Home Office

Fee waiver: Human Rights-based and other specified applications

Version 8.0

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About this guidance

This guidance tells you how to consider requests for a fee waiver from those who wish to make an in-country, specified human rights application where to require payment of the fee before considering the application would be incompatible with a person's rights under the European Convention on Human Rights (ECHR).

Separate guidance is available for fee waiver requests from those applying under family and private life rules from outside the UK, the Domestic Abuse provisions of the Immigration Rules, for citizenship registration for individuals under the age of 18 and for those seeking an extension of permission as a victim of human trafficking or slavery.

This guidance does not apply in circumstances where no fee is required, including where the individual is:

- applying for permission to remain based on ECHR Article 3, whether as part of a claim for protection or on the basis of a medical condition
- a child in local authority care
- where an individual is in immigration detention or in the Family Returns Process because they do not need to pay a fee to have their ECHR claim considered.

Contacts

If you have any questions about the guidance concerning those applying for a fee waiver in family and private life routes 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 have any questions about the guidance concerning those applying for a fee waiver under Appendix CRP and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors then email Asylum Policy Secretariat.

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 **8.0**
- published for Home Office staff on **25 November 2026**

Changes from the last version of this guidance

Guidance updated to:

- clarify the position where a person in detention makes a fee waiver request
- clarify when a person will benefit from 3C leave
- amend the period of time for assessing zero hours contracts
- confirm how to assess cases where an applicant may have spent on non-essential items
- provide further instruction where an applicant may be at risk of imminent destitution
- provide further instruction relating to evidence and information we will need to see with regards to bank statements
- provide instruction on fee waiver requests submitted without supporting evidence
- clarify how to treat an outstanding fee waiver request where an applicant submits a paid immigration application or makes an asylum claim

Related content
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Eligibility

Applicants are eligible to apply for a fee waiver where they wish to make a specified human rights application and to require payment of the fee before considering the application would be incompatible with their rights under the European Convention on Human Rights (ECHR).

The courts have considered fee waivers in an immigration context in three important judgments: Omar, R v Secretary of State for the Home Department [2012] EWHC 3448 and Carter, R v Secretary of State for the Home Department [2014] EWHC 2603 and Dzineku-Liggison & Ors, R [2020] UKUT 222 (IAC). This guidance has taken these judgments into account.

This guidance applies to the following types of application:

- applications for permission under the **5-year partner route** from applicants who are not required to meet the minimum income threshold because the sponsor is in receipt of a specified benefit relating to disability or caring (see: Appendix FM and Adult Dependent Relative Adequate maintenance and accommodation)
- applications for permission under the 5-year parent route
- applications for permission under the 5-year private life route
- applications for permission under the 10-year partner, parent or private life routes
- applications for permission on the basis of other ECHR rights
- applications for further permission from applicants granted discretionary leave (DL) following refusal of asylum or humanitarian protection, where the applicant claims that refusal to grant further permission would breach their ECHR rights
- applications for permission to stay in the UK as a child under Appendix Child Relative (Sponsors with Protection) (Appendix CRP)

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

The courts, in The SS Case [R(Shueb Sheikh) v SSHD [2011] EWHC 3390 (Admin)], have made plain that the 'strength and force' of the underlying human rights claim is relevant when deciding whether it is appropriate to consider a fee waiver. For example, if an application is made for permission principally on the basis of UK ancestry, and the applicant mentions Articles 12 (right to marry) and 14 (non-discrimination) in passing as part of that application, they will not qualify for a fee waiver. The relevant fee must be paid for the UK ancestry application to be accepted as a valid application.

It is important to note that a fee waiver request is not an immigration decision, which means the outcome of a fee waiver request should not be taken as an indicator on the outcome of a subsequent immigration application.

Fee waiver requests and enforcement action

Where the person is not detained, a fee waiver request is a barrier to removal because it indicates that the person may have an ECHR claim.

However, a fee waiver request itself is not a barrier to detention. Where an individual is detained, they can make ECHR submissions directly to a member of staff in person or to the relevant operational unit, either personally or via their legal representative. In these circumstances, a fee waiver is not required, and any outstanding fee waiver request can be disposed of. This means detention remains lawful and removal can proceed. The Detention Engagement Team (DET) or Home Office representative must explain this to the individual and record that this explanation has been given.

As such, the existence of an outstanding fee waiver claim does not, of itself, prevent detention. Once detained, their ECHR claim and any outstanding fee waiver request can be dealt with in line with the procedures set out above. The existence of a fee waiver request should not, in itself, prevent detention. The officials who begin enforcement action will need to be mindful of the fact that the existence of the fee waiver is a potential indicator that the person may have an ECHR claim. To ensure the Secretary of State is satisfied that detention is lawful because removal is realistic and within a reasonable timeframe, an assessment should be made taking into account factors such as how recent the last human rights consideration was and any known or mitigating circumstances.

