a marriage certificate)
- the applicant’s civil partner (which must be evidenced by a civil partnership certificate)
- the applicant’s fiancé or fiancée or proposed civil partner
- a person who has been living together with the applicant in a relationship akin to a marriage or civil partnership for at least 2 years prior to the date of application (which we expect to be evidenced by documents showing that the couple have been living together at the same address for at least 2 years)

The two-year period of living together for a couple who are not married or in a civil partnership must have been completed prior to the date of application. However, the two-year period does not have to have been completed immediately preceding the date of application if, for example, the couple are currently living apart for work reasons in order to meet the financial requirements of the rules, provided that the relationship continues to be genuine and subsisting at the date of application.

Leave to remain

As outlined in the overview of the 10-year partner route section of this guidance, the requirements to be met under the 10-year partner route are set out in paragraph R-LTRP.1.1.(a), (b) and (d) of Appendix FM.

R-LTRP.1.1.(a)
The requirements to be met under paragraph R-LTRP.1.1.(a) are that the applicant and their partner must be in the UK. If the applicant or their partner is not in the UK, then they cannot meet this requirement of the rules.

R-LTRP.1.1.(b)

The requirements to be met under paragraph R-LTRP.1.1.(b) are that the applicant must have made a valid application for limited or indefinite leave to remain as a partner.

As outlined in the decisions in cases where a valid application is not required section of this guidance, this is subject to the exceptions set out in GEN.1.9 of Appendix FM.

If a valid application has not been made, and the exceptions outlined in paragraph GEN.1.9 do not apply, then the applicant cannot meet this requirement of the rules.

R-LTRP.1.1.(d)

To meet the requirements of paragraph R-LTRP.1.1.(d) the applicant must meet all of the following requirements:

- an applicant must not fall for refusal under any of the grounds in Section S-LTR: suitability leave to remain
- an applicant must meet:
  - the relationship requirements in paragraphs E-LTRP.1.2 to E-LTRP.1.12
  - the immigration status requirements in paragraphs E-LTRP.2.1. and 2.2.
- paragraph EX.1.(a) or (b) applies

To meet the requirements of paragraph R-LTRP.1.1.(d) as a partner, all of the requirements above must be met.

R-LTRP.1.1(d)(i) – Suitability

To meet the requirements of paragraph R-LTRP.1.1.(d)(i), an applicant must not fall for refusal under S-LTR: Suitability.

The following section of this guidance outlines the requirements that must be considered in each application: Suitability requirements.

Any applicant who falls for refusal under suitability will not be able to meet the requirements of R-LTRP.1.1.(d)(i), regardless of whether they meet the requirements of R-LTRP.1.1.(d)(ii) and (iii).

R-LTRP.1.1(d)(ii) – Eligibility

To meet the requirements of paragraph R-LTRP.1.1.(d)(ii), an applicant must not fall for refusal under E-LTRP: Eligibility. They must meet all the relationship
requirements under E-LTRP.1.2 to 1.12 and the relevant immigration status requirements in E-LTRP.2.1. and 2.2.

Any applicant who falls for refusal under Eligibility will not be able to meet the requirements of R-LTRP.1.1.(d)(ii), regardless of whether they meet the requirements of R-LTRP.1.1.(d)(i) and (iii).

Relationship requirements

Applicants being considered under the 10-year route to settlement as a partner must meet all of the relationship requirements for leave to remain in paragraphs E-LTRP.1.2. to E-LTRP.1.12. of Appendix FM.

E-LTRP.1.2. Status of sponsor

An applicant’s partner must either be a British citizen in the UK, present and settled in the UK, or in the UK with refugee leave or with humanitarian protection.

Under paragraph 6 of the Immigration Rules “present and settled” or “present and settled in the UK” means that the person concerned is settled in the UK and, at the time that an application under these rules is made, is physically present here or is coming here with or to join the applicant and intends to make the UK their home with the applicant if the application is successful.

Where the person concerned is a British citizen or settled in the UK and meets one of the following:

- a member of HM Forces serving overseas
- a permanent member of HM Diplomatic Service, or a comparable UK-based staff member of the British Council, Department for International Development or Home Office on a tour of duty outside the UK, and the applicant has provided the evidence specified in paragraph 26A of Appendix FM-SE

then for the purposes of Appendix FM the person is to be regarded as present and settled in the UK, and in paragraphs R-LTRP.1.1.(a) and R-ILRP.1.1.(a) of Appendix FM the words “and their partner must be in the UK” are to be disregarded.

Generally, partners of a British Citizen or settled person who is a full-time member of HM Forces will apply under Part 8 under transitional arrangements or under Appendix Armed Forces rather than under Appendix FM.

In any application under Appendix FM, or as a fiancé or fiancée, proposed civil partner, spouse, civil partner, unmarried partner, same sex partner, child, or adult dependant relative under Part 8, where the applicant’s sponsor is:

- an EEA national with a permanent right to reside in the UK under European law, they must hold a valid residence permit issued under the Immigration (European Economic Area) Regulations 2000 which has been endorsed under the Immigration Rules to show permission to remain in the UK indefinitely, or a
valid document certifying permanent residence issued under the Immigration (European Economic Area) Regulations 2006 or the Immigration (European Economic Area) Regulations 2016, in order to be recognised as present and settled in the UK

- a non-EEA national with a permanent right to reside in the UK under European law, they must hold a valid residence document issued under the Immigration (European Economic Area) Regulations 2000 which has been endorsed under the Immigration Rules to show permission to remain in the UK indefinitely, or a valid permanent residence card issued under the Immigration (European Economic Area) Regulations 2006 or the Immigration (European Economic Area) Regulations 2016, in order to be regarded as present and settled in the UK

E-LTRP.1.3. and E-LTRP.1.4. Minimum age

The decision maker must be satisfied that the applicant and their partner are aged 18 or over at the date of application.

E-LTRP.1.5. Prohibited degree of relationship

The decision maker must be satisfied that the applicant and their partner are not within the prohibited degree of relationship as defined in the Marriage Act 1949, the Marriage (Prohibited Degrees of Relationship) Act 1986 and the Civil Partnership Act 2004. This definition is contained in paragraph 6 of the Immigration Rules.

In England and Wales, the Marriage Act 1949 prohibits a marriage between a person and any person mentioned in the following list:

- adoptive child
- adoptive parent
- child
- former adoptive child
- former adoptive parent
- grandparent
- grandchild
- parent
- parent’s sibling
- sibling
- sibling’s child

In the list “sibling” means a brother, sister, half-brother or half-sister.

The Marriage Act 1949 prohibits a marriage between a person and any person in the following list, until both parties are aged 21 or over, and provided that the younger party has not at any time before attaining the age of 18 been a child of the family in relation to the other party:

- child of former civil partner
- child of former spouse
• former civil partner of grandparent
• former civil partner of parent
• former spouse of grandparent
• former spouse of parent
• grandchild of former civil partner
• grandchild of former spouse

E-LTRP.1.6. Couple to have met in person

The decision maker must be satisfied that the applicant and their partner have met in person.

“To have met” has been interpreted by the Tribunal as “to have made the acquaintance of” which means that, provided the parties have made the acquaintance of each other, that acquaintance need not be in the context of marriage or civil partnership. This means for example that if the parties had been childhood friends, it could be acceptable, although the meeting of 2 infants would not. A mutual sighting or mere coming face-to-face followed by telephone or written contact would not suffice. The Tribunal decided that “met” implies a face-to-face meeting itself resulting in the making of mutual acquaintance.

Where the decision maker is not satisfied that the couple have met in person, the application must be refused.

All aspects of the case must be considered as well as the requirement to have met in person. If there are other grounds for refusal, these should also be included in the decision letter, although not having met in person can be the sole ground for refusal.

E-LTRP.1.7. Genuine and subsisting relationship

The decision maker must be satisfied that the relationship between the applicant and their partner is genuine and subsisting.

An applicant applying as an unmarried partner or same sex partner must have been living together with their partner in a relationship akin to a marriage or civil partnership for at least 2 years prior to the date of application and must provide documentary evidence of this. This is set out in GEN.1.2. of Appendix FM.

In assessing whether a relationship is genuine and subsisting, the decision maker should refer to the guidance on genuine and subsisting relationships:

• FM 2.0 Genuine and Subsisting Relationship guidance

E-LTRP.1.8. Valid marriage or civil partnership

The decision maker must be satisfied that, if the applicant and their partner are married or in a civil partnership, this is a valid marriage or civil partnership under UK law or recognised as valid in the UK.
The applicant and partner must provide evidence that their marriage or civil partnership is valid in the UK. The required evidence of marriage or civil partnership is specified in paragraphs 22 to 26 of Appendix FM-SE.

Where the applicant and partner have been married in the UK, the marriage must be evidenced by a certificate recognised under the laws of England and Wales, Scotland or Northern Ireland.

Where the applicant and partner have entered into a civil partnership in the UK, the civil partnership must be evidenced by a civil partnership certificate.

In assessing whether a couple have a valid marriage or civil partnership, the decision maker should refer to the Family Migration: Partnership, divorce and dissolution guidance.

E-LTRP.1.9. Previous relationship has broken down permanently

The decision maker must be satisfied that any previous relationship of the applicant or their partner has broken down permanently, unless it is a marriage or civil partnership which falls within paragraph 278(i) of the Immigration Rules.

Where the applicant, their partner has, or both have previously been married or in a civil partnership, the applicant must provide evidence as specified in paragraphs 23 and 25 to 26 of Appendix FM-SE that the previous marriage or civil partnership has ended.

Where the marriage or civil partnership of either the applicant or their sponsor to a previous partner has not been legally dissolved, the applicant may still be able to qualify under Appendix FM as an unmarried partner or same sex partner, provided that they meet the criteria set out in paragraph GEN.1.2, and they provide evidence that the new relationship is genuine and subsisting and that the previous relationship has broken down permanently.

In assessing whether any previous relationship of the applicant or their partner has broken down permanently, the decision maker should refer to the Family Migration: Partnership, divorce and dissolution guidance.

E-LTRP.10. Intention to live together permanently in the UK

The decision maker must be satisfied that the applicant and their partner intend to live together permanently in the UK.

Under paragraph 6 of the Immigration Rules “intention to live together permanently with the other” or “intend to live together permanently” means an intention to live together, evidenced by a clear commitment from both parties that they will live together permanently in the UK immediately following the outcome of the application in question or as soon as circumstances permit thereafter.

The applicant and their partner must intend to live together permanently in the UK. Each case must be judged on its merits.
In applications for further leave to remain or for indefinite leave to remain in the UK as a partner, where there have been limited periods of time spent outside of the UK during the period when the applicant had leave as a partner, this must be for good reasons and the reasons must be consistent with the intention to live together permanently in the UK. Good reasons could include time spent overseas in connection with the applicant’s or their partner’s employment, holidays, training or study or a family emergency or illness.

Each case must be judged on its merits, taking into account reasons for travel, length of absence and whether the applicant and partner travelled and lived together during the time spent outside the UK. These factors will need to be considered against the requirements of the rules.

If the applicant, their partner or both have spent the majority of the period overseas, there may be reason to doubt that the couple intend to live together permanently in the UK.

Where an application is made under Appendix FM and the sponsor is a permanent member of HM Diplomatic Service, or a comparable UK-based staff member of the British Council, Department for International Development or Home Office on a tour of duty outside the UK, the words “in the UK” in this definition do not apply.

Under Appendix FM, the partner of a permanent member of HM Diplomatic Service or of a comparable UK-based staff member of the British Council, Department for International Development or Home Office on an overseas tour of duty can serve their probationary period overseas once they have been to the UK to trigger the start of that period, subject to providing the specified evidence set out in paragraph 26A of Appendix FM-SE.

Therefore, if the applicant is the partner of such a person and has been living with them whilst they have been posted overseas, it will normally be accepted that this is consistent with the intention to live together permanently in the UK, subject to provision of the specified evidence. The applicant must, however, prior to their leave expiring, return to the UK to make an application for further limited leave to remain of 30 months or for indefinite leave to remain, as appropriate.

Immigration status requirements

Applicants being considered under the 10-year route to settlement as a partner must meet the immigration status requirements for leave to remain in paragraph E-LTRP.2.1. and E-LTRP.2.2. of Appendix FM.

E-LTRP.2.1.

The applicant must not be in the UK:

- as a visitor
• with valid leave granted for a period of 6 months or less, unless that leave is as a fiancé or fiancée or a proposed civil partner, or was granted pending the outcome of family court or divorce proceedings

Where the applicant is in the UK as a visitor, it means that they have undertaken to remain in the UK for up to 6-months before leaving. In all cases, visa or non-visa nationals have satisfied the entry clearance officer or immigration officer that they will do so. Those wishing to come to the UK to settle here as a partner or parent should apply for entry clearance under the family Immigration Rules. In view of that, a visitor cannot meet the requirements of the family Immigration Rules to remain in the UK in another category in the Immigration Rules.

Where an application is made by a visitor to remain, it is only where there are exceptional circumstances while the visitor is in the UK, that a person here as a visitor can remain on the basis of their family life. Further information on considering exceptional circumstances is contained in the 5-year partner, parent and exceptional circumstances guidance or here: Appendix FM 1.0a Family Life (as a Partner or Parent): 5-Year Route (internal link).

E-LTRP.2.2.

The applicant must not be in the UK:

• on immigration bail, unless the Secretary of State is satisfied that the applicant arrived in the UK more than 6 months prior to the date of application and paragraph EX.1. applies
• in breach of immigration laws (except that, where paragraph 39E of the rules applies, any current period of overstaying will be disregarded), unless paragraph EX.1. applies

For further guidance on applications from overstayers and paragraph 39E of the Immigration Rules, see:

• Applications from Overstayers guidance (internal)
• Applications from Overstayers guidance (external)

R-LTRP.1.1(d)(iii) – EX.1. Exceptions to certain eligibility requirements for leave to remain as a partner

To meet the requirements of R-LTRP.1.1.(d)(iii), paragraph EX.1.(a) or (b) must apply in the applicant’s case.

Where paragraph EX.1.(a) or (b) does not apply, an applicant will not be able to meet the requirements of R-LTRP.1.1.(d)(iii), regardless of whether they meet R-LTRP.1.1.(d)(i) and (ii).

EX.1. – General
Paragraph EX.1. is not a standalone provision under which leave can be granted. Rather, where it applies, certain eligibility requirements under the 5-year partner route (as to immigration status, finances and English language) do not have to be met. By not meeting the financial, English language or lawful immigration status eligibility requirements, the applicant is not entitled to leave to remain as a partner under the 5-year route. However, if EX.1 applies to them, they may be considered for the 10-year partner route if they meet all other requirements.

“EX.1. This paragraph applies if

(a) (i) the applicant has a genuine and subsisting parental relationship with a child who-

   (aa) is under the age of 18 years;
   (bb) is in the UK;
   (cc) is a British Citizen or has lived in the UK continuously for at least the 7 years immediately preceding the date of application; and

   (ii) taking into account their best interests as a primary consideration, it would not be reasonable to expect the child to leave the UK; or

(b) the applicant has a genuine and subsisting relationship with a partner who is in the UK and is a British Citizen, settled in the UK or in the UK with refugee leave or humanitarian protection, and there are insurmountable obstacles to family life with that partner continuing outside the UK.”

Paragraph EX.2. of Appendix FM states that:

“EX.2. For the purposes of paragraph EX.1.(b) “insurmountable obstacles” means the very significant difficulties which would be faced by the applicant or their partner in continuing their family life together outside the UK and which could not be overcome or would entail very serious hardship for the applicant or their partner.”

An applicant being considered under the 10-year partner route must meet the requirements set out at either EX.1.(a) or EX.1.(b). They do not have to meet both (a) and (b).

Even if the requirements in EX.1.(a) or (b) are met, an applicant will not qualify for leave to remain under the 10-year partner route on this basis if they do not meet all of the other requirements of paragraph R-LTRP.1.1(a), (b) and (d) of the Immigration Rules, including both the suitability requirements set out at paragraph R-LTRP.1.1.(d)(i) and the eligibility requirements set out at paragraph R-LTRP.1.1(d)(ii). These are outlined in the following sections of this guidance:

- R-LTRP.1.1(d)(i) – Suitability
- R-LTRP.1.1(d)(ii) – Eligibility
EX.1.(a) – Reasonable to expect

The requirements in paragraph EX.1.(a) reflect the duty in section 55 of the Borders, Citizenship and Immigration Act 2009 to have regard to the need to safeguard and promote the welfare of children, by which we mean their best interests, as reflected in case law, in particular, ZH (Tanzania) [2011] UKSC 4.

The decision maker must have regard to the best interests of the child as a primary consideration (but not the only or the paramount consideration). They must fully consider the child’s best interests.

Where the decision maker determines under paragraph EX.1.(a)(i) that the applicant has a genuine and subsisting parental relationship with a child under the age of 18 who is in the UK and is a British citizen or has lived in the UK continuously for at least the 7 years immediately preceding the date of application, the decision maker must undertake an assessment under paragraph EX.1.(a).

First, the decision maker must assess whether refusal of the application will mean that the child will have to leave the UK or is likely to have to do so. Where the decision maker decides that the answer to this first stage is yes, then they must go on to consider secondly, whether, taking into account their best interests as a primary consideration, it is reasonable to expect the child to leave the UK. In doing so the decision maker must carefully consider all the information provided by the applicant, together with any other relevant factor and information of which the decision maker is aware.

