



Home Office

# **Immigration Directorate Instruction**

## **Family Migration:**

### **Appendix FM Section 1.0a**

## **Family Life (as a Partner or Parent):**

### **5-Year Routes**

August 2017

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# 1. Purpose

## 1.1. Use of this guidance

This guidance must be used, for all decisions made on or after 10 August 2017, by decision makers considering whether to grant leave on a 5-year route to settlement following a valid application for entry clearance (or leave to enter) or leave to remain on the basis of family life as a partner or parent in accordance with the following parts of the [Immigration Rules](#):

- paragraphs [277-280, 289AA and 295AA](#) of Part 8;
- [Appendix FM](#).

This guidance must also be used by decision makers when considering exceptional circumstances:

- under paragraph GEN.3.1. of Appendix FM, in partner or child entry clearance and leave to remain applications where the financial requirement in paragraph E-ECP.3.1., E-LTRP.3.1., E-ECC.2.1. or E-LTRC.2.1. of that Appendix applies and is not met from the specified sources referred to in the relevant paragraph; or
- under paragraph GEN.3.2. of Appendix FM, in all partner, child or parent entry clearance or leave to remain applications made or considered under Appendix FM which otherwise fall for refusal under the relevant Immigration Rules.

## 1.2. 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 of the 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 and, where they do not otherwise do so, whether, following consideration under paragraph GEN.3.1. or GEN.3.2. of Appendix FM, there are exceptional circumstances which could or 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 could or would result in unjustifiably harsh consequences for the applicant or their family.

The decision notice or letter must demonstrate that a consideration has taken place of all the information and evidence provided in the application concerning the best interests of a relevant child. Decision makers must carefully assess the quality of any evidence provided. Original, 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.

For further guidance, see section 13 of this guidance.

### 1.3. Application types

This guidance applies to applications for entry clearance to, and for leave to remain, further leave to remain and indefinite leave to remain in, the UK submitted on or after 9 July 2012 by an applicant who first applied for entry clearance or leave to remain on or after that date, as a:

- partner – a fiancé(e), proposed civil partner, spouse, civil partner or person who has been living together with the sponsor in a relationship akin to a marriage or civil partnership for at least two years prior to the date of application, and a person who is:
  - a British Citizen; or
  - present and settled in the UK; or
  - in the UK with limited leave as a refugee or person granted humanitarian protection; or
- (in the UK) bereaved partner (other than a fiancé(e) or proposed civil partner) of a British Citizen or person settled in the UK; or
- parent of a British Citizen child living in the UK or a settled child living in the UK.

This guidance does not apply to applications made as the partner of a Relevant Points Based System (PBS) migrant who has been granted indefinite leave to remain as a PBS migrant where the partner applies under the PBS provisions under Part 8. It does however apply to the partner of Relevant PBS Migrant who is applying under Appendix FM for leave to remain in the UK, where the Relevant PBS Migrant has been granted indefinite leave to remain under the long residence provisions of the Immigration Rules.

Any application as the partner of a British Citizen or settled person who is a full-time member of HM Forces, made on or after 1 December 2013 by a person not already on the Part 8 route (who may rely on transitional arrangements), should be considered under [Appendix Armed Forces](#) to the Immigration Rules rather than under Appendix FM.

- [HM Forces: partners and children guidance](#) (internal)
- [HM Forces: partners and children guidance](#) (external)

### 1.4. Drafting principles

For ease of access, links are provided for in-country decision makers via Horizon, 'work tools and guides' section of the Home Office intranet (shown as 'internal') and via GOV.UK for overseas and external access (shown as 'external'). The Immigration Rules are not reproduced in this guidance except where this is considered helpful to decision makers. Links to the Rules are provided where they are referred to.

References in this guidance to "decision makers" should, unless otherwise stated, be read as including Entry Clearance Officers, caseworkers and anyone making a decision on behalf of, or as delegated or directed by, the Secretary of State.

Suggested refusal paragraphs are contained in this guidance. In explaining which Immigration Rules are not met and why, the refusal notice or letter must explain why a grant of entry clearance or leave to remain on the basis of exceptional circumstances on the basis of paragraph GEN.3.2. of Appendix FM is not appropriate and contain appropriate appeal rights paragraphs.



## 2. Introduction

### 2.1. 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 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 these and other 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 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.

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 are Cm 8423 which came into force on 20 July 2012, HC 565 which came into force on 6 September 2012, HC 760 and HC 820 which came into force on 13 December 2012, HC 1039 which came into force on 6 April 2013, HC 244 which came into force on 10 June 2013, HC 628 which came into force on 1 October 2013, HC 803 which came into force on 1 December 2013, HC 1138 which came into force on 6 April 2014, HC 198 which came into force on 1 July 2014, HC 532 which came into force on 28 July 2014, HC 693 which came into force on 6 November 2014, HC 1025 which came into force on 6 April 2015, HC 297 which came into force on 3 August 2015, HC 535 which came into force on 19 November 2015, HC 877 which came into force on 6 April 2016, HC 667 which came into force on 24 November 2016, HC 1078 which came into force on 6 April 2017 and HC 290 which came into force on 10 August 2017. This guidance reflects the Rules as they apply to **all applications decided from 10 August 2017**.