Individuals in the Family Returns Process also do not require a fee waiver. Those individuals can make their ECHR submissions free of charge directly to their Family Engagement Officer or Family Engagement Manager. Where a fee waiver request is received from an individual in the Family Returns Process, the fee waiver request can be disposed of and the individual informed how to make their ECHR submissions through the Family Returns Process.

Related content
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Assessing a fee waiver request

You must grant a fee waiver where the applicant has credibly demonstrated that they cannot afford the fee.

This includes where the applicant's income is not sufficient to meet their child's needs, or payment of the fee would leave them unable to meet their child's needs.

Each case must be considered on its individual merits. The onus is on the applicant to demonstrate that they qualify for a fee waiver.

When assessing whether the applicant meets the criteria for a fee waiver, you must consider the whole of the amount to be paid, that is the application fee and the Immigration Health Surcharge (IHS). Where an applicant can pay the whole of the immigration fee but none, or only part, of the IHS, the immigration fee will be required, and the waiver will be applied to the IHS. If the applicant is unable to pay the fee and the IHS, you must waive both. It is also possible for an applicant to apply just to have the IHS waived.

Where someone has applied for settlement but did not meet the requirements and so is being considered for a grant of temporary permission on the basis of family or private life instead, you may need to request an IHS top-up payment. Where an applicant states that they cannot afford the top-up payment, a waiver for the IHS must be considered in accordance with this guidance. For further information see: Settlement varying a settlement application to permission to stay.

An applicant may choose to apply for a fee waiver for some, but not all, dependants. You must consider whether the evidence demonstrates that the criteria have been met for each dependant that has applied for a fee waiver.

You may decide that the applicant can afford to pay the fee for some, but not all, dependants. However, it is not possible for part of the immigration fee to be waived and part of the fee to be paid for any individual applicant.

Under Appendix CRP, where an applicant submits a fee waiver request for their permission to stay application alongside the FLR(P) form, you must consider the fee waiver request before the immigration application. The amount of IHS liable must be calculated in line with the permission the sponsor has in the UK. For example, where the sponsor with refugee status has 24 months' permission to stay remaining in the UK, the amount of IHS liable by the applicant is 24 months. To assess the fee waiver request, you must consider any financial circumstances of the applicant and individuals they rely on for financial support within their household such as their close relative.

Evidence

In all cases, the applicant must provide details and supporting evidence demonstrating their financial circumstances when they submit their fee waiver request including, where the applicant is a child, individuals they rely on for financial

support within their household such as their close relative. This should normally be in the form of bank statements for all accounts held, with all major (over £250) and regular incoming and outgoing payments explained.

It is the responsibility of the applicant to provide a full account of their financial circumstances. Where they are supported by a third party, they must also demonstrate that the third-party providing support is not reasonably able to provide funding to support payment of the fee.

Evidence should be up to date and cover the 6 months prior to the date of the fee waiver request. Documents dating back more than a few months may be useful in establishing how the person's finances have changed over time, but those that confirm the applicant's current circumstances and finances will clearly have greater relevance.

You should normally expect to see information and evidence relating to the income of the applicant (and individuals they rely on for financial support within their household such as, for Appendix CRP applications, their close relative), regarding their accommodation, the type and adequacy of accommodation, the amount of their rent / mortgage or of their contribution towards this, and their outgoings in terms of spending on things like food, utilities and any debts they may have. This information should be supported by independent evidence, such as their pay slips, bank statements, tenancy agreement, utility bills and credit card statements. The nature of the evidence provided will vary depending on the individual circumstances of the applicant, but the caseworker should expect to see evidence appropriate to the circumstances being claimed.

Bank statements

An applicant, and their spouse / partner, or if the applicant is a child, their parent and their parent's spouse / partner will need to provide statements for **all accounts** they hold, to cover the 6 month period before the fee waiver request was submitted.

If an applicant or their spouse / partner has provided bank statements for an account that shows they have transferred to or received funds from another account in their name, they will need to ensure they have provided statements for that account.

All bank statements provided in support of the application need to be produced by the bank. Alternatively, we will also accept screenshots where all account holder details, transactions and balances are visible.

Alongside the statements, we will need an explanation for all incoming and outgoing payments of at least £250, including where:

- money was transferred to someone else (including a description of the relationship between the account holder and the recipient)
- money is received via transfer from someone else (including a description of the relationship between the account holder and the sender)

- cash is paid into the account (with an explanation as to how and why the account holder came to receive this money and, if paid in by someone else, explain their relationship to the account holder)
- a purchase was made
- a cash withdrawal was made
- money is transferred overseas.
- payments are made to credit card companies (the applicant should also provide corresponding credit card statements)

This list is not exhaustive, and the applicant and their spouse / partner should also provide an explanation for multiple transactions of less than £250 if the total is a significant amount which could have been used to pay the fee.

We need this information to be able to assess what the applicant and their spouse / partner or financially supporting person receives and spends, to consider if they can afford the fee or have intentionally disposed of funds that could have been used to pay the fee.

If any of the accounts are inactive, have little activity or have been recently closed, the applicant and their spouse / partner will still have to provide evidence of this.