Where the decision maker concludes under the first stage of this test under EX.1(a), that refusal of the application will not mean that the child will have to leave the UK or be likely to have to do so, because they will remain in the UK with another parent or carer, paragraph EX.1.(a) will not apply.

For paragraph EX.1.(a) to apply because it is deemed unreasonable for a qualifying child to leave the UK, there must be an expectation that refusal will mean that the child will have to leave the UK. Accordingly, where that is not the case, it will not be necessary to consider whether it would be reasonable to expect the child to leave the UK, but it will be necessary to consider the effect of the applicant’s removal on the child with reference to the child’s best interests. The parents’ situation is a relevant fact to consider in deciding whether they themselves and therefore, their child is expected to leave the UK. Where both parents are expected to leave the UK, the natural expectation is that the child would go with them and leave the UK, and that expectation would be reasonable unless there are factors or evidence that means it would not be reasonable.

The decision maker must refer to the following section of this guidance on how to assess whether the applicant has a genuine and subsisting parental relationship with the child and whether it is reasonable to expect the child to leave the UK where refusal will mean that the child will have to leave the UK or is likely to have to do so: Reasonable to expect a child to leave the UK?
If the requirements of the family rules under Appendix FM are not met but following consideration of exceptional circumstances under GEN.3.2., it is considered that refusal would lead to unjustifiably harsh consequences for the applicant, the child or their family, leave will fall to be granted on the basis of the most relevant 10-year route.

**EX.1.(b) – Insurmountable obstacles**

The definition of insurmountable obstacles in paragraph EX.1.(b) is set out in paragraph EX.2. of Appendix FM as:

“EX.2. For the purposes of paragraph EX.1.(b) “insurmountable obstacles” means the very significant difficulties which would be faced by the applicant or their partner in continuing their family life together outside the UK and which could not be overcome or would entail very serious hardship for the applicant or their partner.”

This means that an insurmountable obstacle can take 2 forms:

- a very significant difficulty which would be literally impossible to overcome, so it would be impossible for family life with the applicant’s partner to continue overseas – for example because they would not be able to gain entry to the proposed country of return
- a very significant difficulty which would be faced by the applicant or their partner in continuing their family life together outside the UK and which could be overcome but to do so would entail very serious hardship for one or both of them

When assessing an application under paragraph EX.1.(b) and determining whether there are “insurmountable obstacles”, the decision maker should have regard to the individual circumstances of the applicant and their partner, based on all the information that has been provided. The onus is on the applicant to show that there are insurmountable obstacles, not on the decision maker to show that there are not.

The assessment of whether there are “insurmountable obstacles” is a different and more stringent assessment than whether it would be “reasonable to expect” the applicant’s partner to join them overseas. For example, a British citizen partner who has lived in the UK all their life, has friends and family here, works here and speaks only English may not wish to uproot and relocate halfway across the world, and it may be very difficult for them to do so. However, a significant degree of hardship or inconvenience does not amount to an insurmountable obstacle. ECHR Article 8 does not obligle the UK to accept the choice of a couple as to which country they would prefer to reside in.

Relevant country of origin information should be referred to when assessing insurmountable obstacles. The decision maker should consider the specific claim made and the relevant national laws, attitudes and situation in the relevant country.

The assessment of whether family life can continue overseas will generally consider the likely situation in the proposed country of return unless there is information to
suggest that the applicant or their partner might have a choice about where they choose to relocate to, such as where one or both of them has or have a right to reside in a country other than the country of proposed return, or where one or both of them has or have more than one nationality. In that case the decision maker should consider whether there are insurmountable obstacles to family life continuing in any of the relevant countries.

Lack of knowledge of a language spoken in the country in which the couple would be required to live would not usually amount to an insurmountable obstacle. It is reasonable to assume that the couple have a language in which they can communicate together. Therefore, it is possible for family life to continue outside the UK, whether or not the partner chooses to also learn a language spoken in the country of proposed return. Although inability to speak the language of that country may cause difficulties for the partner, it is very unlikely to amount to very serious hardship: many people successfully move to a country where, at first, they do not speak the language.

Being separated from extended family members – such as where the partner’s parents, their siblings or both live here – would not usually amount to an insurmountable obstacle, unless there were particular factors in the case to establish the unusual or exceptional dependency required for Article 8 to be engaged.

A material change in quality of life for the applicant and their partner in the country of return, such as the type of accommodation they would live in, or a reduction in their income or standard of living, would not usually amount to an insurmountable obstacle, unless this would lead to particular hardship or there were particular exceptional factors in the case.

The factors which might be relevant when considering whether an insurmountable obstacle exists include but are not limited to:

**Ability to lawfully enter and stay in another country**

The decision maker should consider the ability of the members of the family unit (both the applicant and others) to lawfully enter and stay in another country. The onus is on the applicant to show that it is not feasible for them and their family to enter and stay in another country for this to amount to an insurmountable obstacle. A mere wish, desire or preference to live in the UK is not sufficient.

An example of where it might not be feasible for the family to live together elsewhere might be where the sponsor has gained their settled status in the UK through a refugee route, and the applicant is of the same nationality. In the absence of a realistic third country alternative, the settled person’s inability to resume life in the country of origin is likely to constitute an obstacle to family life continuing overseas. The decision maker should consider relevant country information (but may not seek to go behind any decision to grant refugee status).

**Serious cultural barriers to relocation overseas**
This might be relevant in situations where the partner would be so disadvantaged by the social, religious or cultural situation in a particular country that they could not be expected to live there.

For example, a same sex couple or an inter-faith couple where the UK partner would face a real risk of prosecution, persecution or serious harm in the country of proposed relocation, as a result of their relationship or faith. Such a barrier must be one which affects their fundamental rights, cannot reasonably be overcome and would present a very serious obstacle to family life being pursued in that country. The decision maker should consider the effect on the UK partner and the degree of difficulty that the family would face living in that country. The decision maker should consider the relevant country information when considering whether a family would face very serious hardship in a particular country.

In so doing, the decision maker should consider the situation in practice and not just what is provided for in law. So, the fact that a country has a law which criminalises same sex sexual acts would not be sufficient to show that a couple would face very significant hardship living together in that country if the authorities in practice do not prosecute cases and there is no real risk of prosecution or persecution. The inability of a couple to marry or enter into a civil union, or to have their existing marriage or civil union recognised, in the country of return is not itself an insurmountable obstacle.

The impact of a mental or physical disability or of a serious illness which requires ongoing medical treatment

Moving to another country may involve a period of hardship for any person as they adjust to their new surroundings, whether or not they have a mental or physical disability or a serious illness which requires ongoing medical treatment. But independent medical evidence could establish that a physical or mental disability, or a serious illness which requires ongoing medical treatment, would lead to very serious hardship: for example, due to the lack of adequate health care in the country where the family would be required to live. As such, in the absence of a third country alternative, it could amount to an insurmountable obstacle to family life continuing overseas.

The absence of governance or security in another country

In some circumstances, for example where civil society has broken down as a result of conflict or natural disaster (and such breakdown extends to the country as a whole) requiring family members to commence living there may give rise to very serious hardship. Foreign Office travel advice should not normally be referred to, as that is generally aimed at tourists choosing to visit a country for specific purposes and a limited period. Rather, the decision maker should consider the relevant country information in relation to the country or countries in which the applicant and their family could lawfully reside.

Decision to grant leave to remain as a partner
Where an applicant meets the requirements for leave to remain as a partner in the UK under paragraph R-LTRP.1.1.(a), (b) and (d), the applicant will be granted leave to remain as a partner for a period not exceeding 30 months under paragraph D-LTRP.1.2. of Appendix FM, on a 10-year route to settlement.

Under paragraph GEN.1.11A., this grant of leave will normally be subject to a condition of no recourse to public funds, unless the applicant has provided the decision maker with satisfactory evidence that they are destitute, or satisfactory evidence that there are particularly compelling reasons relating to the welfare of a child of a parent (being granted leave as a partner) in receipt of a very low income, or satisfactory evidence that there are exceptional circumstances relating to the applicant’s financial circumstances which, in the view of the decision maker, requires them not to impose a condition of no recourse to public funds. For further guidance on the policy see the following section of this guidance: recourse to public funds.

Where an applicant currently has extant leave to enter or remain as a partner under Appendix FM at the date of application (excluding a grant of limited leave to remain as a fiancé, fiancée or proposed civil partner), that period of extant leave, up to a maximum of 28 days, will be added to the period of leave to remain that they are being granted as a partner under paragraph D-LTRP.1.2. An applicant with extant leave in this scenario will therefore be granted a period of leave to remain as a partner slightly in excess of 30 months.

The applicant should be advised that, where eligible, they should make a valid application for further leave to remain as a partner no more than 28 days before their extant leave is due to expire, or no more than 28 days before they have completed 30 months in the UK with such leave.

Where a person submits an Appendix FM partner application up to 28 days before they have competed 30 months in the UK with leave to enter or remain as a partner under Appendix FM, that person will be considered to have met the required continuous residence period of 30 months as a partner.

The decision maker must ensure they go on to consider all family members included in the application and assess their individual claims.

Where a partner is being granted on the basis of paragraph D-LTRP.1.2., any dependent child included in the application who requires leave should be considered under paragraph R-LTRC of Appendix FM. If the child meets the requirements of those rules, they should be granted leave to remain under paragraph D-LTRC.1.1. of the same duration and subject to the same conditions in respect of recourse to public funds as their parent who is being, or has been, granted leave to remain as a partner under Appendix FM.

**Decision to refuse leave to remain as a partner**

The application will fall for refusal if the decision maker is not satisfied that all of the requirements of R-LTRP.1.1.(a), (b) and (d) are met.
Where an applicant does not meet those requirements of the partner route under Appendix FM, the decision maker must consider whether the applicant meets the requirements for leave to remain on the basis of private life in the UK: see the following section of this guidance: Private Life in the UK. The parent route under Appendix FM will not be relevant if the applicant has a partner.

In every case otherwise falling for refusal under the 10-year partner route under Appendix FM, the decision maker must go on to consider, under paragraph GEN.3.2. of Appendix FM, whether in the light of all the information and evidence provided by the applicant, there are exceptional circumstances which would render refusal a breach of ECHR Article 8, because it would result in unjustifiably harsh consequences for the applicant, their partner, a relevant child or another family member whose Article 8 rights it is evident from the information provided by the applicant would be affected.

For guidance on exceptional circumstances and children’s best interests, see section 13. Exceptional Circumstances of the IDI Family Migration: Appendix FM Section 1.0a Family Life (as a Partner or Parent) 5-Year Routes, which can be found here:

https://www.gov.uk/government/publications/chapter-8-appendix-fm-family-members

- Appendix FM 1.0a Family Life (as a Partner or Parent): 5-Year Route (internal link)
- Appendix FM 1.0a Family Life (as a Partner or Parent): 5-Year Route (external link)

If the applicant does not qualify for leave to remain on the basis of private life and there are no exceptional circumstances as specified above, the application should be refused under paragraph D-LTRP.1.3 of Appendix FM, and the decision letter should reference this paragraph. It should also set out which of the requirements the applicant has failed to meet and why.

The decision letter must be clear about the information considered, including evidence submitted by the applicant, together with any relevant country information (which may be considered as part of an assessment in relation to insurmountable obstacles and what is considered to be in the best interests of a child, if relevant). The decision letter should make plain that all relevant factors have been assessed, in the round.

Guidance on refusal wordings under the partner rules can be found in the following section of this guidance: Example partner refusal paragraphs.

Related content
Contents
Family Life as the parent of a child in the UK

This section tells decision makers how to consider applications under the Immigration Rules based on family life as the parent of a child in the UK.

General

A summary of the stages a decision maker will go through when considering the 10-year parent route is provided in the following section of this guidance: Overview of the 10-year parent route.

This section applies to applications for leave to remain and further leave to remain as the parent of a child in the UK, where the child meets both of the following:

- is under the age of 18 years at the date of application
- is living in the UK

and where the child meets one of the following:

- is a British citizen
- has lived in the UK continuously for at least the 7 years immediately preceding the date of application

The decision maker should note that a parent wishing to remain in the UK on the basis of their relationship with a settled child who is not a British Citizen or has not lived in the UK continuously for at least 7 years immediately preceding the date of application, cannot on this basis, meet the requirements of the parent routes. The child living in the UK must either be British, or have lived in the UK continuously for at least the last 7 years, for the parent to meet this requirement of these rules.

The applicant must prove that the child with whom they have a relevant relationship is under the age of 18. The best evidence is the child’s birth certificate. If the applicant submits other forms of evidence, the decision maker must be satisfied that they prove the child is under the age of 18.

Where a child has turned 18 years of age since the applicant was first granted entry clearance or leave to remain as a parent under Appendix FM, the child must not have formed an independent family unit or be leading an independent life.

“Must not be leading an independent life” or “is not leading an independent life” means that the applicant does not have a partner (as defined in paragraph GEN.1.2. of Appendix FM), is living with their parents (except where they are at boarding school, college or university as part of their full-time education), is not employed full-time (unless aged 18 years or over), is wholly or mainly dependent upon their parents for financial support (unless aged 18 years or over), and is wholly or mainly
dependent upon their parents for emotional support. This is set out in paragraph 6 of the Immigration Rules.

The parent routes under Appendix FM (5-year and 10-year) provide a basis on which leave to remain can be granted to a parent who has responsibility for, or direct access in person to, their child, following the breakdown of their relationship with the child’s other parent.

The parent routes are for single parent applicants who meet one of the following:

- have sole parental responsibility for the child
- the other parent or carer of the child is British or settled and one of the following applies:
  - the applicant is the parent with whom the child normally lives
  - the child normally lives with the other parent or carer, but the applicant has direct access in person to the child, as agreed with that parent or carer or as ordered by a court in the UK

The parent routes are not for couples who are living together in a continuing genuine and subsisting partner relationship. Applicants in this position must apply, or will be considered (where the requirement to make a valid application does not apply), under the partner routes, or under the private life route. An applicant cannot meet the parent routes if they are or will be eligible to apply under the partner routes, including where the applicant is in a partner relationship but the couple have not yet been living together for 2 years, or where other eligibility requirements for a 5-year partner rules are not met.

As well as including a natural parent, under paragraph 6 of the Immigration Rules, a “parent” is defined as:

- the stepfather of a child whose father is dead (and the reference to stepfather includes a relationship arising through civil partnership)
- the stepmother of a child whose mother is dead (and the reference to stepmother includes a relationship arising through civil partnership)
- the father as well as the mother of an illegitimate child where he is proved to be the father
- an adoptive parent, where a child was adopted in accordance with a decision taken by the competent administrative authority or court in a country whose adoption orders are recognised by the UK, or where a child is the subject of a de facto adoption in accordance with the requirements of paragraph 309A of these rules (except that an adopted child or a child who is the subject of a de facto adoption may not make an application for leave to enter or remain in order to accompany, join or remain with an adoptive parent under paragraphs 297 to 303)
- in the case of a child born in the UK who is not a British Citizen, a person to whom there has been a genuine transfer of parental responsibility on the grounds of the original parent or parents’ inability to care for the child
Where an applicant meets all the other requirements of the rules but does not meet the definition of “parent” at paragraph 6 of the Immigration Rules, the relevant refusal paragraphs in the following section of this guidance should be used: Example parent refusal paragraphs.

**Leave to remain**

As outlined in the Overview of the 10-year parent route section of this guidance, the requirements to be met under the 10-year parent route are set out in paragraph R-LTRPT.1.1.(a), (b) and (d) of Appendix FM

**R-LTRPT.1.1.(a)**

The requirements to be met under paragraph R-LTRPT.1.1.(a) are that the applicant and their child must be in the UK. If the applicant or their child is not in the UK, then they cannot meet this requirement of the rules.

**R-LTRPT.1.1.(b)**

The requirements to be met under paragraph R-LTRPT.1.1.(b) are that the applicant must have made a valid application for limited or indefinite leave to remain as a parent or partner.

As outlined in the decisions in cases where a valid application is not required section of this guidance, this is subject to the exceptions set out in GEN.1.9. of Appendix FM.

If a valid application has not been made, and the exceptions outlined in paragraph GEN.1.9. do not apply, then the applicant cannot meet this requirement of the rules.

**R-LTRPT.1.1.(d)**

To meet the requirements of paragraph R-LTRPT.1.1.(d) the applicant must meet all of the following requirements:

(i) an applicant must not fall for refusal under any of the grounds in Section S-LTR: Suitability leave to remain

(ii) an applicant must meet:
    o the relationship requirements of paragraphs E-LTRPT.2.2. to 2.4.
    o the immigration status requirements in paragraph E-LTRPT.3.1. and 3.2.

(iii) paragraph EX.1.(a) applies

To meet the requirements of paragraph R-LTRPT.1.1.(d) as a parent, all of the requirements above must be met.
R-LTRPT.1.1(d)(i) – Suitability

To meet the requirements of paragraph R-LTRP.1.1.(d)(i), an applicant must not fall for refusal under S-LTR: Suitability.

The following section of this guidance outline the requirements which must be considered in every application: Suitability requirements.

Any applicant who falls for refusal under suitability will not be able to meet the requirements of R-LTRPT.1.1.(d)(i), regardless of whether they meet the requirements of R-LTRPT.1.1.(d)(ii) and (iii).