## 2.2. Approach

This guidance reflects a two-stage approach.

First, the decision maker must consider whether the applicant meets the requirements of the Immigration Rules without consideration of exceptional circumstances under paragraph GEN.3.2. of Appendix FM, and if they do, leave under the relevant Rules should be granted. Applications for leave to remain failing to meet the requirements under the 5-year partner or parent route will be considered for leave to remain under the 10-year partner, parent and private life routes as appropriate: for further information see [Appendix FM 1.0b Family Life \(as a Partner or Parent\) and Private Life:10-year routes guidance](#).

Second, if an applicant for entry clearance or leave to remain as a partner, child or parent under Appendix FM 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, 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, entry clearance or leave to remain should be granted (on a 10-year route to settlement). If not, the application should be refused.

## 2.3. Transitional arrangements

Those who applied before, or were granted entry clearance, limited leave or discretionary leave as a family member prior to, 9 July 2012 are subject to transitional arrangements. Generally they can continue their route to settlement under the Immigration Rules (or discretionary leave policy) in force on 8 July 2012.

See [Transitional Provisions](#)

The transitional provisions do not apply to the partner of a Relevant PBS Migrant who applies for leave to remain on the basis of family life as a partner on or after 6 April 2014. The partner of a Relevant PBS Migrant applying for leave to remain on or after 6 April 2014 must do so under Appendix FM, where the Relevant PBS Migrant has been granted indefinite leave to remain under the long residence provisions of the Immigration Rules.

## 2.4. General information about applications

From 6 April 2015, under the Immigration (Health Charge) Order 2015, applications for entry clearance and leave to remain under the 5-year partner and parent 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 5-year partner or parent route which are refused (except as a bereaved partner) 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)

## 2.5. Partner of a permanent member of HM Diplomatic Service or 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 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 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.

## 2.6. Family life under Appendix FM

[Appendix FM](#) provides two 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 of the relevant suitability and eligibility requirements of the Immigration Rules at every stage.
- the 10-year route as a partner or parent applies:
  - (a) in respect of applications for leave to remain, to those who meet all of 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; or
  - (b) where entry clearance or leave to remain is granted following consideration under paragraph GEN.3.1. or 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.

A person who wishes to come to live in the UK as the partner of a British Citizen or a person who is settled here, or who wishes to come to the UK on the parent route, must apply for entry clearance in that category. Overseas applicants must apply for entry clearance as a partner on forms VAF4A and VAF4A Appendix 2, or as a parent on forms VAF4A and VAF4A Appendix 5.

An applicant in the UK may apply for the 5-year partner route on form FLR(M), or the 5-year parent route on form FLR(FP). If they fail to meet certain of the eligibility requirements their application under the 5-year route will be refused, and consideration given to whether they qualify under the 10-year partner, parent or private life routes.

Guidance on considering an application for leave to remain made under the 10-year partner, parent or private life route can be found here:

- [Appendix FM 1.0b Family Life \(as a Partner or Parent\) and Private Life: 10-Year Routes](#) (internal link)
- [Appendix FM 1.0b Family Life \(as a Partner or Parent\) and Private Life: 10-Year Routes](#) (external link)

An applicant in the UK can also apply directly for the 10-year partner, parent or private life routes using form FLR(FP), e.g. where they know that they cannot meet certain of the eligibility requirements of the 5-year partner or parent route.

In respect of entry clearance or 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, entry clearance or leave to remain should be granted on a 10-year route to settlement. Guidance on considering exceptional circumstances can be found in section 13 of this guidance.

## 2.7. 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, and Appendix O, which sets out the English language tests approved for an application for entry clearance or leave to remain as a partner or parent. An applicant must provide all of the documents specified in Appendix FM-SE which are relevant to their application under Appendix FM.

[Appendix FM-SE](#)

[Appendix O](#)

## 3. General Provisions

### 3.1. General provisions of Appendix FM

Paragraphs [GEN.1.1. to GEN.3.3. of Appendix FM](#) set out general provisions. Decision makers must refer to the general provisions in full when making a decision.

A person present and settled in the UK includes a person who is being admitted for settlement on the same occasion as the applicant.

Under paragraph GEN.1.2. a “partner” is defined as:

- (i) the applicant’s spouse (which must be evidenced by a marriage certificate);
- (ii) the applicant’s civil partner (which must be evidenced by a civil partnership certificate);
- (iii) the applicant’s fiancé(e) or proposed civil partner; or
- (iv) a person who has been living together with the applicant in a relationship akin to a marriage or civil partnership for at least two 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 two 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. It 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.

Where an applicant meets all the other requirements of the Rules but does not meet the definition of “partner” at paragraph GEN.1.2. because they are not married or in a civil partnership **and** have not been living together in a relationship akin to a marriage or civil partnership for at least two years, the relevant refusal paragraphs in [Annex A](#) should be used.

Under paragraph GEN.1.5. if the decision maker 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. includes a condition for all applicants aged 18 or over granted leave to enter or remain under Appendix FM 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.