The applicant and their spouse / partner will need to ensure that bank statements of all savings accounts, child savings accounts and any overseas accounts are declared and provided.

The fee waiver request may be refused if the documents provided by the applicant and their spouse / partner do not allow you to complete your consideration.

Credibility

Where the applicant states that relevant documentary evidence cannot be provided, you must be satisfied that they have provided a credible explanation for why the evidence is unavailable and that their circumstances are as claimed. The applicant should be able to provide information as to how their financial position has changed over time, and may still be able to provide some evidence, depending on the nature of their circumstances, such as bank statements, or an eviction notice, or written testimonies from people previously or currently providing them with support. If you are of the view that the applicant may qualify for a fee waiver in circumstances where all requested documentary evidence has not been provided, you should refer to a senior caseworker for further advice.

Evidential flexibility

Evidential flexibility is a principle which allows you to decide a case where the applicant has not provided all the evidence or information set out on the application form.

This is only likely to be applicable in exceptional circumstances, where:

- the missing evidence is unnecessary because the other evidence provided is clear and compelling
- there is a compelling reason why the evidence cannot be provided

The onus is on the applicant to provide sufficient evidence to satisfy you that they meet the criteria for being granted a fee waiver, but there will be some cases where providing evidence is more difficult than others.

If you are satisfied that the applicant has provided clear and compelling evidence of their financial circumstances, and this demonstrates they meet the relevant criteria, then evidential flexibility can be applied. **If you are unsure, refer to a senior caseworker before applying evidential flexibility.**

Each case must still be considered on its individual merits in line with the current guidance

Where it is appropriate to request further evidence in accordance with this guidance, you may make further enquiries. However, it remains the responsibility of the applicant to sufficiently evidence their claimed financial circumstances, or to provide a credible explanation of why such evidence is not available.

Requests submitted without supporting evidence

Applicants are responsible for providing sufficient evidence of their financial circumstances, as set out in the 'Evidence' section of this guidance. Where an applicant submits a fee waiver request without any relevant evidence, you do not need to request further evidence before making a decision.

Before making a decision, however, you must consider whether there is evidence showing that the applicant:

- is vulnerable
- requires additional support to provide the necessary evidence
- has a credible and compelling reason for being unable to provide the necessary evidence

Where any of the above criteria is met, you must consider applying evidential flexibility in accordance with this guidance. Otherwise, you should make a decision on the information available.

In considering whether there is a credible and compelling reason for being unable to provide the necessary evidence, you should consider the nature of the missing evidence, whether it was reasonably available to the applicant, the explanation given for its absence, and any reasonable steps taken to obtain it.

When considering whether there is a credible and compelling reason, relevant factors may include whether the applicant:

- is homeless

- is a victim of domestic abuse
- has a significant health condition or disability

This list is not exhaustive. You must consider each case on its individual merits and whether the circumstances provide a credible and compelling reason for the applicant being unable to provide the necessary evidence.

Where an applicant fails to provide evidence of their financial circumstances at the time of application and does not provide a reasonable explanation for being unable to do so, the fee waiver application may be refused.

Requesting further evidence or information

Where the applicant has provided some relevant evidence with their request, but it appears that they have omitted other required evidence in error, or further clarification or verification of the evidence already provided is needed to make a decision, you should consider giving them an opportunity to provide it.

This may include where:

- evidence is missing, but what has been provided gives reason to believe that the applicant has, or could readily obtain, the missing evidence
- evidence provided is incomplete or unclear but could be clarified, for example, where an employer's letter has been provided but does not confirm the applicant's gross annual salary

Where it is appropriate to request further evidence or information, you should provide the applicant with an opportunity to provide it.

You must be clear about what further evidence or information is required and the timeframe in which it must be provided.

Where there are exceptional circumstances and it is clear that an applicant needs more time to provide evidence, it may be necessary to make an additional request or allow more time for the evidence to be provided. Exceptional circumstances may include where the applicant is a victim of domestic abuse or is homeless.

Applicants must be told when further evidence is requested that failure to provide the additional information within the specified timeframe may result in their fee waiver request being refused.

Disability

The applicant must establish any physical or mental disability (or that of a dependent family member) by means of independent documentary evidence, such as a letter from a hospital consultant. If the applicant (or a dependent family member) has a physical or mental disability, this does not itself determine the outcome of the request, other than insofar as it affects the applicant's financial circumstances and ability to pay the fee. Where you believe the issue of disability may be material to the

decision on the fee waiver request and there is insufficient information in this respect on which to base your decision, you may invite the applicant to submit further information or evidence.

Where, following a further information request, the evidence remains insufficient , you must consider contacting the applicant directly to discuss how they can evidence their disability, physical or mental health condition. You must seek senior caseworker advice where you are unsure whether to contact an applicant.

If there is evidence that the applicant has special needs and may need additional support to present their request for a fee waiver clearly, you should signpost them to other agencies who may be able to assist, such as Citizens Advice.