R-LTRPT.1.1(d)(ii) – Eligibility

To meet the requirements of paragraph R-LTRPT.1.1.(d)(ii), an applicant must not fall for refusal under E-LTRP: Eligibility. They must meet all of the relationship requirements under E-LTRPT.2.2. to 2.4 and the relevant immigration status requirements in E-LTRPT.3.1. and 3.2.

Any applicant who falls for refusal under eligibility will not be able to meet the requirement of R-LTRPT.1.1.(d)(ii), regardless of whether they meet R-LTRPT.1.1.(d)(i) and (iii).

Relationship Requirements

Applicants being considered under the 10-year parent route must meet all of the relationship requirements for leave to remain in paragraphs E-LTRPT.2.2. to E-LTRP.2.4. of Appendix FM.

E-LTRPT.2.2.

An applicant’s child must be under the age of 18 at the date of application, living in the UK and either be a British citizen, or settled in the UK, or have lived in the UK continuously for at least the 7 years immediately preceding the date of application (and paragraph EX.1. applies).

Where a child has turned 18 years of age since the applicant was first granted entry clearance or leave to remain as a parent under Appendix FM, the child must not have formed an independent family unit or be leading an independent life.

“Must not be leading an independent life” and “is not leading an independent life” are defined in paragraph 6 of the Immigration Rules, and are outlined in the following section of this guidance: Family life as the parent of a child in the UK.

“Living in the UK” means that the child concerned is living in the UK at the time the date of application and is physically present here and the applicant intends to make the UK their home with the child, if the application is successful. A parent cannot rely on their relationship with a child who is overseas to obtain leave in this route.
E-LTRPT.2.3. and E-LTRPT.2.4.

Under paragraph E-LTRPT.2.3.(a) the decision maker must be satisfied that one of the following requirements is met:

- the applicant has sole parental responsibility for the child
- the child normally lives with the applicant and not their other parent (who is a British citizen or settled in the UK), and the applicant must not be eligible to apply for leave to remain as a partner under Appendix FM
- the parent or carer with whom the child normally lives must be a British Citizen or settled in the UK

If the child normally lives with their British or settled parent or carer, and not the applicant:

- the applicant cannot be the partner of this British or settled parent or carer (which includes a British or settled person who has been in a relationship with the applicant for less than 2 years prior to the date of application)
- the applicant must not be eligible to apply for leave to remain as a partner under Appendix FM

Under paragraph E-LTRPT.2.4.(a) the decision maker must be satisfied that the applicant has provided evidence to show that they have either:

- sole parental responsibility for the child, or that the child normally lives with them
- direct access in person to the child, as agreed with the parent or carer with whom the child normally lives, or as ordered by a court in the UK

The decision maker must also be satisfied under paragraph E-LTRPT.2.4.(b) that in all cases the applicant has provided evidence that they are taking, and intend to continue to take, an active role in the child’s upbringing.

The applicant must provide evidence they meet the parental relationship requirement. Guidance on the meaning of “sole parental responsibility”, “normally lives with” and “direct access in person” can be found below.

Sole parental responsibility

Sole parental responsibility must be interpreted in line with the definition in this guidance.

Sole parental responsibility means that one parent has abdicated or abandoned parental responsibility, and the remaining parent is exercising sole control in setting and providing the day-to-day direction for the child’s welfare.

In assessing whether the applicant has sole parental responsibility for a child, the decision maker must consider if evidence has been provided to show that:
• decisions have been taken and actions performed in relation to the upbringing of the child under the sole direction of the applicant, without the input of the other parent or any other person

• the applicant parent is responsible for the child’s welfare and for what happens to them in key areas of the child’s life, and that others do not share this responsibility for the child

• the applicant parent has exclusive responsibility for:
  o making decisions regarding the child’s education, health and medical treatment, religion, residence, holidays and recreation
  o protecting the child and providing them with appropriate direction and guidance
  o the child’s property
  o the child’s legal representation

In addition, the decision maker should note that:

• sole parental responsibility is not the same as legal custody

• significant or even exclusive financial provision for a child does not in itself demonstrate sole parental responsibility

• where both parents are involved in the child’s upbringing, it will be rare for one parent to establish sole parental responsibility

• sole parental responsibility can be recent or long-standing- any recent change of arrangements should be scrutinised to make sure this is genuine and not an attempt to circumvent immigration control

Some day-to-day responsibility (or decision making) for the child’s welfare may be shared with others, for example, relatives or friends, for practical reasons, as long as the applicant is ultimately responsible for the welfare of the child. The decision maker is not considering whether the applicant (or anyone else) has day-to-day responsibility for the child, but whether the applicant has continuing sole control and direction of the child’s upbringing, including making all the important decisions in the child’s life. If not, then they do not have sole parental responsibility for the child. The decision maker must carefully consider each application on a case-by-case basis. The burden of proof is on the applicant to provide satisfactory evidence. In some instances, it may be appropriate to interview an applicant to establish whether they have sole responsibility for the child, or to contact the other parent (with the consent of the applicant) in order to confirm they have no parental responsibility.

**Normally lives with**

This applies where both parents (one of whom is a British citizen or settled person) are no longer in a subsisting relationship, but have retained shared parental rights and responsibilities, and the child’s primary custodial residence preceding the date of application, as demonstrated by a court order or consensual agreement, is with one of them.

From 13 December 2012 applicants for leave to remain in the UK can apply in this category where they have either:
• a joint residence order
• other evidence of shared custody of a child or children in the UK

The purpose of this provision is to allow a migrant parent whose relationship with a British citizen or settled person has broken down, and who has shared or equal custody of a child here, to remain in the UK where it is in the child’s best interest for them to do so.

The fact that an applicant is simply a parent of a child in the UK is not enough to meet the requirements of the rules.

The decision maker must be satisfied that:

• the relationship between the applicant and the other parent has broken down and is no longer subsisting
• the applicant has joint or shared custody of the child or children
• evidence of shared custody has been provided in the form of a court order or consensual agreement with the British citizen or settled parent
• evidence has been provided to demonstrate that the child normally lives with the applicant in the UK (and not their British citizen or settled parent), or that the child normally lives with their British citizen or settled parent and not the applicant, but has regular direct contact with the latter
• the applicant does not have another partner

The primary residence of the child is the residence where the child spends most of their time. For example, parents may have joint custody of the child but the child may spend the majority of the time with only one of their parents, thereby having their primary residence with that parent.

In legal terms, a child can only have one primary residence. However, where a child spends equal time with either parent, for example 7 days out of 14 with both throughout the year, for the purposes of this route, the child will be considered to “normally live with” the applicant.

A child will not “normally live with” a parent whom the child occasionally lives with: for example, only at weekends, during holidays or by an overnight stay once a week.

There is no specified evidence that the applicant has to provide in order to demonstrate whom a child normally lives with, but the onus is on the applicant to show that a child normally lives with them or with the British citizen or settled parent.

Evidence to show that a child normally lives with a person may include correspondence from:

• a court in the form of a court order showing joint or shared custody
• the other partner confirming joint or shared custody
• a doctor, hospital or dentist
• a school, childcare provider or playgroup
• the Department for Work and Pensions
However, other evidence will also be accepted, provided that it enables the decision maker to be satisfied that a child normally lives with the stated person.

**Child does not normally live with the applicant**

If the applicant does not have sole parental responsibility for the child and the child does not normally live with them, they must supply evidence to show that the parent or carer with whom the child normally lives is a British Citizen or settled in the UK and that that person cares for the child.

Evidence can include:

- a British passport
- a foreign passport endorsed with ‘indefinite leave to remain’ or ‘no time limit’
- a letter from the Home Office confirming that the person is settled in the UK
- evidence that the child resides with the British citizen or settled parent

**Direct access in person**

An applicant can qualify for leave as a parent if they have direct access in person to the child, as agreed with the parent or carer with whom the child normally lives or as ordered by a court in the UK. The applicant must prove they have direct access in person to the child by submitting evidence such as:

- a residence order or contact order granted by a court in the UK
- a letter or affidavit from the UK-resident parent or carer of the child
- evidence from a contact centre detailing contact arrangements

The above evidence, or a reasonable equivalent, should establish that the applicant parent has direct access in person to the child, and describe in detail the arrangements which allow for this. If an affidavit is submitted, it should be certified by a lawyer.

It is not enough for the applicant to provide evidence only that they have been granted direct access to a child. The rules require the applicant to show that they have direct access in person to the child and are taking an active role in the child’s upbringing and will continue to do so. The decision maker must be satisfied that direct contact in person with the child is the main reason for the application.

**Immigration Status Requirements**

An applicant being considered under the 10-year route to settlement as a parent must meet the immigration status requirements for leave to remain in Appendix FM.
E-LTRPT.3.1.

The applicant must not be in the UK:

- as a visitor
- with valid leave granted for a period of 6 months or less, unless that leave was granted pending the outcome of family court or divorce proceedings

Where the applicant is in the UK as a visitor, it means that they have undertaken to only remain in the UK for up to 6-months before leaving. In all cases, visa or non-visa nationals have satisfied the entry clearance officer or immigration officer that they will do so. In view of that, a visitor cannot apply to remain in the UK in another category in the Immigration Rules.

Those wishing to come to the UK to settle here as a partner or parent should apply for entry clearance under the family Immigration Rules. It is only where there are exceptional circumstances that arise when the visitor is in the UK, that a person here as a visitor can remain on the basis of their family life. Further information on considering exceptional circumstances is contained in the 5 year partner, parent and exceptional circumstances guidance or here: Appendix FM 1.0a Family Life (as a Partner or Parent): 5-Year Route (internal link).

E-LTRPT.3.2.

The applicant must not be in the UK:

- on immigration bail, unless the Secretary of State is satisfied that the applicant arrived in the UK more than 6 months prior to the date of application and paragraph EX.1. applies
- in breach of immigration laws (except that, where paragraph 39E of the rules applies, any current period of overstaying will be disregarded), unless paragraph EX.1. applies

For further guidance on applications from overstayers and paragraph 39E, see:

- Applications from Overstayers guidance (internal)
- Applications from Overstayers guidance (external)

R-LTRPT.1.1(d)(iii) – EX.1. Exceptions to certain eligibility requirements for leave to remain as a parent

To meet the requirements of R-LTRPT.1.1.(d)(iii) as a parent, paragraph EX.1.(a) must apply in the applicant’s case.

Where paragraph EX.1.(a) does not apply, an applicant will not be able to meet the requirements of R-LTRPT.1.1.(d)(iii), regardless of whether they meet the requirements of R-LTRPT.1.1.(d)(i) and (ii).
EX.1. – General

Paragraph EX.1. is not a standalone provision under which leave can be granted. Rather, where it applies, certain eligibility requirements which apply under the 5-year parent route (as to immigration status, finances and English language) do not apply.

By not meeting all eligibility requirements, the applicant will not be entitled to leave to remain as a parent under the 5-year route. However, if EX.1 applies to them, they may be considered for the 10-year partner route if they meet all other requirements.

“EX.1. This paragraph applies if

(a) (i) the applicant has a genuine and subsisting parental relationship with a child who-

(aa) is under the age of 18 years;
(bb) is in the UK;
(cc) is a British Citizen or has lived in the UK continuously for at least the 7 years immediately preceding the date of application; and

(ii) taking into account their best interests as a primary consideration, it would not be reasonable to expect the child to leave the UK”

An applicant being considered under the 10-year parent route must meet the requirements set out at EX.1.(a). They cannot qualify for leave to remain on the parent route on the basis of EX.1.(b).

Even if the requirements in EX.1.(a) are met, the applicant will not qualify for leave to remain as a parent under the 10-year parent route if they do not also meet all the other requirements of paragraph R-LTRPT.1.1(a), (b) and (d) of the Immigration Rules, including both the suitability requirements set out at paragraph R-LTRPT.1.1.(d)(i) and the eligibility requirements set out at paragraph R-LTRPT.1.1(d)(ii). These are outlined in the following sections of this guidance:

- R-LTRPT.1.1(d)(i) – Suitability
- R-LTRPT.1.1(d)(ii) – Eligibility

EX.1.(a) – Reasonable to expect

The requirements in paragraph EX.1.(a) reflect the duty in section 55 of the Borders, Citizenship and Immigration Act 2009 to have regard to the need to safeguard and promote the welfare of children, by which we mean their best interests, as reflected in case law, in particular, ZH (Tanzania) [2011] UKSC 4.

The decision maker must have regard to the best interests of the child as a primary consideration (but not the only or the paramount consideration). They must fully consider the child’s best interests.

Where the decision maker determines under paragraph EX.1.(a)(i) that the applicant has a genuine and subsisting parental relationship with a child under the age of 18...
who is in the UK and is a British Citizen or has lived in the UK continuously for at least the 7 years immediately preceding the date of application, the decision maker must go on to assess under paragraph EX.1.(a)(ii):

1. whether refusal of the application will mean that the child will have to leave the UK or is likely to have to do so
2. whether, taking into account their best interests as a primary consideration, it is reasonable to expect the child to leave the UK- in doing so the decision maker must carefully consider all the information provided by the applicant, together with any other relevant information of which the decision maker is aware

Where the decision maker concludes that refusal of the application will not mean that the child will have to leave the UK or be likely to have to do so, because they will remain in the UK with another parent or carer, paragraph EX.1.(a) will not apply.

For paragraph EX.1.(a) to apply, there must be an expectation that refusal will mean that the child will have to leave the UK. Accordingly, where that is not the case, it will not be necessary to consider whether it would be reasonable to expect the child to leave the UK, but it will be necessary to consider the likely impact of the applicant’s removal on the child with reference to the child’s best interests. If it is considered that refusal would lead to unjustifiably harsh consequences for the applicant, the child or their family, leave will fall to be granted on the basis of paragraph GEN.3.2. of Appendix FM.

The decision maker must refer to the following section of this guidance on how to assess whether the applicant has a genuine and subsisting parental relationship with the child and whether it is reasonable to expect the child to leave the UK where refusal will mean that the child will have to leave the UK or is likely to have to do so: Reasonable to Expect a Child to Leave the UK?

**Decision to grant leave to remain as a parent**

Where an applicant meets the requirements for leave to remain as a parent of a child in the UK under paragraph R-LTRPT.1.1.(a), (b) and (d), the applicant will be granted leave to remain for a period not exceeding 30 months as a parent under paragraph D-LTRPT.1.2. of Appendix FM, on a 10-year route to settlement.

Under paragraph GEN.1.11A, this grant of leave will normally be subject to a condition of no recourse to public funds, unless the applicant has provided the decision maker with satisfactory evidence that they are destitute, or satisfactory evidence that there are particularly compelling reasons relating to the welfare of a child of a parent in receipt of a very low income, or satisfactory evidence that there are exceptional circumstances relating to the applicant’s financial circumstances which, in the view of the decision maker, requires them not to impose a condition of no recourse to public funds. For further guidance on the policy see the following section of this guidance: recourse to public funds.

Where an applicant currently has extant leave to enter or remain as a parent of a child in the UK under Appendix FM at the date of application, that period of extant
leave, up to a maximum of 28 days, will be added to the period of leave to remain that they are being granted as a parent under paragraph D-LTRPT.1.2. An applicant with extant leave in this scenario will therefore be granted a period of leave to remain as a parent by up to 28 days in excess of 30 months.

The applicant should be advised that, where eligible, they should make a valid application for further leave to remain as a parent no more than 28 days before their extant leave is due to expire, or no more than 28 days before they have completed 30 months in the UK with such leave.

Where a person submits an Appendix FM parent application up to 28 days before they have completed 30 months in the UK with leave to enter or remain as a parent under Appendix FM, that person will be considered to have met the required continuous residence period of 30 months as a parent.

The decision maker must ensure they go on to consider all family members included in the application and assess their individual claims.

Where a parent is being granted leave on the basis of paragraph D-LTRPT.1.2., any dependent child included in the application who requires leave should be considered under paragraph R-LTRC of Appendix FM. If the child meets the requirements of those rules, they should be granted leave to remain under paragraph D-LTRC.1.1. of the same duration and subject to the same conditions in respect of recourse to public funds as their parent who is being, or has been, granted leave under the parent rules of Appendix FM.

**Decision to refuse leave to remain as a parent**

The application will fall for refusal if the decision maker is not satisfied that all of the requirements of R-LTRPT.1.1.(a), (b) and (d) are met.

Where an applicant does not meet those requirements of the parent route under Appendix FM, the decision maker must consider whether the applicant meets the requirements for leave to remain on the basis of private life in the UK: see the following section of this guidance: [Private Life in the UK](#).

In every case otherwise falling for refusal under the 10-year parent route under Appendix FM, the decision maker must go on to consider, under paragraph GEN.3.2. of Appendix FM, whether in the light of all the information and evidence provided by the applicant, there are exceptional circumstances which would render refusal a breach of ECHR Article 8, because it would result in unjustifiably harsh consequences for the applicant, a relevant child or another family member whose Article 8 rights it is evident from the information provided by the applicant would be affected.

For guidance on exceptional circumstances and children’s best interests, see the Exceptional Circumstances section of the Family Migration: Appendix FM Section 1.0a Family Life (as a Partner or Parent) 5-Year Routes and exceptional circumstances guidance, which can be found here:
If the applicant does not qualify for leave to remain on the basis of private life and there are no exceptional circumstances as specified above, the application should be refused under paragraph D-LTRPT.1.3. of Appendix FM, and the decision letter should reference this paragraph. It should also set out which of the requirements the applicant has failed to meet and why.

The decision letter should be clear about the information considered, including evidence submitted by the applicant, together with any relevant guidance considered as part of the assessment under the rules, including in relation to what is considered to be in the best interests of the child. The decision letter should make plain that all relevant factors have been considered, in the round.

Guidance on refusal wordings under the parent rules can be found in the following section of this guidance: Example parent refusal paragraphs.
Private Life in the UK

This section tells decision makers how to consider applications under the Immigration Rules based on private life in the UK.

General

A summary of the stages a decision maker will go through when considering the 10-year private life route is provided in the following section of this guidance: Overview of the 10-year private life route.

This section applies to applications for leave to remain and further leave to remain on the basis of a person’s private life in the UK.

The decision maker must ensure they consider the private life of all family members included in the application.

A person who is outside the UK cannot make an application to enter the UK on the basis of their private life in the UK.

Leave to remain

As outlined in the Overview of the 10-year private life route section of this guidance, the requirements to be met under the 10-year private life route are set out in paragraph 276ADE(1) and 276ADE(2) of the Immigration Rules.

To qualify for a grant of leave under the 10-year private life route, an applicant must meet all of the requirements.

276ADE(1)(i) – Suitability

To meet the requirements of paragraph 276ADE(1)(i), an applicant must not fall for refusal under S-LTR: Suitability. In 10-year private life route cases, the decision maker must consider whether the suitability requirements in paragraphs S-LTR.1.2., to S-LTR.2.3., S-LTR.3.1., and S-LTR.4.2. to S-LTR.4.5. of Appendix FM are met.

The following sections of this guidance outline the requirements which must be considered in every application:

- Suitability requirements
- General grounds for refusal

Any applicant who falls for refusal under suitability will not be able to meet the requirement of paragraph 276ADE(1)(i), and will therefore not be granted leave, regardless of whether they meet the requirements of paragraphs 276ADE(1)(ii) to (vi).
276ADE(1)(ii) – valid application

The requirements to be met under paragraph 276ADE(1)(ii) are that the applicant must have made a valid application for limited or indefinite leave to remain on the basis of private life in the UK.

As outlined in the decisions in cases where a valid application is not required section of this guidance, this is subject to the exceptions set out in paragraph 276A0 of Part 7 of the Immigration Rules.

If a valid application has not been made, and the exceptions outlined in paragraph 276A0 do not apply, then the applicant cannot meet this requirement of the rules.

276ADE(1)(iii) to 276ADE(1)(vi)

To meet the requirements of paragraph 276ADE(1)(iii) to 276ADE(1)(vi), the decision maker must be satisfied that an applicant meets one of the following requirements at the date of application:

“(iii) has lived continuously in the UK for at least 20 years (discounting any period of imprisonment); or

(iv) is under the age of 18 years and has lived continuously in the UK for at least 7 years (discounting any period of imprisonment) and it would not be reasonable to expect the applicant to leave the UK; or

(v) is aged 18 years or above and under 25 years and has spent at least half of his life living continuously in the UK (discounting any period of imprisonment); or

(vi) subject to paragraph 276ADE(2), is aged 18 years or above, has lived continuously in the UK for less than 20 years (discounting any period of imprisonment) but there would be very significant obstacles to the applicant’s integration into the country to which he would have to go if required to leave the UK.”

Paragraph 276ADE(2) sets out that paragraph 276ADE(1)(vi) does not apply, and may not be relied upon, in circumstances in which it is proposed to return a person to a third country pursuant to Schedule 3 to the Asylum and Immigration (Treatment of Claimants, etc) Act 2004.

20 years’ continuous residence

Paragraph 276ADE(1)(iii) sets out the criteria to be applied, together with the other requirements of the rules, in assessing whether to grant leave to remain to an applicant on the basis of 20 years’ continuous residence.

To meet this requirement, an applicant must have lived continuously in the UK for at least 20 years at the date of application, discounting any period of imprisonment.
Further information on continuous residence can be found in the following section of this guidance: Continuous residence.

**Child under the age of 18 years who has lived continuously in the UK for at least 7 years**

**Paragraph 276ADE(1)(iv)** sets out the criteria to be applied, together with the other requirements of the rules, in assessing whether to grant leave to remain to an applicant who is under the age of 18 on the basis of their private life.

To meet these requirements, a child under 18 must have lived continuously in the UK for at least 7 years at the date of application, discounting any period of imprisonment, and it would not be reasonable to expect that child to leave the UK. Further information on continuous residence can be found in the following section of this guidance below: Continuous residence.

The requirements in **paragraph 276ADE(1)(iv)** reflect the duty in **section 55 of the Borders, Citizenship and Immigration Act 2009** to have regard to the need to safeguard and promote the welfare of children, by which we mean their best interests, as reflected in case law, in particular, **ZH (Tanzania) [2011] UKSC 4**.

The decision maker must have regard to the best interests of the child as a primary consideration (but not the only or the paramount consideration). They must fully consider the child’s best interests.

The decision maker must assess under **paragraph 276ADE(1)(iv)**:

- firstly, whether refusal of the application will mean that the child will have to leave the UK or is likely to have to do so:
  - if so, secondly, whether, taking into account their best interests as a primary consideration, it is reasonable to expect the child to leave the UK- in doing so the decision maker must carefully consider all the information provided by the applicant, together with any other relevant information of which the decision maker is aware

The decision maker must refer to the following section of this guidance on how to assess whether it is reasonable to expect the child to leave the UK where refusal will mean that the child will or is likely to have to do so: **Reasonable to expect a child to leave the UK?**

**Aged 18 to 24**

**Paragraph 276ADE(1)(iii)** sets out the criteria to be applied, together with the other requirements of the rules, in assessing whether to grant leave to remain to an applicant who is aged between 18 and 24, on the basis of their private life.

To meet these requirements, an applicant aged between 18 and 24 must have lived continuously in the UK for at least half their life at the date of application, discounting
Assessing whether there are “very significant obstacles to integration into” the country of return

Paragraph 276ADE(1)(vi) of the Immigration Rules, allows an applicant who is over the age of 18 and who has lived continuously in the UK for less than 20 years, to meet the requirements of this rule if they can demonstrate that at the date of application there would be very significant obstacles to the applicant’s integration into the country to which they would have to go if required to leave the UK.

When assessing whether there are “very significant obstacles to integration into the country to which they would have to go if required to leave the UK”, the starting point is to assume that the applicant will be able to integrate into their country of proposed return, unless they can demonstrate why that is not the case. The onus is on the applicant to show that there are very significant obstacles to that integration, not on the decision maker to show that there are not.

The decision maker should expect to see independent and verifiable documentary evidence of any claims made in this regard, and must place less weight on assertions which are unsubstantiated. Where it is not reasonable to expect corroborating evidence to be provided, the decision maker must consider the credibility of the applicant’s claims.

A “very significant obstacle to integration” means something which would prevent or seriously inhibit the applicant from integrating into the country of return. The decision maker is looking for more than the usual obstacles which may arise on relocation (such as the need to learn a new language or obtain employment). They are looking to see whether there are “very significant” obstacles, which is a high threshold. Very significant obstacles will exist where the applicant demonstrates that they would be unable to establish a private life in the country of return, or where establishing a private life in the country of return would entail very serious hardship for the applicant.

The assessment of whether there are very significant obstacles to integration will generally consider the proposed country of return, unless there is information to suggest that the applicant might have a choice about where they choose to relocate to, such as where they have a right to reside in a country other than the country of proposed return, or where they have more than one nationality. In that case the decision maker can take account of whether there are very significant obstacles to integration continuing in any of the relevant countries.

Relevant country information should be referred to when assessing whether there are very significant obstacles to integration. The decision maker should consider the specific claim made and the relevant national laws, attitudes and country situation in the relevant country or regions. A very significant obstacle may arise where the applicant would be at a real risk of prosecution or significant harassment or discrimination as a result of their sexual or political orientation or faith or gender, or where their rights and freedoms would otherwise be so severely restricted as to

any period of imprisonment. Further information on continuous residence can be found in the following section of this guidance below: Continuous residence.
affect their fundamental rights, and therefore their ability to establish a private life in that country.

The decision maker should consider whether the applicant has the ability to form an adequate private life by the standards of the country of return – not by UK standards. The decision maker will need to consider whether the applicant will be able to establish a private life in respect of all its essential elements, even if, for example, their job, or their ability to find work, or their network of friends and relationships may be differently constituted in the country of return.

The fact the applicant may find life difficult or challenging in the country of return does not mean that they have established that there would be very significant obstacles to integration there. The decision maker must consider all relevant factors in the person’s background and the conditions they are likely to face in the country of return in making their decision as to whether there are very significant obstacles to integration.

The decision maker will need to consider any specific obstacles raised by the applicant. They will also need to set these against other factors in order to make an assessment in the individual case. Relevant factors to consider include:

**Cultural background**

Evidence of the applicant’s exposure to and level of understanding of the cultural norms in the country of return. Where the person has spent time in the UK living amongst a diaspora community from that country, then it may be reasonable to conclude they have cultural ties with that country even if they have never lived there or have been absent from that country for a lengthy period. If the applicant has cultural ties with the country of return, then it is likely that it would be possible for them to establish a private life there.

Even if there are no cultural ties, the cultural norms of that country may be such that there are no barriers to integration.

**Length of time spent in the country of return**

Where the applicant has spent a significant period of time in the country of return it will be difficult for them to demonstrate there would be very significant obstacles to integration into that country. The decision maker must consider the proportion of the person’s life spent in that country and the stage of life the person was at when in that country.

**Family, friends and social network**

An applicant who has family or friends in the country of return should be able to turn to them for support to help them to integrate into that country. The decision maker must consider whether the applicant or their family have sponsored or hosted visits to the UK by family or friends from the country of return, or whether the applicant has visited family or friends in the country of return.
The decision maker must consider the quality of any relationships with family or friends in the country of return, but they do not have to be strong familial ties and can include ties that could be strengthened if the person were to return.

**Faith, political or sexual orientation or gender identity**

The decision maker must consider the [relevant country information](#) when considering whether an applicant would face very significant obstacles integrating or re-integrating into the country of return as a result of their faith, political or sexual orientation or gender identity.

The decision maker must consider the degree of difficulty that would be faced as a result of the applicant’s faith, political or sexual orientation or gender identity based on the situation in practice in the country of return and not necessarily solely what is provided for in law. The applicant’s previous experience of life in that country and any difficulties the applicant claims to have experienced as a result of their faith, political or sexual orientation or gender identity must also be considered.

**Common Claims**

Applicant has no friends or family members in the country of return:

- where there are no family, friends or social networks in the country of return that is not in itself a very significant obstacle to integration. Many people successfully migrate to countries where they have no existing ties
- if there are particular circumstances in the applicant’s case which mean they would need assistance to integrate it will also be relevant to consider whether there are any organisations in the country of return which may be able to assist with integration

Applicant has never lived in the country of return or only spent early years there:

- if an applicant has never lived in the country of return, or only spent their early years there, this will not necessarily mean that there are very significant obstacles preventing them from integrating particularly if they can speak a language of that country, for example if the country of return is one where English is spoken or if a language of the country was spoken at home when they were growing up. For these purposes, fluency is not required – conversational level language skills or a basic level of language which could be improved on return, would be sufficient. The cultural norms of the country and how easy it is for the person to adapt to them will also be relevant

Applicant cannot speak any language spoken in the country of return:
• where there is credible evidence that an applicant cannot speak any language which is spoken in the country of return, this will not in itself be a very significant obstacle to integration unless they can also show that they would be unable to learn a language of that country, for example because of a mental or physical disability

Applicant would have no employment prospects on return:

• lack of employment prospects is very unlikely to be a very significant obstacle to integration. In assessing a claim that an absence of employment prospects would prevent an applicant from integrating in the country of return, their circumstances on return should be compared to the conditions that prevail in that country and to the circumstances of the general population, not to their circumstances in the UK

Less weight should be given to generalised claims about country conditions that have not been particularised to take account of the applicant’s individual circumstances.

Private life in the UK

The nature and extent of the private life that an individual has established in the UK is not relevant when the decision maker is considering whether there are very serious obstacles to integration into the country of return. However, where the applicant falls for refusal under the rules, this will be relevant when considering whether there are exceptional circumstances which would make refusal unjustifiably harsh for the applicant.

Continuous residence

In paragraph 276ADE(1) the provisions in (iii) to (v) require an applicant to have had a designated length of continuous residence in the UK.

“Continuous residence” is defined in paragraph 276A(a) of the Immigration Rules as:

““continuous residence” means residence in the UK for an unbroken period, and for these purposes a period shall not be considered to have been broken where an applicant is absent from the UK for a period of 6 months or less at any one time, provided that the applicant in question has existing limited leave to enter or remain upon their departure and return, but shall be considered to have been broken if the applicant:

(vii) has been removed under Schedule 2 to the 1971 Act or section 10 of the 1999 Act, has been deported or has left the UK having been refused leave to enter or remain here; or
(viii) has left the UK and, on doing so, evidenced a clear intention not to return; or
(ix) left the UK in circumstances in which he could have had no reasonable expectation at the time of leaving that he would lawfully be able to return; or
(x) has been convicted of an offence and was sentenced to a period of imprisonment or was directed to be detained in an institution other than a prison (including, in particular, a hospital or an institution for young offenders), provided that the sentence in question was not a suspended sentence; or
(xii) has spent a total of more than 18 months absent from the United Kingdom during the period in question."

“Lived continuously or living continuously” is defined in paragraph 276A(c) of the Immigration Rules as:

“lived continuously” and “living continuously” mean “continuous residence”, except that paragraph 276A(a)(iv) shall not apply."

The decision maker should be aware a period of time spent in prison will not break the continuous residence of an applicant applying on the basis of their private life in the UK. Rather, time spent in prison will not be counted towards the period of residence, but time before and after that imprisonment can be aggregated to make up the full amount of time.

The decision maker should refer to the following guidance for further information:

- Long residence guidance (internal link)
- Long residence guidance (external link)

**Evidence of residence**

To demonstrate length of residence in the UK, applicants will need to provide evidence of their residence here for the period they seek to rely on.

Official documentary evidence from official or independent sources, that show ongoing contact over a period of time, for example from a housing trust, local authority, bank, school or doctor, will be given more weight in the decision-making process than evidence of one-off events. The decision maker must be satisfied the evidence provided has not been tampered with or otherwise falsified, and that it relates to the person who is making the application.

To be satisfied that the UK residence was continuous, the decision maker should normally expect to see evidence to cover every 12-month period of the length of claimed continuous residence, and passports or travel documents to cover the entire period, unless satisfied on the basis of a credible explanation provided as to why this has not been submitted.

**Decision to grant leave to remain on the basis of private life in the UK**

Where an applicant meets the requirements for leave to remain on the basis of private life in the UK under paragraph 276ADE(1), the applicant will be granted leave
to remain for a period of 30 months on the basis of private life under paragraph 276BE(1) of Part 7 of the Immigration Rules, on a 10-year route to settlement.

Under paragraph 276A02, this grant of leave will normally be subject to a condition of no recourse to public funds, unless the applicant has provided the decision maker with satisfactory evidence that they are destitute, or satisfactory evidence that there are particularly compelling reasons relating to the welfare of a child of a parent in receipt of a very low income, or satisfactory evidence that there are exceptional circumstances relating to the applicant’s financial circumstances which, in the view of the decision maker, requires them not to impose a condition of no recourse to public funds. For further guidance on the policy see the following section of this guidance: recoures to public funds.

Where an applicant currently has extant leave to remain on the basis of private life in the UK at the date of application, any period of remaining extant leave, up to a maximum of 28 days, will be added to the period of leave to remain that they are being granted under paragraph 276BE(1). An applicant with extant leave in this scenario will therefore be granted a period of leave to remain on the basis of private life up to 28 days in excess of 30 months.

The applicant should be advised that, where eligible, they should make a valid application for further leave to remain on the basis of their private life in the UK no more than 28 days before their extant leave is due to expire, or no more than 28 days before they have completed 30 months in the UK with such leave.

Where a person submits a private life application up to 28 days before they have competed 30 months in the UK with leave to remain under paragraph 276ABE(1), that person will be considered to have met the required continuous residence period of 30 months on the basis of private life.

The decision maker must ensure they go on to consider any family members included in the application and assess their individual claims on the basis of private life, and whether there are exceptional circumstances.

**Decision to refuse leave to remain on the basis of private life in the UK**

The applicant will fall for refusal of leave to remain on the basis of private life in the UK if the decision maker is not satisfied that all of the requirements of paragraph 276ADE(1) are met.

The application should be refused under paragraph 276CE of Part 7 of the Immigration Rules, and the decision letter should reference this paragraph. It should also set out which of the requirements the applicant has failed to meet and why.

The decision letter must be clear about the information considered, including evidence submitted by the applicant as well as any relevant country information considered as part of an assessment of the rules, including in relation to very significant obstacles to integration into the country of return.
Where the applicant is a child, the decision letter must be clear about the information that has been considered, and the evidence that has been submitted, when assessing whether it is reasonable to expect a child to leave the UK and what is in the best interests of that child, demonstrating that in the round all relevant factors have been assessed.

If the applicant has failed to meet the requirements of the private life rules, but they have a partner or child in the UK, then the decision maker must also consider whether the applicant can meet the requirements for leave to remain on the basis of their family life as a partner or parent on a 10-year route to settlement.