If it is established an applicant has a particular disability, or physical or mental health condition and this means that they are unable to provide all the relevant information and evidence, you must consider applying evidential flexibility.

The applicant cannot afford the fee

A fee waiver request must be granted where **the applicant has credibly demonstrated that they cannot afford either the fee and the IHS, or just the IHS.**

An applicant is considered unable to pay the fee when they, and individuals they rely on for financial support within their household (including for Appendix CRP applications, their close relative), do not have sufficient funds at their disposal to make the payment, after meeting essential living needs and continuing to meet any child's needs. **The applicant does not have to demonstrate that they are destitute or at risk of destitution.**

Based on the evidence submitted, you must consider:

- how does the applicant meet their accommodation costs?
- how are they meeting the cost of their essential living needs?
- what sources of income do they have?
- does the applicant have sufficient surplus income, excluding accommodation and essential living needs, to afford the fee?
- do they have sufficient savings to pay the fee?
- what assets do they own? Could they sell or otherwise dispose of assets in order to pay the fee?
- have they intentionally disposed of funds in order to avoid paying the fee?
- has the applicant made any non-essential and excessive purchases, such as money spent on holidays, gambling or other non-essential purchases?
- if they are reliant on financial support from a third party, is it reasonable to expect that third party to help them pay the fee?

Essential living costs include accommodation, essential bills, food, clothing, toiletries, non-prescription medication, and household cleaning items. The costs of maintaining

interpersonal relationships and accessing a reasonable level of social, cultural and religious life are also included.

A broad breakdown of these essential living needs and the weekly cost associated with them, and which may be used as a guide, can be found in the latest report on review of cash allowance paid to asylum seekers.

You must consider whether the costs explained by the applicant and sponsor are reasonable and consider refusing a request for a fee waiver where the applicant has spent excessively on items that are clearly not essential for their living needs. See: Intentional disposal of funds and non-essential spending.

Assessing income

The applicant should provide evidence of all the income they receive, as well as that received by all other members of their household from whom they receive financial support. This includes income from:

- employment or self-employment
- non-employment sources
- welfare benefits or tax credits
- other family or friends they rely on for financial support (including, for Appendix CRP applications, the applicant's close relative)

Those with a zero-hour contract and whose income is not guaranteed, should normally be assessed by considering the amount of regular income earned in the 6 months preceding the request.

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

Illegal working

If a person discloses in their fee waiver request that they are, or have been, receiving income through working, but they do not have permission to work, their earnings and any cash or savings derived from this work must still be regarded as income or an asset when assessing eligibility for a fee waiver. The applicant must be informed that they may be committing a criminal offence and must stop working immediately.

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Applicants in receipt of asylum support

The Home Office has a legal obligation, as set out in the Immigration and Asylum Act 1999, to support asylum seekers (including any dependants) who would otherwise be destitute. The applicant will not be able to rely solely on the fact that they are in receipt of asylum support as proof that they qualify for a fee waiver where there is evidence that they have additional assets or income. They will have to demonstrate by way of evidence that they meet the criteria above (which is likely in most cases, as they would be destitute but for the provision of asylum support).

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Applicants in receipt of local authority support

Where an applicant is receiving support from a local authority, for example under section 17 of the Children Act 1989, the local authority will have conducted their own assessment of the applicant's needs before making a decision to grant support and those needs will generally involve or include destitution.

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

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

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Welfare benefits and tax credits

Where the applicant or anyone they rely on for financial support is in receipt of welfare benefits, child benefit or tax credits, this income is relevant when assessing

whether the applicant can afford to pay the fee. This includes all benefits paid to mitigate the impact of being on a low income.

However, certain benefits are paid to meet the specific essential needs of the recipient and to help with extra living costs if they have both:

- a long-term physical or mental health condition or disability
- difficulty doing certain everyday tasks or getting around because of their condition

Where a benefit is paid on this basis, it should not generally be regarded as relevant income for the purposes of an income / expenditure assessment of the household. This includes the following:

- Disability Living Allowance
- Personal Independence Payment
- Adult Disability Payment (paid by Social Security Scotland)
- Child Disability Payment (paid by Social Security Scotland)
- Attendance allowance
- Armed Forces Independence Payment or Guaranteed Income Payment under the Armed Forces Compensation Scheme
- Constant Attendance Allowance, Mobility Supplement or War Disablement Pension under the War Pensions Scheme

However, where there is evidence that payment of one or more of the above benefits is being used for non-essential or luxury spending unrelated to the specific essential needs of the recipient, you must consider whether it would be reasonable for this income to be taken into account when undertaking an income / expenditure assessment. This is likely to be relevant only in rare cases and you must seek senior caseworker advice before refusing a fee waiver on this basis.

If it appears that one or more of the above benefits is being saved to the extent that there are sufficient funds to potentially pay the fee, you must request further information to establish the purpose of the savings. Where they relate to intended purchases of non-essential or luxury items, you must consider whether it would be reasonable for this income to be taken into account when undertaking an income/expenditure assessment. This is likely to be relevant only in rare cases and you must seek senior caseworker advice before you refuse a fee waiver on this basis.