In every case that otherwise falls for refusal under the private life Immigration Rules, the decision maker must move on to consider whether in light of all the information and evidence provided by the applicant, there are exceptional circumstances which would render refusal a breach of ECHR Article 8 because it would result in unjustifiably harsh consequences for the applicant or their family.

Where the application has been considered solely on the basis of private life in the UK under paragraph 276ADE(1)-DH, the decision maker must consider whether there are such exceptional circumstances outside the Immigration Rules.

Where the private life application has also been considered on the basis of family life under Appendix FM, the decision maker must instead consider whether there are such exceptional circumstances under paragraph GEN.3.2. of Appendix FM.

Guidance on refusal wordings under the private life rules can be found in the following section of this guidance: Example Private Life Refusal Paragraphs.

Guidance on refusal wordings for exceptional circumstances can be found in the following section at this guidance: Example Exceptional Circumstances Refusal Paragraphs.

Related content
Contents
Reasonable to expect a child to leave the UK?

This section tells decision makers how to consider whether it is reasonable to expect a child to leave the UK.

Overview

This section addresses in particular the factors to be considered when assessing whether it would be reasonable to expect a child to leave the UK when considering:

- whether EX.1. applies under Appendix FM
- whether paragraph 276ADE(1) (iv) of Part 7 applies

This assessment must take into account the child’s best interests as a primary consideration.

Paragraph EX.1.(a) sets out criteria to be applied, in certain circumstances, in assessing whether to grant leave to an applicant who is a parent (or primary carer) on the basis of their family life with a child in the UK:

“EX.1. This paragraph applies if

(a) (i) the applicant has a genuine and subsisting parental relationship with a child who-

(aa) is under the age of 18 years
(bb) is in the UK
(cc) is a British Citizen or has lived in the UK continuously for at least the 7 years immediately preceding the date of application and

(ii) taking into account their best interests as a primary consideration, it would not be reasonable to expect the child to leave the UK”

Paragraph 276ADE(1)(iv) sets out the criteria to be applied, in certain circumstances, in assessing whether to grant leave to an applicant who is under the age of 18 on the basis of their private life. It applies where the applicant:

“(iv) is under the age of 18 years and has lived continuously in the UK for at least 7 years (discounting any period of imprisonment), and it would not be reasonable to expect the applicant to leave the UK;”

The decision maker must carefully consider the application to determine whether paragraph EX.1.(a) applies when considering family life and whether the requirements in paragraph 276ADE(1)(iv) are met when considering private life.

The decision maker must carefully consider all the relevant points raised in the application and carefully assess any evidence provided. Decisions must not be taken
simply on the basis of the application’s assertions about the child, but rather on the basis of an examination of all the evidence provided. All relevant factors need to be assessed in the round.

The requirements in paragraph EX.1.(a) and in paragraph 276ADE(1)(iv) reflect the duty in section 55 of the Borders, Citizenship and Immigration Act 2009 to have regard to the need to safeguard and promote the welfare of children, by which we mean their best interests, as reflected in case law, in particular, ZH (Tanzania) [2011] UKSC 4.

In every case, all the circumstances must be carefully considered in the round. The decision maker must have regard to the best interests of the child as a primary consideration (but not the only or the paramount consideration). Primary does not mean that the best interests of the child must be considered first, before other factors, though it may be helpful to do so. What matters is that the child’s best interests are fully considered, as a primary consideration, and that this is properly explained in the decision letter.

Factors to consider

The decision maker must consider the following factors, where relevant:

Is there a genuine and subsisting parental relationship?

Where the application is being considered under paragraph EX.1.(a), the decision maker must first decide whether the applicant has a “genuine and subsisting parental relationship” with the child.

The phrase ‘parental relationship’ goes beyond the strict definition of parent set out in paragraph 6 of the Immigration Rules, to encompass situations in which the applicant is playing a genuinely parental role in a child’s life, whether that is recognised as a matter of law or not.

The applicant must have a subsisting role in personally providing at least some element of direct parental care to the child. This will be particularly relevant where the child is the child of the applicant’s partner or where the parent is not living with the child. This means that an applicant living with a child of their partner and taking a step-parent role in the child’s life could have a “genuine and subsisting parental relationship” with them, even if they had not formally adopted the child and if the other biological parent played some part in the child’s life.

In considering whether the applicant has a “genuine and subsisting parental relationship” the following factors are likely to be relevant:

Does the applicant have a parental relationship with the child:

- what is the relationship – biological, adopted, step child, legal guardian? Are they the child’s primary carer?
- is the applicant willing and able to look after the child?
• are they physically able to care for the child?

Is it a genuine and subsisting relationship?:

• does the child live with the person?
• if not, where does the applicant live in relation to the child?
• how regularly do they see one another?
• are there any relevant court orders governing access to the child?
• is there any evidence provided within the application as to the views of the child, other family members or social workers or other relevant professionals?
• to what extent is the applicant making an active contribution to the child’s life?

Factors which might prompt closer scrutiny include:

• the person has little or no contact with the child or contact is irregular
• any contact is only recent in nature
• support is only financial in nature; there is no contact or emotional support
• the child is largely independent of the person

We would not generally expect that more than 2 people could be in a genuine and subsisting parental relationship with the child. Other people who spend time with or reside with the child in addition to their parents, such as a grandparent, aunt or uncle or other family member, or a close friend of the family, would not generally be considered to have a parental relationship with the child for the purposes of this guidance. Where there are 2 parents, unless evidence is provided to the contrary, it should be assumed that one or both could provide parental care for the child.

Is the child a British citizen or have they lived in the UK for a continuous period of at least 7 years?

The decision maker should establish from the application or claim the age and nationality of each child affected by the decision. Where the child is a foreign national, the decision maker should establish their immigration history in the UK (for example how long have they lived in the UK and where they lived before).

In establishing whether a non-British Citizen child has lived in the UK continuously for at least the 7 years immediately preceding the date of application, the decision maker should include time spent in the UK with and without valid leave.

Short periods outside the UK – for example for holidays or family visits – would not count as a break in the continuous period of at least 7 years required. However, where a child has spent more than 6 months out of the UK at any one time, this will normally count as a break in continuous residence unless any exceptional factors apply.
Will the consequence of refusal of the application be that the child is required to leave the UK?

The decision maker must consider whether the effect of refusal of the application would be, or would be likely to be, that the child would have to leave the UK. This will not be the case where, in practice, the child will, or is likely to, continue to live in the UK with another parent or primary carer. This will be likely to be the case where for example:

- the child does not live with the applicant
- the child’s parents are not living together on a permanent basis because the applicant parent has work or other commitments which require them to live apart from their partner and child
- the child’s other parent lives in the UK and the applicant parent has been here as a visitor and therefore undertook to leave the UK at the end of their visit as a condition of their visit visa or leave to enter

If the departure of the parent or carer would not result in the child being required to leave the UK, because the child will (or is likely to) remain living here with another parent or primary carer, then the question of whether it is reasonable to expect the child to leave the UK will not arise. In these circumstances, paragraph EX.1.(a) does not apply.

However, where there is a genuine and subsisting parental relationship between the applicant and the child, the removal of the applicant may still disrupt their relationship with that child. For that reason, the decision maker will still need to consider whether, in the round, removal of the applicant is appropriate in light of all the real-life circumstances of the case, taking into account the best interests of the child as a primary consideration and the impact on the child of the applicant’s departure from the UK, or them having to leave the UK with them. If it is considered that refusal would lead to unjustifiably harsh consequences for the applicant, the child or their family, leave will fall to be granted on the basis of exceptional circumstances.

Would it be reasonable to expect the child to leave the UK?

If the effect of refusal of the application would be, or is likely to be, that the child would have to leave the UK, the decision maker must consider whether it would be reasonable to expect the child to leave the UK.

Where there is a qualifying child

A child is a qualifying child if they are a British child who has an automatic right of abode in the UK, to live here without any immigration restrictions as a result of their citizenship, or a non-British citizen child, who has lived in the UK for a continuous period of at least the 7 years immediately preceding the date of application, which recognises that over time children start to put down roots and to integrate into life in the UK. The starting point is that we would not normally expect a qualifying child to leave the UK. It is normally in a child’s best interest for the whole family to remain
together, which means if the child is not expected to leave, then the parent or parents or primary carer of the child will also not be expected to leave the UK.

In the caselaw of KO and Others 2018 UKSC53, with particular reference to the case of NS (Sri Lanka), the Supreme Court found that “reasonableness” is to be considered in the real-world context in which the child finds themselves. The parents’ immigration status is a relevant fact to establish that context. The determination sets out that if a child’s parents are both expected to leave the UK, the child is normally expected to leave with them, unless there is evidence that that it would not be reasonable.

There may be some specific circumstances where it would be reasonable to either expect the qualifying child to leave the UK with the parent(s) or primary carer or for the parent(s) or primary carer to leave the UK and for the child to stay. In deciding such cases, the decision maker must consider the best interests of the child and the facts relating to the family as a whole. The decision maker should also consider any specific issues raised by the family or by, or on behalf of the child (or other children in the family).

It may be reasonable for a qualifying child to leave the UK with the parent or primary carer where for example:

- the parent or parents, or child, are a citizen of the country and so able to enjoy the full rights of being a citizen in that country
- there is nothing in any country specific information, including as contained in relevant country information which suggests that relocation would be unreasonable
- the parent or parents or child have existing family, social, or cultural ties with the country and if there are wider family or relationships with friends or community overseas that can provide support:
  - the decision maker must consider the extent to which the child is dependent on or requires support from wider family members in the UK in important areas of his or her life and how a transition to similar support overseas would affect them
  - a person who has extended family or a network of friends in the country should be able to rely on them for support to help (re)integrate there
  - parent or parents or a child who have lived in or visited the country before for periods of more than a few weeks. should be better able to adapt, or the parent or parents would be able to support the child in adapting, to life in the country
  - the decision maker must consider any evidence of exposure to, and the level of understanding of, the cultural norms of the country
  - for example, a period of time spent living amongst a diaspora from the country may give a child an awareness of the culture of the country
  - the parents or child can speak, read and write in a language of that country, or are likely to achieve this within a reasonable time period
  - fluency is not required – an ability to communicate competently with sympathetic interlocutors would normally suffice
- removal would not give rise to a significant risk to the child’s health
• there are no other specific factors raised by or on behalf of the child

For guidance on how to consider a child’s best interests, see the Exceptional Circumstances section of the Family Migration: Appendix FM Section 1.0a Family Life (as a Partner or Parent) 5-Year Routes and exceptional circumstances guidance, which can be found here:

https://www.gov.uk/government/publications/chapter-8-appendix-fm-family-members

Where the decision maker believes that, based on the specific circumstances raised, refusal would not breach their Article 8 rights, they should refer to the following section on compassionate compelling factors, to consider whether a short period of leave outside the Immigration Rules is appropriate: compassionate factors.

Related content
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Exceptional circumstances

This section tells decision makers about Article 8 exceptional circumstances.

For guidance on exceptional circumstances, see the Exceptional Circumstances of the Family Migration: Appendix FM Section 1.0a Family Life (as a Partner or Parent) 5-Year Routes and exceptional circumstances guidance, which can be found here:

https://www.gov.uk/government/publications/chapter-8-appendix-fm-family-members

- Appendix FM 1.0a Family Life (as a Partner or Parent): 5-Year Route (internal link)
- Appendix FM 1.0a Family Life (as a Partner or Parent): 5-Year Route (external link)

If the requirements of the family rules under Appendix FM are not met but following consideration of exceptional circumstances under GEN.3.2., it is considered that refusal would lead to unjustifiably harsh consequences for the applicant or a relevant child, leave will fall to be granted on the basis of the most relevant 10-year route.

Decision to grant leave to remain on the basis of exceptional circumstances under GEN.3.2. of Appendix FM

Where an application made or considered under Appendix FM does not otherwise meet the relevant requirements of that Appendix or of Part 9 of the rules, but it is considered, under paragraph GEN.3.2.(2), that there are exceptional circumstances which would render refusal a breach of ECHR Article 8 (because it would result in unjustifiably harsh consequences for the applicant, their partner, a relevant child or another family member whose Article 8 rights it is evident from the information provided by the applicant would be affected), leave to remain should be granted in accordance with paragraph GEN.3.2.(3). The applicant will normally be granted leave to remain for a period of 30 months, with scope to qualify for settlement as a partner or parent (or as their child) after 10 years.

Under paragraph GEN.1.11A, this grant of leave will normally be subject to a condition of no recourse to public funds, unless the applicant has provided the decision maker with satisfactory evidence that they are destitute, or satisfactory evidence that there are particularly compelling reasons relating to the welfare of a child of a parent in receipt of a very low income, or satisfactory evidence that there are exceptional circumstances relating to the applicant’s financial circumstances which, in the view of the decision maker, requires them not to impose a condition of no recourse to public funds. For further guidance on the policy see the following section of this guidance: recourse to public funds.

The applicant should be advised that, where eligible, they should make an appropriate valid application for further leave to remain no more than 28 days before their extant leave is due to expire, or no more than 28 days before they have completed 30 months in the UK with such leave.
Decision to grant leave to remain outside the Immigration Rules on the basis of exceptional circumstances

Where the application has been considered solely on the basis of private life in the UK under paragraph 276ADE(1)-DH, and the applicant does not otherwise meet those rules, but it is considered that there are exceptional circumstances which would render refusal a breach of ECHR Article 8 (because it would result in unjustifiably harsh consequences for the applicant or their family), leave to remain should be granted on Article 8 grounds outside the Immigration Rules. The applicant will normally be granted leave to remain outside the Immigration Rules for a period of 30 months, with scope to qualify for settlement after 10 years’ continuous lawful residence in the UK.

Under paragraph 276A02, the grant of leave to remain outside the Immigration Rules will normally be subject to a condition of no recourse to public funds, unless the applicant has provided the decision maker with satisfactory evidence that they are destitute, or satisfactory evidence that there are particularly compelling reasons relating to the welfare of a child of a parent in receipt of a very low income, or satisfactory evidence that there are exceptional circumstances relating to the applicant’s financial circumstances which, in the view of the decision maker, requires them not to impose a condition of no recourse to public funds. For further guidance on the policy see the following section of this guidance: recourse to public funds.

The applicant should be advised that they may be eligible to make a valid application for further leave to remain, on the basis of the same or other exceptional circumstances, shortly before the initial period of 30 months’ leave to remain is due to expire. After 10 years’ continuous leave they can apply for indefinite leave to remain under the 10-year long residence route, if they qualify for it. For a grant of further leave to remain on the basis of exceptional circumstances outside the Immigration Rules, the applicant will need to qualify under the policy in force at the relevant time.

Longer or shorter periods of leave

Settlement in the UK is a privilege, not an automatic entitlement. Unless there are truly exceptional reasons, the expectation is that applicants should serve a probationary period of limited leave before being eligible to apply for indefinite leave to remain (ILR).

However, there may be rare cases in which either a longer period of leave or an early grant of ILR is considered appropriate, because there are other particularly exceptional or compelling reasons to grant leave for a longer period (or ILR).

If the applicant specifically requests a longer period of leave than 30 months, or ILR, and provides reasons as to why they think a longer period of leave or ILR is appropriate in their case, the decision maker must consider this and set out in any decision letter why a grant of more than 30 months or ILR has not been made.
There is discretion to grant a longer period of leave or ILR outside the rules where there are other particularly exceptional or compelling reasons to do so. There must be sufficient evidence to demonstrate the individual circumstances are not just unusual but can be distinguished to a high degree from other cases to the extent that it is necessary to deviate from a standard grant of 30 months’ leave to remain.

In all cases the onus is on the applicant to provide evidence as to why they believe that a longer period of leave (or ILR) is necessary and justified on the basis of particularly exceptional or compelling reasons.

If the decision maker decides that the case is not sufficiently exceptional or compelling, they should grant 30 months’ leave to remain, and explain in the decision letter why this has been granted instead of the length of leave requested.

If the applicant does not make a request for a longer than standard period of leave, or if they make a request without providing any reasons for why a longer grant of leave is appropriate, the decision maker should grant 30 months’ leave to remain.

In some cases, there may be exceptional circumstances that mean it may be appropriate to grant leave on a short-term temporary basis to enable particular issues relating to the person to be addressed before they leave the UK. For example, a short period of stay to enable them to complete exams that are critical to a defined stage of education or to enable a specific treatment to be completed in order to enable the person to travel. If the grant of leave is being made on a short-term temporary basis, a shorter period of leave should be granted, appropriate to the circumstances of the case.

Reasons to grant ILR early, are likely to be easily identifiable on their individual facts, where for example, it is considered that the precariousness of limited leave would create such serious distress as to have a disproportionately detrimental effect on the person’s health or welfare that it would prevent recovery or development. The threshold is high and concerns the direct effect on the person concerned.

An example of where it would not normally be appropriate to grant ILR might be because the person would like to qualify for a student loan to go to university. This would not normally be regarded as sufficiently exceptional or compelling circumstances, absent additional factors.

They would not be prevented from going to university by a grant of limited leave – rather they would be unable to access student loans which are only available to certain categories, including those settled in the UK, refugees and those granted Humanitarian Protection, and EU nationals. Some universities may have other types of funding which they could apply for, such as student bursaries, scholarships or other types of student support or fee waiver; as do some commercial companies and charities. Higher Education Institutions also have the discretion to treat an “overseas” student as a home student and charge them the home student tuition fee, which is usually lower.