If you believe a particular benefit may be being paid to meet the specific support needs of someone with a long-term health condition or disability, and it is not listed above, you should seek senior caseworker advice who may seek further advice by emailing the Family Policy team, where required.

Example scenario 1: An applicant for a fee waiver provides evidence to show that they care for their disabled partner who receives Personal Independence Payments (PIP) payments. These payments are being used to meet the care needs of the applicant’s partner. There is no evidence of luxury or non-essential spending.

In this scenario, you must not consider the PIP payments as part of the wider family income as these funds are paid specifically to meet the recipient's essential needs. If the household income is insufficient to cover the fee after discounting the PIP payments, you should grant the request for a fee waiver.

Example scenario 2: An applicant for a fee waiver provides evidence to show they are in receipt of PIP and their partner is in paid employment. The applicant saves the entirety of their weekly PIP payments and has enough money in their savings account to afford the fee.

You ask the applicant why they are saving their PIP payments. The applicant advises that they are planning a family holiday. In this scenario, you should consider the PIP payments as part of the wider family income. The payments are not being used to meet the recipient's essential needs and are instead being saved for non-essential purposes. As the applicant has enough in their savings to afford the fee, their request for a fee waiver should be refused.

Example scenario 3: An applicant for a fee waiver receives the highest rate of Disability Living Allowance (DLA) for their child. They have saved a significant amount of this and have enough money in their savings account to afford the fee.

You ask the applicant why they are saving the DLA payments. The applicant explains that they are saving for a new car that their child will find easier to access. In this scenario, the money is being saved for an item relating to the child's support needs and so you must not consider the DLA payments as part of the wider family income. If the household income is insufficient to cover the fee after discounting the DLA payments, you should grant the fee waiver.

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Assessing assets

The following must be taken into account:

- cash
- money held in bank and building society accounts or online gambling accounts (including non-UK based accounts), including accounts belonging to the applicant's spouse or partner (as well as any other adult with whom the applicant lives and from whom they receive financial support see: Applicants who are financially supported by a third party), parents or children
- investments, including any investments belonging to the applicant's spouse or partner (as well as any other adult with whom the applicant lives and from

whom they receive financial support), parents or children - this could include stocks, shares or crypto assets (such as cryptocurrency and bitcoin)
- land or property, particularly any property that is not their current secure accommodation (for example, a second home)
- goods held for the purpose of a trade or other business

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

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

You must consider on a case-by-case basis whether it is reasonable for the applicant to utilise the asset to support payment of the fee. This may be on the basis that an asset:

- has been recently acquired
- is not being used
- is not being utilised by the applicant
- is a luxury or non-essential item

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

The value of an asset must be the value that applies at the time the decision is taken on the fee waiver. If the asset has been valued in another currency, including cryptocurrencies, you must use the OandA website to convert the currency to pounds sterling using the current exchange rate.

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

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

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

Applicants who are financially supported by a third party

Where an applicant is in a subsisting relationship with a spouse or partner, their joint income and assets must be taken into account. Where the applicant is a child, the income of the applicant alongside those financially supporting them within their household, including those caring for them, must be taken into account.

Where the applicant is supported by a family member or friend, decision makers must consider whether it is reasonable to expect the third party to help the applicant pay the fee. The following questions will assist decision makers in making this assessment:

Is the third party related to the applicant?

Where the third party providing financial support is a close family member of the applicant, it will generally be reasonable to expect them to help the applicant pay the fee, and you should request evidence of their finances so you can assess whether they are able to. In this context a close family member means a spouse, partner, adult child, parent, or those acting in a parental capacity.

Where the third party providing financial support is a more distant family member or a friend, it may be reasonable to expect them to help the applicant pay the fee following consideration of the other questions in this section.

Where the third party providing financial support is an ex-partner of the applicant, it will not generally be reasonable to expect them to help the applicant pay the fee. However, where the ex-partner and the applicant have a child together and the intended application for permission is to enable relationships between the child and both their parents to continue, it may be reasonable to request evidence of the ex-partner's finances to assess whether they are able to help the applicant pay the fee.

How significant is the level of financial support the third party has provided to the applicant?

Where the cost to the third party of supporting the applicant has been minimal, for example where the applicant has been staying in a spare bedroom and sharing household meals but has not been provided with any form of income, you may decide that it is not reasonable to expect the third party to pay the applicant's fee. However, where the cost to the third party has been substantial, for example they have paid for the applicant to rent their own accommodation and provided a regular income, you may determine that the third party has assumed responsibility for the applicant's living expenses. In these circumstances you may decide that it is reasonable to investigate whether the third party is able to pay the applicant's fee.

How long has the third party provided the applicant with support?

Where the third party has only recently started providing support to the applicant, you may decide that it is not reasonable to expect them to pay the applicant's fee. Where they have provided support for a long period of time, for example a number of years, you may determine that the third party has assumed responsibility for the applicant's living expenses. In these circumstances you may decide that it is reasonable to investigate whether the third party is able to pay the applicant's fee.

The above questions are designed to help you assess whether you should consider the income and assets of the third party when assessing whether the applicant can pay the fee. Each case must be assessed on its merits, based on the information and evidence provided.

Where you decide that it is potentially reasonable to expect the third party to help the applicant pay the fee, you must request the relevant financial evidence so that you can assess whether the third party is able to do so. Where the third party either refuses to provide the relevant financial evidence or advises that they are not willing to utilise their income or assets to support payment of the fee, you must assess the credibility of the explanation provided. That explanation must be clearly recorded on the relevant casework system so that it can be accessed by those assessing future applications.

Example scenario 4: A young adult applicant for a fee waiver provides evidence to show that they are living with their parents in the family home. The applicant's parents have provided them with full financial support throughout their life, including paying their student fees to attend university. The applicant has no income of their own. In this case, you should ask for evidence of the parents' income and assets so you can assess whether they can afford to pay the applicant's fee.

Example scenario 5: A child applicant for a fee waiver under Appendix CRP provides evidence to show that they are living with their close relative and their family. The applicant's close relative and their partner accommodate them in their house, provide food and assume parental responsibilities such as taking them to school. The applicant's close relative and partner have 4 children in their household, whom they also care for. One of their children is over the age of 18 and has an income while they are studying at college. In this case, you should just ask for evidence from the close relative and their partner's income and assets so you can assess whether they can afford to pay the applicant's fee.

Intentional disposal of funds and non-essential spending

You must consider whether the applicant has intentionally disposed of funds. Where an applicant is in a subsisting relationship with a spouse or partner, you should also consider whether the spouse or partner has intentionally disposed of funds. Where the applicant is a child, you should also consider whether those caring for the child have intentionally disposed of funds.

This could include circumstances where the applicant, their spouse or partner, or carer (in respect of a child):

- provided support or loans without a reasonable explanation
- voluntarily given funds away to a family member or other third party
- paid debts before they are required to do so or paid more in response to a debt than is required
- bought a personal possession that is clearly not essential to their living needs
- spent extravagantly or excessively

Non-essential spending may include (but is not limited to) payments for:

- private school fees
- house purchases

- private medical treatment
- excessive fees paid to a solicitor or other legal representative to represent the applicant in their fee waiver or other immigration application
- luxury items, such as cars and holidays
- mortgages and other costs associated with second homes
- excessive spending on wedding or other celebrations

You must assess whether the amount that has been spent on items which appear to be non-essential would have been sufficient to pay the fee and / or the IHS. Where it would have been, you must go on to consider whether, considering all the circumstances of the case, the payments should be deemed 'non-essential'. Any explanation given by an applicant for the payments must be considered when making this assessment.

Destitution and imminent risk of destitution

The applicant (or someone they rely on for financial support) does not have to show that they are destitute or at imminent risk of destitution in order to qualify for a fee waiver. However, where an applicant (or someone they rely on for financial support) has provided clear, documentary evidence to show that they are destitute or at imminent risk of destitution, you may grant the request as they will not be able to afford to pay the fee.

An applicant is destitute where they either:

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

An applicant could be at risk of imminent destitution if, whilst they currently have adequate accommodation and can meet their other essential living needs, it is clear from the evidence submitted that, either:

- they will be destitute in the near future
- their living conditions, whilst not amounting to destitution, are not sustainable
- payment of the fee would leave the applicant with insufficient funds to pay for accommodation and essential living needs in the near future

Imminent destitution includes:

- anyone likely to become homeless within the next 3 months from the date of application ("within 3 months from the date of application" is being used as a measure of the near future)
- anyone whose temporary accommodation, say on a friend's floor or in a spare room, is going to come to an end within 3 months of the date of application
- anyone at risk of losing their accommodation in the next 3 months (which might include tenants with rent arrears notices)

- someone with no work and unlikely to be able to meet living costs for beyond 3 months

Early requests for a fee waiver

Where someone applies for a fee waiver more than 3 months before their existing permission is due to expire, you must consider whether they and individuals they rely on for financial support are able to save sufficient funds to pay the fee before their permission expires.

We should not expect applicants and individuals they rely on for financial support to take clear financial risks in saving for the fee. However, if it is clear that there is sufficient surplus household income to save for the fee before the applicant's permission expires, then you may decide that saving for the fee is reasonable.

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

It also includes the cost of travel and communication to enable the applicant to maintain interpersonal relationships and access a reasonable level of social, cultural and religious life.

Family units and 'partial' fee waivers under Appendix CRP (Permission to Stay)

There may be occasions when fee waiver requests are made at the same time in relation to multiple children who share the same close relative. In these cases, requests may be considered as a group, with the affordability picture for the family unit as a whole taken into account. This includes the applicants, as well as individuals they rely on for financial support within their household such as their close relative.

A fee waiver request form should be completed in relation to each applicant, with documentary evidence of the financial circumstances of the household submitted detailed in each fee waiver request form.