A grant of limited leave will give the applicant permission to work and they could choose to seek employment in order to save up the relevant funds before they attend
university, study part time and work part time to fund their course, or wait until they qualify for ILR after 10 years of limited leave and access student loans at that point.

Where granting a non-standard period of limited leave to the applicant, because it is accepted that there are exceptional reasons for doing so, this leave will have to be granted outside the Immigration Rules as there is no provision within Appendix FM for granting limited leave for a period of more than 30 months. This also applies to ILR, where this is granted outside of a valid ILR application or where the requirements of the rules are not met. If there are exceptional reasons to grant ILR, this should be granted outside the rules.

Related content

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Compelling compassionate factors

This section tells decision makers about compassionate factors.

Where circumstances do not warrant a grant of leave on the basis of Article 8, the decision maker must consider if a grant of leave is warranted on compelling compassionate grounds.

Compelling compassionate factors are, broadly speaking, exceptional circumstances that warrant a period of leave for a non-Article 8 reason. An example might be where an applicant or family member has suffered a bereavement and requests a period of stay to deal with their loss or to make funeral arrangements.

In considering compassionate factors, the decision maker must consider all relevant factors raised by the applicant.

If any compassionate factors are raised in the application, the decision maker should consult the following leave outside the rules guidance:

- Leave Outside the rules (LOTR) (internal)
- Leave Outside the rules (LOTR) (external)

The decision maker should ensure that where an applicant is granted limited leave to remain on the basis of compassionate factors, the decision letter must clearly show that the grant has been given outside the Immigration Rules on the basis of compassionate factors, and must be clear that the grant is not being made on the basis of their Article 8 family or private life.

It is unlikely that leave will be granted for a period of 30 months, but instead should be a short period of leave to remain granted to reflect the individual circumstances of the application. For example, it may be appropriate to grant a period of 6 months’ leave to enable completion of final examinations taking place within 4 months, to allow for the examinations and to arrange travel.

Related content

Contents
Decisions in cases where a valid application is not required

This section tells decision makers how to consider cases where a valid application is not required.

When a valid application is not required

Under Appendix FM a valid application is not required when the Article 8 family or private life claim is raised:

- as part of an asylum claim, or as part of a further submission in person after an asylum claim has been refused
- where a migrant is in immigration detention - a migrant in immigration detention or their representative must submit any application or claim raising Article 8 to a prison officer, a prisoner custody officer, a detainee custody officer or a member of Home Office staff at the migrant’s place of detention
- in an appeal (subject to the consent of the Secretary of State where applicable)

A valid application is also not required where the Secretary of State decides to determine any Article 8 claim in the absence of such an application, for example under paragraph 400 of Part 13 of the Immigration Rules where the person’s removal from the UK is contemplated.

Where a valid application is not required, as set out above and in paragraph GEN.1.9. of Appendix FM and paragraph 276A0 of Part 7 of the Immigration Rules, the decision maker should consider the Article 8 claim under the relevant requirements in Appendix FM when considering family life or paragraph 276ADE(1)-276DH when considering private life.

A person who has made a claim or wishes to make a claim for leave on the basis of Article 8 and who is not required to make a valid application can only be considered for leave to remain under the 10-year partner, parent or private life route to settlement.

If the person wishes to be considered under the 5-year partner or parent route, they must submit a valid application.

Where an applicant has been granted leave to remain on the basis of Article 8 (under Appendix FM or paragraph 276ADE(1)) under a 10-year route to settlement without submitting a valid application, they will be required to submit a valid application, on the correct form and accompanied by the correct fee (subject to any fee waiver they may qualify for), when they come to apply for further leave to remain or indefinite leave to remain (unless they once again fall within paragraph GEN.1.9. or paragraph 276A0 or the Secretary of State otherwise decides to determine any Article 8 claim in the absence of such an application).
Asylum/Humanitarian Protection or removal decisions

Asylum/Humanitarian Protection claims

Where a person has made a claim for asylum or humanitarian protection, the Immigration Rules in paragraphs 276A0 of Part 7, A277C of Part 8 and 326B of Part 11, and paragraph GEN.1.9. of Appendix FM, provide that any Article 8 claim will be considered in line with the 10-year partner or parent routes in Appendix FM and private life routes in paragraphs 276ADE(1) to 276DH of the Immigration Rules, or private life route under 276ADE(1) to DH.

The asylum decision maker should consult the relevant policy instruction for guidance on the asylum/humanitarian protection part of the decision-making process.

Article 8 claims made while in immigration detention pending removal

Paragraphs 276A0 of Part 7 and GEN.1.9 of Appendix FM set out that where an applicant is in immigration detention, they or their representative must submit any application or claim raising Article 8 to a prison officer, a prisoner custody officer, a detainee custody officer, or a member of Home Office staff at their place of detention. The claim should be considered under the relevant 10-year partner or parent routes in Appendix FM and the private life routes in paragraphs 276ADE(1) to 276DH, or private life route in paragraphs 276ADE(1) to DH, by virtue of paragraph 400 of Part 13 of the Immigration Rules.

Considering Article 8 claims in Asylum/Humanitarian Protection and removal decisions

The decision maker dealing with asylum/humanitarian protection or removal cases should deal with the Article 8 part of any claim by considering whether the applicant meets the requirements of the 10-year partner route under paragraph R-LTRP.1.1(a), (b) and (d), or the 10-year parent route under paragraph R-LTRPT.1.1(a), (b) and (d) of Appendix FM, and the 10-year private life route under paragraph 276ADE(1) or the private life route in paragraphs 276ADE(1).

Where the requirements are met, the decision maker may grant leave to remain for a period of 30 months, under the relevant route.

Under paragraph GEN.1.11A of Appendix FM for family life, and paragraph 276A02 for private life, the grant of leave will normally be subject to a condition of no recourse to public funds, unless the applicant has provided the decision maker with satisfactory evidence that they are destitute, or satisfactory evidence that there are particularly compelling reasons relating to the welfare of a child of a parent in receipt of a very low income, or satisfactory evidence that there are exceptional circumstances relating to the applicant’s financial circumstances which, in the view of the decision maker, requires them not to impose a condition of no recourse to public funds.
funds. For further guidance on the policy see the following section in this guidance: recourse to public funds.

The applicant will be eligible to apply for indefinite leave to remain (settlement) after 120 months if they qualify.

This consideration can only result in leave to remain granted under a 10-year route to settlement if the applicant meets the requirements of the relevant rules. If the applicant wishes to be considered for leave to remain under the 5-year route as a partner or parent, they will have to submit a separate, valid application for that route.

If the Article 8 claim is refused, the decision maker should refuse leave to remain family life under paragraph D-LTRP.1.3. or D-LTRPT.1.3. of Appendix FM and private life under paragraph 276CE.

If the requirements of the 10-year partner or parent routes in Appendix FM or paragraphs 276ADE(1)-276DH on private life are not met, the decision maker must go on to consider whether there are any exceptional circumstances which would mean that refusal would result in unjustifiably harsh consequences for the individual or their family, such that refusal of the application would not be proportionate.

For guidance on exceptional circumstances and how to consider a child’s best interests, see the Exceptional Circumstances section of the Family Migration: Appendix FM Section 1.0a Family Life (as a Partner or Parent) 5-Year Routes and exceptional circumstances guidance, which can be found here:

https://www.gov.uk/government/publications/chapter-8-appendix-fm-family-members

- Appendix FM 1.0a Family Life (as a Partner or Parent): 5-Year Route (internal link)
- Appendix FM 1.0a Family Life (as a Partner or Parent): 5-Year Route (external link)

If there are exceptional circumstances, the applicant should be granted leave to remain in line with the following section of this guidance: Exceptional Circumstances.

If after considering the case the Article 8 claim is refused, any reasons for refusal letter must explain why the requirements of the Immigration Rules have not been met. It must fully outline and explain the consideration of exceptional circumstances, including why it is not considered there are any exceptional circumstances in the case.

Appeals

Appeals against refusal under the family or private life rules

Decision makers should refer to the rights of appeal guidance for information on appeal rights.
Where a human rights appeal is allowed and the Tribunal have found that the requirements of the relevant rules are met the decision maker should grant the leave that the appellant qualified for under the Immigration Rules.

Where the Tribunal finds the relevant rules have not been met, but allows the human rights appeal on the basis of exceptional circumstances family life grounds, the appellant should be granted leave in accordance with paragraph GEN 3.2.(3) of Appendix FM for a period of 30 months.

Where the Tribunal finds the relevant rules have not been met, but allows the human rights appeal purely on the basis of exceptional circumstances private life grounds, the appellant should be granted 30 months leave outside the Immigration Rules.

The grant of leave will normally be subject to a condition of no recourse to public funds, unless the applicant has provided the decision maker with satisfactory evidence that they are destitute, or satisfactory evidence that there are particularly compelling reasons relating to the welfare of a child of a parent in receipt of a very low income, or satisfactory evidence that there are exceptional circumstances relating to the applicant’s financial circumstances which, in the view of the decision maker, requires them not to impose a condition of no recourse to public funds. For further guidance on the policy see the following section of this guidance: recourse to public funds.

Related content
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No recourse to public funds

This section tells decision makers about no recourse to public funds.

General

Those seeking to establish their family life in the UK must do so on a basis that prevents burdens on the taxpayer and promotes integration. The changes to the Immigration Rules implemented on 9 July 2012 are predicated in part on safeguarding the economic well-being of the UK, which is a legitimate aim under Article 8 of the ECHR (the right to respect for private and family life) for which necessary and proportionate interference in Article 8 rights can be justified.

This approach now carries the full weight of primary legislation, under Part 5A of the Nationality, Immigration and Asylum Act 2002, inserted by section 19 of the Immigration Act 2014 and implemented on 28 July 2014. This sets out public interest considerations concerning the maintenance of effective immigration controls and other considerations, which apply where a court or tribunal is considering whether a decision made under the Immigration Acts breaches a person’s right to respect for private and family life under Article 8. In particular, it sets out in section 117B(3) of the 2002 act inserted by section 19 of the Immigration Act 2014, that:

“It is in the public interest, and in particular in the interests of the economic well-being of the United Kingdom, that persons who seek to enter or remain in the United Kingdom are financially independent, because such persons—

a) are not a burden on taxpayers, and

b) are better able to integrate into society.”

The Immigration Rules approved by Parliament govern the no recourse to public funds policy in grants of leave made under the partner, parent and private life routes under the rules and in grants of leave made outside the private life rules under ECHR Article 8 on the basis of exceptional circumstances.

Paragraphs 276A00, 276A02, 276BE(1), 276BE(2) and 276DG of Part 7 govern the condition codes imposed in grants of leave for private life reasons, and paragraphs GEN 1.10, GEN.1.11, GEN.1.11A, D-LTRP.1.2, D-ILRP.1.3, D-LTRPT.1.2, D-ILRPT.1.3 of Appendix FM govern the condition codes imposed in grants of leave for family life reasons, under the 10-year partner and parent routes.

Criteria for the non-imposition or lifting of the no recourse to public funds condition code

The onus is on the applicant to provide all of the information and evidence which they would like the decision maker to consider. Information and evidence of meeting the policy not to have the no recourse to public funds condition applied, must be provided at every application stage. The fact that the applicant has, or has had recourse to public funds is not sufficient to evidence that they are in need of that recourse to public funds at this application stage.
In all cases where:

- limited leave is granted on as a partner or parent under Appendix FM
- limited leave on the grounds of private life is granted under paragraph 276BE(1) or paragraph 276DG
- limited leave is granted outside the private life rules on Article 8 grounds under paragraph 276BE(2)

leave to remain will be granted subject to a condition of no recourse to public funds, unless the applicant provides evidence with their application to show that they meet the terms of this policy.

The decision maker can exercise discretion not to impose, or to lift, the no recourse to public funds condition code only where the applicant meets the requirements of paragraph GEN.1.11A of Appendix FM or paragraph 276A02 of the Immigration Rules because:

- the applicant has provided satisfactory evidence that they are destitute or there is satisfactory evidence that they would be rendered destitute without recourse to public funds
- the applicant has provided satisfactory evidence that there are particularly compelling reasons relating to the welfare of a child on account of the child’s parent’s very low income
- the applicant has established exceptional circumstances in their case relating to their financial circumstances which, in the view of the decision maker, require the no recourse to public funds condition code not to be imposed or to be lifted

The decision maker must consider all relevant personal and financial circumstances raised by the applicant, and any evidence of these which they have provided.

Whether to grant leave subject to a condition of no recourse to public funds, or whether to lift that condition where it has been imposed, is a decision for the Home Office decision maker to make on the basis of this guidance.

**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 is destitute if:

- 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

There are no fixed monetary values attached to the destitution test in this context. This means that the decision maker can take account of the applicant’s individual circumstances in reaching their decision.
What constitutes “adequate accommodation” and “essential living needs” and the costs of these may be different in different cases, depending, for example, on whether the applicant is supporting any dependants and, if so, their number, age and needs, the part of the UK the applicant lives in, whether the applicant or any dependants have a disability which requires adjustments to be made to their accommodation.

If the applicant or any dependants have a physical or mental disability, this is not in itself determinative of the assessment under this policy, but it is relevant to this assessment insofar as it affects the applicant’s financial circumstances. This may be true of other personal characteristics of the applicant or any dependants.

All the information and evidence provided about the applicant’s individual circumstances (including those of any dependent family members) must be taken into account by the decision maker in order to consider their financial position and whether the applicant meets the requirements of this policy for the no recourse to public funds condition not to be imposed or to be lifted.

Where the decision maker believes that the issue of disability may be material to the decision 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 decision maker can signpost them to other agencies who may be able to assist, such as Citizens Advice. Details of the applicant’s local branch of Citizens Advice are available here: http://www.citizensadvice.org.uk/

Where an applicant is supported under section 95 or section 4 of the Immigration and Asylum Act 1999, they will already have been assessed as destitute. The decision maker may, where granting leave under the 10-year partner or parent route in Appendix FM or the 10-year private life route in paragraphs 276ADE(1) to 276DH of the Immigration Rules, apply condition code 1A allowing recourse to public funds, where it is clear that there has been no change in the applicant’s underlying financial circumstances since the last assessment of destitution which would affect their eligibility for support. However, the decision maker should take into account that the applicant will now have the right to work if they did not before.

Where support under section 95 or section 4 of the 1999 act has been discontinued, the applicant will need to produce evidence of their financial position and accommodation arrangements since then.

Where an applicant and their family are in receipt of support from a local authority, the local authority will have conducted its own assessment of the applicant’s circumstances before deciding to grant support and the receipt of such support will generally mean that the applicant would otherwise be destitute. However, this may not be the case where the family requires social care support, for example under section 17 of the Children Act 1989, for other reasons. The decision maker must
make their own assessment of the information and evidence that the applicant has provided.

The decision maker can generally expect to reach the same conclusion as the local authority on the question of whether the applicant is or would otherwise be destitute, or whether there are particularly compelling child welfare considerations. Examples of cases where the Home Office might reach a different conclusion could be where:

- the applicant was working and receiving an income which the local authority supplemented to reflect its section 17 responsibilities
- the applicant had the right to work and prospects of employment which it was clear the local authority had not considered
- the applicant’s underlying financial circumstances or their prospects had changed since the local authority assessment

In all cases the decision maker must consider the applicant’s financial circumstances, based on the information and evidence provided, to determine whether they are or would otherwise be destitute, or whether there are particularly compelling reasons relating to the welfare of a child of a parent in receipt of a very low income or other exceptional circumstances, under the terms of this guidance.

The onus is on the applicant to evidence their destitution, or that there are particularly compelling child welfare considerations or other exceptional circumstances, on the basis of the information set out in their application and any supplementary information or evidence about their circumstances which they provide in support of their application.

An applicant must provide evidence at every application stage, regardless of whether they have previously been granted without a condition of no recourse to public funds at the last grant of leave, or have had that condition lifted following a change of conditions application.

In considering the applicant’s financial circumstances, the decision maker should have in mind that:

- those granted limited leave to remain under the Immigration Rules as a partner or parent or on the grounds of private life, or those granted leave outside the rules on ECHR Article 8 grounds, will be free to work in the UK and are expected to support themselves through work rather than through recourse to public funds. The decision maker should consider any information provided by the applicant or their partner or parent, about their current or prospective employment
- where the applicant is granted limited leave to remain as a partner, their partner is expected to support them and, if their partner is a British Citizen or settled in the UK, that person will have recourse to any public funds to which their circumstances qualify them. It should therefore be extremely rare for the applicant to be destitute
- where the applicant is granted limited leave to remain as a parent, the decision maker should take into account any information provided by the applicant about
the availability of child maintenance and whether they have sought this, and whether they are entitled to claim any benefits such as child benefit

• where the applicant is granted limited leave to remain on the grounds of private life, they will generally have lived in the UK for a significant period. Where the applicant is granted limited leave to remain as a parent, they will also have lived in the UK for a period before applying for leave under these rules. To show that they meet the terms of this policy, the applicant will have to demonstrate good reasons (by means of evidence) as to why their previous means of support are no longer available to them

The applicant will need to provide evidence, including of their financial position, demonstrating that, on an ongoing basis, they do not have access to adequate accommodation or any means of obtaining it, they cannot meet their other essential living needs, or there are particularly compelling child welfare considerations on account of their parent’s very low income or other exceptional circumstances relating to their financial circumstances.