Where it is found that the broader affordability picture for the family unit would support payment for one or more of the applicants, but not all, then a waiver may be granted for some applicants within the family group and refused for others. This may mean, for example, that one applicant is granted a fee waiver in whole or just the application fee is waived for one applicant. In any case, the applicant must be notified of the decision to grant, either in whole or in part, or refuse the fee waiver requests. Where there remains a requirement to pay any outstanding fees associated to the applications, payment should then be requested for the applicants for whom the fee waiver has been refused.

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 means that consideration of the child's best interests, which can also be expressed as the child's wellbeing, must be a primary consideration, but not the only consideration, in carrying out immigration functions that affect them.

Where a child will be affected by a decision on a fee waiver request, you must consider whether the impact on the child would be disproportionate when considering this against the public interest of funding the broader functions of the immigration system. Where the applicant provides clear evidence that their income is insufficient to meet the needs of a child or that by paying the fee the needs of a child will not be met you should consider this will have a significant impact on the child's wellbeing. Where the impact is significant, you must grant the fee waiver.

The following questions should help you assess whether refusing the fee waiver would have a disproportionate impact on a child's wellbeing or best interests:

- does the child live with both parents or with only one parent?
- do both parents provide support or only one parent?
- where one of the parents is absent from the family home, is it reasonable to request evidence to assess whether the absent parent can support payment of the fee? See: Applicants who are financially supported by a third party
- what impact will paying the fee have on the child's wellbeing?

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

The question is not whether a fee waiver would make more money available to a parent, or individuals they rely on for financial support, that may then be spent on a child. It is whether paying the fee would lead to the child experiencing a lower level of wellbeing than they currently enjoy or deprive them of something that contributes to their wellbeing.

You must consider whether payment of the fee and IHS, or just the IHS, would affect payments for any childcare that may be needed if the parent, or an individual they rely on for financial support, is working, any needs relating to school attendance (such as the cost of school trips or uniforms), or any other items that a child could reasonably be expected to benefit from but would not otherwise be considered essential, such as books or toys.

Deception

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

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

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Granting the fee waiver request

Applications on the basis of family and private life

If an applicant is granted a waiver for the application fee, they will be issued with a Unique Reference Number (URN) to be used when applying for permission to stay online. This application must be submitted within 10 working days of the date of receipt of the fee waiver decision, and they must then make a Service and Support Centre (SSC) appointment within 17 working days. Failure to do this could result in the URN no longer being valid and a new fee waiver request may be required.

Applications for permission to stay under Appendix CRP

If an applicant is granted a fee waiver in whole, you must send the applicant a separate notice telling them how to enrol their biometrics within 17 working days of receiving the biometric enrolment letter at a service and support centre (SSC) nearest to their address.

If the applicant is granted a partial fee waiver (just the Immigration Health Surcharge (IHS)), if the applicant has provided their payment details for the application fee on their permission to stay application form (FLR(P)), you must take payment after the partial fee waiver notice.

If the applicant has not provided their payment details for the application fee on their permission to stay application form (FLR(P) form), they will need to complete and return a payment slip to pay the application fee. They must return the payment slip by post within 14 days of the partial fee waiver notice.

When the application fee has been received, you must send the applicant a separate notice telling them how to enrol their biometrics within 17 working days of receiving the biometric enrolment letter at an SSC nearest to their address.

If the applicant does not take any of these actions, the application will not meet the validity requirements, and their application for permission to stay may be rejected as invalid under Appendix CRP of the Immigration Rules.

Travel assistance

Applicants who have been granted a fee waiver may be eligible for travel assistance to attend their closest SSC. The criteria for granting travel assistance to a successful fee waiver applicant are as follows:

- the applicant is destitute or would be rendered destitute by paying for travel (this includes those who are in receipt of asylum support or local authority support)
- the applicant has experienced domestic abuse and is unable to afford the cost of travel

- the applicant is required to travel further than 3 miles to attend their nearest SSC and is unable to afford the cost of travel

The travel cost request must be assessed on the basis of the information provided by the applicant. It is the responsibility of the applicant to fully evidence their claimed circumstances. You should not normally make additional enquiries to try to establish whether an applicant qualifies for travel cost.

If required, you may request evidence of the applicant's inability to pay for their own and their dependants travel to and from the SSC. The distance to be travelled should be greater than that which might normally be involved in travelling to a medical or similar appointment.

Payment of reasonable travel costs must only go to those genuinely in need. Accurate record keeping of the amounts paid out is essential and should be regularly assessed to ensure it remains within current spending authorities.

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Refusing the fee waiver request

If you are not satisfied the applicant qualifies for a fee waiver you must refuse the request and inform the applicant of the reasons for refusal.

This could include where the applicant:

- can afford the fee
- has provided evidence and information of their financial circumstances which is not reliable and so a proper assessment cannot be made
- has not provided any supporting evidence and there are no circumstances which warrant further enquiries or evidential flexibility
- has intentionally disposed of funds
- has been making purchases beyond their essential living needs
- has not taken reasonable steps to save for the fee

This is not an exhaustive list.

Where an applicant submits a paid immigration application or makes an asylum claim before their fee waiver request has been decided, you should refuse the outstanding fee waiver request. The fee waiver is no longer required. An applicant who makes an asylum claim can have any human rights claim considered without a fee being payable. An applicant who makes a paid immigration application has chosen to proceed without relying on the outstanding fee waiver request or is pursuing a route for which a fee waiver is not available.

Where an applicant has raised human rights grounds within their fee waiver application, you must inform them that their human rights claim will be recorded on the system and will be considered before any steps are taken to remove them from the UK. They must complete the correct application form on GOV.UK to have their human rights claim considered sooner. You must also raise an alert on the casework system to record the outstanding human rights claim.

Applications for permission to stay under Appendix CRP

If the fee waiver is refused, you must notify the applicant of this and the requirement to pay the application fee and the Immigration Health Surcharge (IHS) as part of their permission to stay application if they wish to proceed.

The applicant must be contacted by email with instructions on how to pay the IHS and must pay the IHS within 10 working days (which excludes bank holidays and weekends). If they have already provided their payment details for the application fee on their permission to stay application form (FLR(P)), once payment of the IHS has been received, you must take payment of the application fee.

If the applicant has not provided their payment details for the application fee on their permission to stay application form (FLR(P)), they will need to complete and return a payment slip to pay the application fee. The payment slip must be returned within 10

working days (which excludes bank holidays and weekends) of the same date they received instructions by email to pay the IHS.

When both the IHS payment and the application fee have been received, you must send the applicant a separate notice telling them how to enrol biometrics within 17 working days of receiving the biometric enrolment letter at an SSC nearest to their address.

If none of these actions are taken, the application will not meet validity requirements, and the application for permission to stay may be rejected as invalid under Appendix CRP of the Immigration Rules.

Requests for reconsideration

A fee waiver decision is not subject to a reconsideration request as it is not an immigration decision. A decision will be made on the basis of the information set out in the request and any supplementary information about their circumstances which the applicant provides in support. It is open for an applicant to make a further request for a fee waiver by submitting a new fee waiver application.

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Section 3C leave

Section 3C of the Immigration Act 1971 extends a person's existing permission where they make a valid application to vary that permission before it expires and the application remains undecided when their permission expires.

Effect of a fee waiver request on section 3C leave

A fee waiver request is not an application for permission to stay, or to vary permission to stay. Where a fee waiver request is followed by a valid application for permission to stay, the date of the application will be the date of the fee waiver request, provided the application is submitted within 10 working days of receipt of the fee waiver decision and is the application for which the fee waiver was requested.

Regardless of whether the fee waiver request is granted or refused, the applicant will benefit from section 3C leave if all the following conditions below are met:

- they had valid permission when the fee waiver request was submitted
- their permission expires while the fee waiver request or the subsequent application for permission to stay remains outstanding
- they make a valid application for permission to stay within 10 working days of receipt of the fee waiver decision
- the permission application that is submitted is the one for which the fee waiver request was made

A fee waiver request does not give rise to section 3C leave unless all of the conditions set out above are met.

Submission of a further fee waiver request within the 10 working day window will not extend the applicant's section 3C leave.

For further guidance on section 3C see: Leave extended by Section 3C (and leave extended by section 3D in transitional cases).

Applications made on a different route

Where an applicant applies on a different route that is not related to their fee waiver request after their previous permission has expired, the application is treated as having been made on the date it is submitted. It is not treated as having been made on the date of the fee waiver request, and section 3C leave will not apply.

If the application is submitted before the applicant's existing permission expires and remains undecided when that permission expires, section 3C leave may apply in the usual way, independently of the earlier fee waiver request.

When a paid application is made before the fee waiver request has been decided

The applicant will benefit from section 3C leave where:

- they had valid permission when they submitted their fee waiver request
- that permission expires before the fee waiver request is decided
- before receiving a decision on the fee waiver request, they submit a valid paid application for permission for which the fee waiver request was made

Where the paid application is on a different route for which the fee waiver was made, it is treated as having been made on the date it was submitted.

What an eVisa displays while a fee waiver request is pending

Where a person has valid permission when they submit a fee waiver request, they continue to hold that permission until it expires. A pending fee waiver request does not itself give rise to section 3C leave.

For operational reasons, their eVisa will show the profile used for section 3C leave and display no expiry date while the fee waiver request is being considered and during the 10-working-day period after the fee waiver decision. This change to the eVisa display does not determine whether the person has section 3C leave.

Whether section 3C leave applies depends on the person submitting the completed application for which the fee waiver was requested within 10 working days of receiving the fee waiver decision, and on the other requirements of section 3C being met.

If the person did not have permission to stay when they submitted the fee waiver request, the request does not give them permission to stay or change their immigration status. Their eVisa will not be updated as a result of the fee waiver request.

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