Making a decision on the condition code

Where the decision maker decides that, even though they now have the right to work if they did not before, the applicant is destitute (including accepting that any previous means of support are no longer available), that there are particularly compelling circumstances relating to the welfare of a child on account of their parent’s very low income or that there are other exceptional circumstances, they should not impose or should lift the no recourse to public funds condition code (condition code 1) and apply condition code 1A. The code 1A allows recourse to public funds.

An applicant granted leave which is not subject to the no recourse to public funds condition code, or who has the no recourse to public funds condition code lifted, will still have to meet the relevant eligibility criteria for any welfare benefit for which they apply.

If the applicant wishes to provide additional information or evidence in support of their application for the no recourse to public funds condition to be lifted, or if their circumstances change and they wish to apply for the no recourse to public funds condition to be lifted, they may use our published process for requesting a change of condition code. This process is free of charge and may be found here:

• Application for change of condition of leave to allow access to public funds if your circumstances change

Subsequent leave to remain applications

When an applicant who was last granted leave to remain without the no recourse to public funds condition code, or has had that condition code lifted since they were last granted leave, applies for further leave to remain, they will be re-assessed at every application stage.
They will be granted further leave with a no recourse to public funds condition code unless they continue to meet the terms of the policy that applies at the relevant time. To be granted without the condition of no recourse to public funds, they must evidence that they are destitute (including accepting that any previous means of support are no longer available), that there are particularly compelling circumstances relating to the welfare of a child on account of their parent’s very low income or that there are other exceptional circumstances relating to their financial circumstances, such that their underlying financial circumstances have not changed.

The applicant must provide evidence of their financial circumstances relating to destitution, low income or exceptional circumstances at every application stage.

**Grants of leave to remain under earlier public funds policies**

In light of the Upper Tribunal judgment in Fakih in November 2014, where, prior to 28 July 2014, an applicant has either been granted leave to remain under the 10-year partner, parent or private life routes under the Immigration Rules, or been granted leave to remain outside the rules under ECHR Article 8 on the basis of exceptional circumstances, and this leave was granted subject to a condition of no recourse to public funds, the applicant may seek a reconsideration of the condition code attached to their leave by making an application under the published process for requesting a change of condition code. This process is free of charge and may be found here:

- Application for change of condition of leave to allow access to public funds if your circumstances change

**Related content**

[Contents](#)
Case Information Database (CID)

This section tells decision makers which CID codes to use in Article 8 family and private life cases.

Applications made under the 10-year Article 8 family and private life routes or private life route

Case Type

- Family & Private Life 10yr - LTR FPVLTR

Grant under the 10-year Article 8 family/private life routes

Case Outcome

- Grant Family/Private LTR 1000275

Appendix FM partner granted under paragraph D-LTRP.1.2.

Statistics Categories

Choose the appropriate Statistics Category to indicate the reason for the grant on the basis of family/private life under the 10-year partner route:

- Family/private extn – Child’s best interests [EX.1.(a)] U3
- Family/Private extn – Private Life U4
- Family/Private extn – Breach of Article 8 Family [EX.1.(b)] U5
- Family LTR/extn – GEN 3.2. Breach of A8 Exceptional Circumstances U7

Appendix FM parent granted under paragraph D-LTRPT.1.2.

Statistics Categories

Choose the appropriate Statistics Category to indicate the reason for the grant on the basis of family/private life under the 10-year parent route:

- Family/Private extn – Child’s best interest [EX.1.(a)] U3
- Family/Private extn – Private Life U4
- Family LTR/extn – GEN 3.2 Breach of A8 Exceptional Circumstances U7

Private life granted under paragraph 276BE(1)

Statistics Categories

Choose the following Statistics Category to indicate the grant is on the basis of private life:
• Family/Private extn – Private Life U4

Grant of leave to remain outside the rules on the basis of Article 8 exceptional circumstances under paragraph 276BE(2)

Case Outcome
• LOTR - Limited Leave No Conc LOTRLL

Statistics Categories
Choose the appropriate Statistics Category to indicate the reason for the grant under exceptional circumstances outside the rules on a private life application:

• Family/Private extn – Child’s best interest U3
• Family/Private extn – Private Life U4
• Family/Private extn – Breach of Article 8 Family U5

Refusal under the 10-year Article 8 family/private life routes

Case Outcome
Choose the appropriate Case Outcome to indicate the type of appeal being given:

• Refuse LTR: In-Country ROA
• Refuse LTR: Out-Of-Country ROA (S94)
• Refuse LTR: No ROA (S96)

Statistics Categories
Choose the appropriate Statistics Category to indicate the reason for the refusal on the basis of family/private life:

• Refused Extn - Private Life Criminality UA
• Refused Extn - Private Life not engaged UC
• Refused Extn - Private Life Circs no longer apply UE
• Refused Extn - Family Life Criminality UB
• Refused Extn - Family Life not engaged UD
• Refused Extn - Family Life Circs no longer apply UF
Application made on a non-Appendix FM Leave to Remain human rights route, which is refused and considered under the 10-year Article 8 family and private life routes or private life route

Case type

- All other human rights limited leave to remain Case Types

Refuse leave to remain under the non-Appendix FM human rights case type, but grant leave to remain under the 10-year Article 8 family/private life routes

Case outcome

- Grant Family/Private LTR 1000275

Appendix FM partner granted under paragraph D-LTRP.1.2.

Statistics Categories

Choose the appropriate Statistics Category to indicate the reason for the grant on the basis of family/private life under the 10-year partner route:

- Family/Private extn – Child’s best interests [EX.1.(a)] U3
- Family/Private extn – Private Life U4
- Family/Private extn – Breach of Article 8 Family [EX.1.(b)] U5
- Family LTR/extn – GEN 3.2. Breach of A8 Exceptional Circumstances U7

Appendix FM parent granted under paragraph D-LTRPT.1.2.

Statistics Categories

Choose the appropriate Statistics Category to indicate the reason for the grant on the basis of family/private life under the 10-year parent route:

- Family/Private extn – Child’s best interest [EX.1.(a)] U3
- Family/Private extn – Private Life U4
- Family LTR/extn – GEN 3.2 Breach of A8 Exceptional Circumstances U7

Private life granted under paragraph 276BE(1)

Statistics Categories

Choose the following Statistics Category to indicate the grant is on the basis of private life:
Refuse leave to remain under the non-Appendix FM human rights case type, but grant leave to remain outside the rules on the basis of Article 8 exceptional circumstances under paragraph 276BE(2)

Case Outcome

- LOTR - Limited Leave No Conc LOTRLL

Statistics Categories

Choose the appropriate Statistics Category for the human rights limited leave to remain Case Type.

Application made on an Indefinite Leave to Remain human rights route, which is refused and considered under the 10-year Article 8 family and private life routes or private life route

Case Type

- All human rights indefinite leave to remain Case Types

Refuse ILR, but grant leave to remain under the 10-year Article 8 family/private life routes

Case Outcome

- Refuse ILR, Grant Family/Private LTR 1000175

Appendix FM partner granted under paragraph D-LTRP.1.2.

Statistics Categories

Choose the appropriate Statistics Category to indicate the reason for the grant on the basis of family/private life under the 10-year partner route:

- Family/Private extn – Child’s best interests [EX.1.(a)] U3
- Family/Private extn – Private Life U4
- Family/Private extn – Breach of Article 8 Family [EX.1.(b)] U5
- Family LTR/extn – GEN 3.2. Breach of A8 Exceptional Circumstances U7
Appendix FM parent granted under paragraph D-LTRPT.1.2.

Statistics Categories

Choose the appropriate Statistics Category to indicate the reason for the grant on the basis of family/private life under the 10-year parent route:

- Family/Private extn – Child’s best interest [EX.1.(a)] U3
- Family/Private extn – Private Life U4
- Family LTR/extn – GEN 3.2 Breach of A8 Exceptional Circumstances U7

Private life granted under paragraph 276BE(1)

Statistics Categories

Choose the following Statistics Category to indicate the grant is on the basis of private life:

- Family/Private extn – Private Life U4

Refuse ILR, but grant leave to remain outside the rules on the basis of Article 8 exceptional circumstances under paragraph 276BE(2)

Case Outcome

- Refuse I.L.R., GRANT LOTR – LTR 1000203

Statistics Categories

Choose the appropriate Statistics Category for the human rights indefinite leave to remain Case Type.

Asylum Application is refused and considered under the 10-year Article 8 family and private life routes or private life route

Case Type

- All asylum Case Types

Refuse asylum, but grant leave to remain under the 10-year Article 8 family Life routes

Case Outcome

- Refuse Asylum, Grant Family LTR 1000375
Refuse asylum, but grant LTR under the 10-year Article 8 private life route

Case Outcome

- Refuse Asylum, Grant Private LTR 1000376

Related content

Contents
Refusal Paragraphs

This section gives decision makers suggested wordings for refusal of leave to remain on the basis of Article 8 family and private life in the UK.

General

The decision maker is expected to include relevant paragraphs from this section and tailor them to suit the individual circumstances on a case-by-case basis in the consideration. The decision letter must include relevant paragraphs relating to family life where this is raised, private life rules, and exceptional circumstances.

Example suitability refusal paragraphs

Note: The following wordings are examples. They do not constitute an exhaustive list of possible refusal paragraphs.

<table>
<thead>
<tr>
<th>Refusal Reason</th>
<th>Suggested Wording</th>
</tr>
</thead>
</table>
| Fails on basis of deportation order                | You were issued with a deportation order on [insert date of deportation order] and your application was made on [insert date of application].

Under paragraph S-LTR.1.2. we are satisfied that you were subject to a deportation order on the date you made your application.

For guidance on refusing and refusal wording on this basis see:

General Grounds for Refusal – internal guidance
General Grounds for Refusal – external guidance

<table>
<thead>
<tr>
<th>Fails on basis of criminality</th>
<th>See refusal wording in Criminality &amp; General Grounds for Refusal guidance for leave to remain refusals under S-LTR.1.3.-1.5.:</th>
</tr>
</thead>
</table>
|                                                     | General Grounds for Refusal – internal guidance
General Grounds for Refusal – external guidance

| Fails on basis of conduct, character and associations or other reasons | Under paragraph S-LTR.1.6., your presence in the UK is not conducive to the public good because [insert reasons why conduct/character/associations/other reasons make it undesirable to grant leave to remain – this could include convictions which do not fall within paragraph S-LTR.1.3. to S-LTR.1.5.].

For guidance on refusing and refusal wording on this basis see:

General Grounds for Refusal – internal guidance
<table>
<thead>
<tr>
<th>Refusal Reason</th>
<th>Suggested Wording</th>
</tr>
</thead>
</table>
| Fails on basis of non-compliance                   | Under paragraph S-LTR.1.7., you have failed without reasonable excuse to comply with a requirement to [attend an interview/provide information/provide physical data/undergo a medical examination or provide a medical report] (delete as appropriate) and we are not prepared to exercise discretion in your favour because [explain reasons here, and include any reasons given by the applicant that are not accepted].  
For guidance on refusing and refusal wording on this basis see:  
General Grounds for Refusal – internal guidance  
General Grounds for Refusal – external guidance                                                                                                                                  |
| Excluded from the Refugee Convention or from humanitarian protection | Under paragraph S-LTR.1.7., we have decided that your presence in the UK is not conducive to the public good because the Secretary of State [insert reasons here].  
For guidance on refusing and refusal wording on this basis see:  
Restricted Leave guidance – internal guidance  
Restricted Leave guidance – external guidance  
General Grounds for Refusal – internal guidance  
General Grounds for Refusal – external guidance                                                                                                                                  |
| Fails on the basis of false representations        | Under paragraph S-LTR.2.2.(a) we are satisfied, whether or not with your knowledge, that false information, representations or documents have been submitted in relation to your application (including false information submitted to any person to obtain a document used in support of the application) because [see general grounds for refusal guidance on refusing and refusal wording:  
General Grounds for Refusal – internal guidance  
General Grounds for Refusal – external guidance]                                                                                                                                     |
| Fails on basis of failure to disclose material facts| Under paragraph S-LTR.2.2.(b) we are satisfied, whether or not with your knowledge, there has been a failure to disclose material facts in relation to the application because [see general grounds for refusal guidance on refusing and refusal wording:  
General Grounds for Refusal – internal guidance  
General Grounds for Refusal – external guidance]                                                                                                                                     |
<p>| Fails on the basis of lack of                       | Under paragraph S-LTR.2.4., a maintenance and accommodation undertaking has been requested under                                                                                                                                                                                                                    |</p>
<table>
<thead>
<tr>
<th>Refusal Reason</th>
<th>Suggested Wording</th>
</tr>
</thead>
</table>
| maintenance and accommodation undertaking                                    | paragraph 35 of these rules and has not been provided and we are not prepared to exercise discretion in your favour because [explain reasons here, and include any reasons given by the applicant that are not accepted].  See general grounds for refusal guidance on refusing and refusal wording on this basis:  
General Grounds for Refusal – internal guidance  
General Grounds for Refusal – external guidance |
| Fails on the basis of service of notice under section 50(7)(b) of the Immigration Act 2014, that the applicant or their partner had not complied with the investigation of their proposed marriage or civil partnership | Under paragraph S-LTR.2.5., on [date] the Secretary of State gave notice to you and your partner under section 50(7)(b) of the Immigration Act 2014, that one or both of you had not complied with the investigation of your proposed marriage or civil partnership, and we are not prepared to exercise discretion in your favour because [explain reasons here, and include any reasons given by the applicant that are not accepted]. |
| Fails on the basis that deception was used in a previous application          | Under paragraph S-LTR.4.2., we are satisfied that [see general grounds for refusal guidance on refusing and refusal wording:  
General Grounds for Refusal – internal guidance  
General Grounds for Refusal – external guidance] |
| Fails on the basis that deception was used in a previous application for document to prove right to reside | Under paragraph S-LTR.4.3., we are satisfied that [see general grounds for refusal guidance on refusing and refusal wording:  
General Grounds for Refusal – internal guidance  
General Grounds for Refusal – external guidance] |
| Failure to pay outstanding litigation costs awarded to the Home Office       | Under paragraph S-LTR.4.4., you have failed to pay [see guidance on litigation debt for refusing and refusal wording:  
Litigation Debt – internal guidance  
Litigation Debt – external guidance] |
| Failure to pay an outstanding charge to the National Health Service (NHS)   | Under paragraph S-LTR.4.5., we are satisfied that you have failed to pay [see guidance on litigation debt for refusing and refusal wording:  
General Grounds for Refusal – internal guidance  
General Grounds for Refusal – external guidance] |
### Example partner refusal paragraphs

**Note:** The following wordings are examples. They do not constitute an exhaustive list of possible refusal paragraphs.

<table>
<thead>
<tr>
<th>Refusal Reason</th>
<th>Suggested Wording</th>
</tr>
</thead>
<tbody>
<tr>
<td>Definition of ‘Partner’</td>
<td>From the information provided it appears that [insert reason why they do not meet the criteria under GEN.1.2.]. In view of this, it is not accepted that you meet the definition of a partner as defined in paragraph GEN.1.2. You therefore fail to meet the requirements of paragraph R-LTRP with reference to paragraph GEN.1.2. of Appendix FM of the Immigration Rules.</td>
</tr>
<tr>
<td>Applicant, their partner or both are not in the UK</td>
<td>Under paragraph R-LTRP.1.1.(a), it is not accepted that [you, your partner or you and your partner, your partner] are in the UK [insert here reasons why you believe the applicant or their partner are not in the UK].</td>
</tr>
<tr>
<td>Immigration status of partner</td>
<td>Under paragraph E-LTRP.1.2., your partner is not (choose one or more of the following options): • in the UK • a British citizen • present and settled in the UK • in the UK with refugee leave or humanitarian protection.</td>
</tr>
<tr>
<td>Immigration status of partner, who it is claimed is permanently resident under EU Law – not demonstrated present and settled</td>
<td>From the information provided it appears that [insert reason why their EEA/non-EEA partner who they claim is permanently resident under EU Law, does not meet the criteria of “present and settled” under paragraph 6 of the Immigration Rules]. In view of this you therefore fail to meet the requirements of paragraph E-LTRP.1.2. of Appendix FM of the Immigration Rules.</td>
</tr>
<tr>
<td>Age</td>
<td>Under paragraph E-LTRP.1.3., we are satisfied that you were [insert age of applicant] and not over the age of 18 at the date of your application.</td>
</tr>
<tr>
<td></td>
<td>This can be used with the following or use the following on its own:</td>
</tr>
<tr>
<td></td>
<td>Under paragraph E-LTRP.1.3., we are satisfied that your partner was [insert age of partner] and not over the age of 18 at the date of your application.</td>
</tr>
<tr>
<td>Degree of</td>
<td>You are the [insert relationship to partner] of [insert name].</td>
</tr>
<tr>
<td>Refusal Reason</td>
<td>Suggested Wording</td>
</tr>
<tr>
<td>----------------------------------------------------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>relationship</td>
<td>Under paragraph E-LTRP.1.5., this relationship is within the prohibited degree of relationship as defined by the Marriage Act 1949, the Marriage (Prohibited Degrees of Relationship) Act 1986 and the Civil Partnership Act 2004.</td>
</tr>
<tr>
<td>Requirement to have met in person</td>
<td>Under paragraph E-LTRP.1.6., you have not established you and your partner have met in person because [insert reason why it is not accepted that applicant and partner have met in person].</td>
</tr>
<tr>
<td>Genuine and subsisting relationship</td>
<td>Under paragraph E-LTRP.1.7., we do not believe that your relationship with your partner is genuine and subsisting because [Insert reasons, with reference to guidance on determining a genuine relationship FM 2.0 Genuine and Subsisting Relationship guidance].</td>
</tr>
<tr>
<td>No evidence provided of valid marriage or civil partnership</td>
<td>Under paragraph E-LTRP.1.8., you have not provided specified evidence as required by paragraph [22, 24 or 26 (list all that apply)] of Appendix FM-SE to the Immigration Rules, to show that you and your partner are in a valid marriage/have entered into a valid civil partnership.</td>
</tr>
<tr>
<td>Evidence provided of valid marriage or civil partnership not accepted</td>
<td>Under paragraph E-LTRP.1.8., the evidence you have provided as to the validity of your [marriage/civil partnership] is not accepted because [provide reasons].</td>
</tr>
<tr>
<td>Previous relationship has not broken down permanently. Polygamy</td>
<td>On [insert date of previous marriage/civil partnership] you [were married to/entered into a civil partnership with] (delete as appropriate) [insert name of person]. You claim to presently be [married to/in a civil partnership with] (delete as appropriate) [insert name of current partner]. Under paragraph E-LTRP.1.9., you have not provided the evidence specified in paragraph [23 or 25 or 26 (delete as appropriate)] of Appendix FM-SE to the Immigration Rules to show that your [previous marriage/civil partnership] (delete as appropriate) with [insert name of person] has been dissolved, and there is no evidence that this is a polygamous relationship that falls within paragraph 278(i) of the Immigration Rules.</td>
</tr>
</tbody>
</table>
| Intention to live together                          | Under paragraph E-LTRP.1.10., we do not accept that you and your partner [intend to live together/have lived
<table>
<thead>
<tr>
<th>Refusal Reason</th>
<th>Suggested Wording</th>
</tr>
</thead>
<tbody>
<tr>
<td>permanently in the UK</td>
<td>together] (delete as appropriate) permanently in the UK because [insert reason why this is not accepted].</td>
</tr>
<tr>
<td>Current partner is not the same as at the last grant of leave</td>
<td>Under paragraph E-LTRP.1.10., you have applied for leave to remain on the basis of your current partner [insert name], but this partner is not the same partner with whom you applied for your previous grant of leave.</td>
</tr>
</tbody>
</table>
| Marriage/civil partnership has not taken place      | Under paragraph E-LTRP.1.11., you were granted entry clearance to the UK as a [fiancé(e)/proposed civil partner] (delete as appropriate) on [insert date], but your [marriage/civil partnership] (delete as appropriate) has not taken place during the 6 month period of that entry clearance.  
You have stated that [insert explanation provided by applicant], but this explanation is not accepted because [insert reasons].  
This can be used with the following or use the following on its own:  
You have not provided evidence that the marriage/civil partnership (delete as appropriate) will take place in the next 6 months. |
| Immigration status requirement – here as a visitor or with valid leave of 6 months or less | Under paragraph E-LTRP.2.1., we are satisfied that you are currently in the UK with [leave as a visitor/valid leave granted for a period of 6 months or less] (delete as appropriate). |
| Immigration status requirement – on immigration bail and did not arrive in the UK more than 6 months prior to the date of application | You arrived in the UK on [insert date], you were placed on immigration bail on [insert date], and your current application was made on [insert date].  
Under paragraph E-LTRP.2.2, we are satisfied that you are on immigration bail and you arrived in the UK less than 6 months prior to the date of your application.  
Optional: [Moreover, for the reasons give below, EX.1. does not apply in your case.] |
| Immigration status requirement – on immigration bail and arrived in the UK more than 6 | You arrived in the UK on [insert date], you were placed on immigration bail on [insert date], and your current application was made on [insert date].  
Under paragraph E-LTRP.2.2., even though you are on |
<table>
<thead>
<tr>
<th>Refusal Reason</th>
<th>Suggested Wording</th>
</tr>
</thead>
<tbody>
<tr>
<td>months prior to the date of application but EX.1. does not apply</td>
<td>immigration bail, we are satisfied that you arrived in the UK more than 6 months prior to the date of your application, however, for the reasons give below, EX.1. does not apply in your case.</td>
</tr>
<tr>
<td>Immigration status requirement – in breach of Immigration laws AND EX.1. does not apply</td>
<td>You are currently in the UK [insert immigration status and nature of breach and if an overstayer when their previous leave ended]. Under paragraph E-LTRP.2.2., we are satisfied that you are in breach of immigration laws, and for the reasons give below, EX.1. does not apply in your case.</td>
</tr>
<tr>
<td>EX.1. does not apply – does not meet EX.1.(a) as no children</td>
<td>EX.1.(a) does not apply in your case because you have not told us about any dependent children in the UK.</td>
</tr>
<tr>
<td>EX.1. does not apply – do not meet EX.1.(a) requirements</td>
<td>You have told us you have a parental relationship with [child/children’s name(s)] in the UK, but EX.1.(a) does not apply in your case because [outline reasons why EX.1.(a) does not apply].</td>
</tr>
<tr>
<td>EX.1. does not apply – does not meet EX.1.(b) as definition of partner not met</td>
<td>EX.1.(b) does not apply in your case. You do not meet the definition of “partner” as defined in paragraph GEN.1.2. of Appendix FM because [insert reason why they are not a qualifying partner, or their sponsor is not a qualifying partner, as defined in GEN.1.2.]. You have told us [list the obstacles to their family life continuing overseas which they have raised]. We do not accept that there are insurmountable obstacles, in accordance with paragraph EX.2. of Appendix FM, to your family life with your partner continuing outside the UK in [country] because [insert reasons why you don’t believe there are insurmountable obstacles, dealing with the circumstances of the case, including reference to any country specific information to evidence that there are no insurmountable obstacles].</td>
</tr>
</tbody>
</table>
| EX.1. does not apply – does not meet EX.1.(b) as not accepted as a genuine and subsisting | EX.1.(b) does not apply in your case. We do not accept that your relationship with your partner is genuine and subsisting because [insert reasons why we do not accept they are in a genuine and subsisting
Refusal Reason | Suggested Wording
--- | ---
relationship | relationship.

You have told us [list the obstacles to their family life continuing overseas which they have raised].

We do not accept that there are insurmountable obstacles, in accordance with paragraph EX.2. of Appendix FM, to your family life with your partner continuing outside the UK in [country] because [outline reasons why EX.1.(b) does not apply].

---

Example parent refusal paragraphs

**Note:** The following wordings are examples. They do not constitute an exhaustive list of possible refusal paragraphs.

<table>
<thead>
<tr>
<th>Refusal Reason</th>
<th>Suggested Wording</th>
</tr>
</thead>
<tbody>
<tr>
<td>Definition of “parent”</td>
<td>From the information provided it appears that [insert reason why they do not meet the criteria under paragraph 6]. In view of this fact, it is not accepted that you meet the definition of a parent as defined in paragraph 6. You therefore fail to meet the requirements of paragraph R-LTRPT with reference to paragraph 6 of the Immigration Rules.</td>
</tr>
<tr>
<td>Applicant and their child(ren) are not in the UK or</td>
<td>Under paragraph R-LTRPT.1.1.(a), it is not accepted that [you and your child or your child] are in the UK [insert here reasons why you believe the applicant or their child(ren) are not in the UK].</td>
</tr>
<tr>
<td>Children are not in the UK</td>
<td></td>
</tr>
<tr>
<td>Not related as claimed</td>
<td>From the information provided it appears that [insert reasons why it is not accepted that the applicant and child are related as claimed]. In view of this fact, under paragraph E-LTRPT with reference to paragraph 6, we are not satisfied that you are the parent of a child who is resident in the UK as you have claimed.</td>
</tr>
<tr>
<td>Child not under 18</td>
<td>Under paragraph E-LTRPT.2.2., your child [insert name] was not under the age of 18 at the date of application.</td>
</tr>
</tbody>
</table>
| Immigration status of child                              | Under paragraph E-LTRPT.2.2., your child: (choose one or more of the following options)
  - is not living in the UK
  - is not a British citizen
  - is not settled in the UK
  - has not lived in the UK continuously for at least the 7 years immediately preceding the date of application
<table>
<thead>
<tr>
<th>Refusal Reason</th>
<th>Suggested Wording</th>
</tr>
</thead>
</table>
| **Parent does not have sole parental responsibility or child does not normally live with them** | Under paragraph E-LTRPT.2.3.(a), an applicant must show that they either have sole parental responsibility, or that the child normally lives with them and not the other parent (who is a British citizen or settled in the UK).  
You have told us [insert what they have stated outlining any evidence provided].  
From the information available we do not accept you meet this requirement because [outline reason why it is not accepted they have sole parental responsibility or that the child normally lives with them and not their other parent]. |
| **Parent or carer child normally lives with is not a British citizen or settled in the UK** | Under paragraph E-LTRPT.2.3.(b), an applicant must show that the parent or carer with whom the child normally lives is a British citizen or settled in the UK.  
You have told us [insert what they have stated outlining any evidence/information provided].  
From the information available we do not accept you meet this requirement because [outline reasons why it is not accepted the parent of carer who the child normally lives with is a British citizen or settled in the UK]. |
| **Child's other parent is the partner of the applicant**                      | Under paragraph E-LTRPT.2.3.(b), the parent or carer with whom the child normally lives must not be your partner.  
You have told us [insert what they have stated outlining any evidence/information provided].  
From the information available we do not accept you meet this requirement because [outline reasons why we believe the child’s other parent is the applicant’s partner]. |
| **Applicant is eligible to apply as a partner**                              | Under paragraph E-LTRPT.2.3., an applicant must not be eligible to apply for leave to remain as a partner under Appendix FM.  
You have told us [insert what they have stated outlining any evidence/information provided].  
From the information available we believe that you are eligible to apply for leave as a partner because [outline reasons why we believe the applicant is eligible to apply for leave as a partner under Appendix FM]. |
<table>
<thead>
<tr>
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</table>
| Fails to evidence sole parental responsibility or that child normally lives with them | Under paragraph E-LTRPT.2.4.(a)(i), an applicant must provide evidence to show that they either have sole parental responsibility or that the child normally lives with them.  
You have provided [list what evidence has been provided and what they have told us].  
We do not believe you have evidenced you meet this requirement because [outline why we do not accept evidence of sole parental responsibility or that the child normally lives with them]. |
| No proof of direct access in person to the child                              | Under paragraph E-LTRPT.2.4.(a)(ii), an applicant must provide evidence to show that they have direct access in person to their child.  
You have provided [list what evidence has been provided and what they have told us].  
We do not believe you have evidenced you meet this requirement because [outline why we do not accept evidence of sole parental responsibility or that the child normally lives with them].  
Optional: [you have not produced evidence, for example by way of a Residence Order or a Contact Order granted by a Court in the UK or a letter or sworn statement from your child's other parent (or if contact is supervised, from the supervisor), that you have direct access in person and are maintaining contact with your child.] |
| Applicant does not take, or does not intend to continue to take an active role in the child's upbringing | Under paragraph E-LTRPT.2.4.(b), an applicant must provide evidence to show that they are taking, and intend to continue to take, an active role in their child’s upbringing.  
You have provided [list what evidence has been provided and what they have told us].  
We do not believe that you have evidenced you take and intend to continue to take an active role in your child’s upbringing because [outline why it is not accepted they have evidenced they are taking and intend to continue to take an active role in the child’s upbringing]. |
<p>| Immigration status requirement – here as a visitor or with valid leave of 6 months or less | Under paragraph E-LTRPT.3.1., we are satisfied that you are currently in the UK with [leave as a visitor/valid leave granted for a period of 6 months or less] (delete as appropriate). |</p>
<table>
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<tbody>
<tr>
<td>Immigration status requirement – on immigration bail and did not arrive in the UK more than 6 months prior to the date of application</td>
<td>You arrived in the UK on [insert date], you were placed on immigration bail on [insert date], and your current application was made on [insert date]. Under paragraph E-LTRT.3.2., we are satisfied that you are on immigration bail and you arrived in the UK less than 6 months prior to the date of your application. Optional: [Moreover, for the reasons give below, EX.1. does not apply in your case.]</td>
</tr>
<tr>
<td>Immigration status requirement – on immigration bail and arrived in the UK more than 6 months prior to the date of application but EX.1. does not apply</td>
<td>You arrived in the UK on [insert date], you were placed on immigration bail on [insert date], and your current application was made on [insert date]. Under paragraph E-LTRPT.3.2., even though you are on immigration bail, we are satisfied that you arrived in the UK more than 6 months prior to the date of your application, however, for the reasons give below, EX.1. does not apply in your case.</td>
</tr>
<tr>
<td>Immigration status requirement – in breach of Immigration laws but EX.1. does not apply</td>
<td>You are currently in the UK [insert immigration status and nature of breach and if an overstayer when their previous leave ended]. Under paragraph E-LTRPT.3.2., we are satisfied that you are in breach of immigration laws, and for the reasons give below, EX.1. does not apply in your case.</td>
</tr>
<tr>
<td>EX.1. does not apply – do not meet EX.1.(a) requirements – use in all decisions where you are refusing on this basis</td>
<td>You have told us you have a parental relationship with [child or children’s name(s)] in the UK, but EX.1.(a) does not apply in your case because [outline reasons why EX.1.(a) does not apply].</td>
</tr>
</tbody>
</table>

**Example private life refusal paragraphs**

*Note:* The following wordings are examples. They do not constitute an exhaustive list of possible refusal paragraphs.

<table>
<thead>
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<td>Opening paragraph in all decisions refused on the</td>
<td>From the information you have provided, it is noted that you are a national of [[list country to which they would return, and each country if a dual national]] and you [claim to have]</td>
</tr>
<tr>
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<td>---------------------------------------------------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
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<tr>
<td>basis of private life</td>
<td>entered the UK on [date]. You do not meet the requirements of paragraphs 276ADE(1)(iii) – (vi) of the Immigration Rules because:</td>
</tr>
<tr>
<td>Main applicant has not lived in UK continuously for at least 20 years</td>
<td>Under paragraph 276ADE(1)(iii), you have [only lived in the UK for [state number of years] and not for a continuous period of at least 20 years/failed to provide sufficient evidence to show that you have lived in the UK continuously for at least 20 years] (discounting any period of imprisonment).</td>
</tr>
</tbody>
</table>
| Main applicant is under 18 (with or without the 7 years residence), and it is reasonable to expect them to leave the UK | Optional: [You have lived in the UK for [state number of years] and not for a continuous period of at least 7 years in the UK (discounting any period of imprisonment).]  
Under paragraph 276ADE(1)(iv), we have considered whether it is reasonable for you to leave the UK.  
You have told us: [insert what they have stated outlining any evidence/information provided].  
We consider that it is reasonable for you to leave the UK because: [outline why we have reached this decision]. |
| Main applicant is aged 18 - 24, not lived in UK continuously for half their life | Under paragraph 276ADE(1)(v), you have [only lived in the UK for [state number of years] and not continuously in the UK for at least half your life/failed to provide sufficient evidence to show that you have lived continuously in the UK for at least half your life] (discounting any period of imprisonment). |
| Main applicant is 18 or above, and has not shown there are very significant obstacles to their integration into the country to which they would have to go if required to leave the UK | Under paragraph 276ADE(1)(vi), we have considered whether there would be very significant obstacles to your integration into [country] to which you would have to go if required to leave the UK.  
You have told us: [insert what they have stated outlining any evidence/information provided].  
We do not accept that there would be very significant obstacles to your integration into [country] if you were required to leave the UK because: [outline why you have reached this decision]. |

**Example exceptional circumstances refusal paragraphs**

**Note:** The following wordings are examples. They do not constitute an exhaustive list of possible refusal paragraphs.
<table>
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</table>
| Considering GEN.3.2. – No exceptional circumstances raised                   | We have considered, under paragraph GEN.3.2. of Appendix FM, whether there are exceptional circumstances in your case which would render refusal a breach of Article 8 of the ECHR because it would result in unjustifiably harsh consequences for you, a relevant child or another family member. In so doing we have taken into account, under paragraph GEN.3.3. of Appendix FM, the best interests of any relevant child as a primary consideration.  
(Optional: No information or evidence provided): [You have provided no information or evidence to establish that there are any exceptional circumstances in your case.]                                                                 |
|                                                                               | (Optional: Some information or evidence provided): [Based on the information you have provided we have decided that there are no such exceptional circumstances in your case. You have told us: [outline what they have told us].  
We have reached this decision because: [outline why we have reached this decision].]                                                                 |
| Considering exceptional circumstances outside the rules – No exceptional circumstances raised | We have considered whether there are exceptional circumstances in your case which would render refusal a breach of Article 8 of the ECHR because it would result in unjustifiably harsh consequences for you, a relevant child or another family member. In so doing we have taken into account the best interests of any relevant child as a primary consideration.  
(Optional: No information or evidence provided): [You have provided no information or evidence to establish that there are any exceptional circumstances in your case.]                                                                 |
|                                                                               | (Optional: Some information or evidence provided): [Based on the information you have provided we have decided that there are no such exceptional circumstances in your case. You have told us: [outline what they have told us].  
We have reached this decision because: [outline why we have reached this decision].]                                                                 |