Section 13 of this guidance deals with paragraphs GEN.3.1. to 3.3.

## 4. Family Life as a Partner

### 4.1. General

The Immigration Rules provide the basis on which a person can apply to enter or remain in the UK on the basis of their family life with a partner.

Applications for entry clearance (or leave to enter), leave to remain or indefinite leave to remain as a partner will be considered as appropriate under paragraphs 277-280, 289AA and 295AA of Part 8 and Appendix FM to the Immigration Rules:

#### [Part 8 Family Members](#)

#### [Appendix FM Family Members](#)

Under Appendix FM, limited leave will be granted in periods of 30 months (33 months for entry clearance to allow time for travel to be arranged) on a 5-year or 10-year route to settlement (indefinite leave to remain) as appropriate and generally subject to a condition of no recourse to public funds (see [section 12](#) of this guidance).

In fiancé(e) and proposed civil partner applications leave will be granted for up to 6 months. Any period of entry clearance or limited leave as a fiancé(e) or proposed civil partner does not count towards the continuous period of leave needed to qualify for settlement as a partner under Appendix FM.

If the applicant does not otherwise meet the requirements of the Immigration Rules, and there are no exceptional circumstances, the application should be refused.

For further information on exceptional circumstances in applications for entry clearance or leave to remain as a partner, see [section 13](#) of this guidance.

A person in the UK with entry clearance or limited leave to remain as a partner granted under Appendix FM on the basis of an application made on or after 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. Where such an applicant has extant leave under Appendix FM as a partner, up to 28 days of the extant leave remaining at the date of application will be added to any period of further leave as a partner granted under Appendix FM.

An applicant on a 5-year route as a partner will be eligible to apply for indefinite leave to remain (settlement) after a continuous period of 60 months (5 years) in the UK with limited leave under that route (and excluding any period of leave granted as a fiancé(e) or proposed civil partner).

### 4.2. Entry clearance requirements

Under the 5-year partner route, an applicant must meet all of the relevant suitability and eligibility requirements at every application stage. The requirements to be met by an applicant for entry clearance as a partner of a British Citizen, a person present and settled in the UK, or a person in the UK with refugee leave or humanitarian protection under paragraph EC-P.1.1. of Appendix FM are that:



- (a) the applicant must be outside the UK;
- (b) the applicant must have made a valid application for entry clearance as a partner;
- (c) the applicant must not fall for refusal under any of the grounds in Section S-EC: Suitability—entry clearance; and
- (d) the applicant must meet all of the requirements of Section E-ECP: Eligibility for entry clearance as a partner. These are:

- E-ECP.2.1. to E-ECP.2.10.: Relationship requirements;
- E-ECP.3.1. to E-ECP.3.4.: Financial requirements; and
- E-ECP.4.1. to E-ECP.4.2.: English language requirement.

### 4.3. Leave to remain requirements

Under the 5-year route, the requirements to be met by an applicant for leave to remain as a partner of a British Citizen, a person present and settled in the UK, or a person in the UK with refugee leave or humanitarian protection under paragraph R-LTRP.1.1. of Appendix FM are that:

- (a) the applicant and their partner must be in the UK;
- (b) the applicant must have made a valid application for limited or indefinite leave to remain as a partner; and
- (c)(i) the applicant must not fall for refusal under Section S-LTR: Suitability leave to remain; and
- (ii) the applicant meets all of the requirements of Section E-LTRP: Eligibility for leave to remain as a partner. These are:

- E-LTRP.1.2. to E-LTRP.1.12.: Relationship requirements;
- E-LTRP.2.1. to E-LTRP.2.2.: Immigration status requirements;
- E-LTRP.3.1. to E-LTRP.3.4.: Financial requirements; and
- E-LTRP.4.1. to E-LTRP.4.2.: English language requirement.

The Immigration Rules can be accessed here:

[Appendix FM Family Members](#)

### 4.4. Indefinite leave to remain requirements

The requirements to be met by an applicant for indefinite leave to remain (ILR) as the partner of a British Citizen, a person settled in the UK, or a person in the UK with refugee leave or humanitarian protection are set out in Section R-ILRP.

The requirements to be met for indefinite leave to remain as a partner set out in Section R-ILRP.1.1. are that:

- (a) the applicant and their partner must be in the UK;
- (b) the applicant must have made a valid application for indefinite leave to remain as a partner;
- (c) the applicant must not fall for refusal under any of the grounds in Section S-ILR: Suitability for indefinite leave to remain;
- (d) the applicant:
  - (i) must meet all of the requirements of Section E-LTRP: Eligibility for leave to remain as a partner (but in applying paragraph E-LTRP.3.1.(b)(ii) delete the words “2.5 times”); or

- (ii) must meet the requirements of paragraphs E-LTRP.1.2.-1.12. and E-LTRP.2.1. and paragraph EX.1. applies; and
- (e) the applicant must meet all of the requirements of Section E-ILRP: Eligibility for indefinite leave to remain as a partner.



## 5. Family Life as the Parent of a Child in the UK

### 5.1. General

The Immigration Rules provide the basis on which a person can apply to enter or remain in the UK on the basis of their family life as a parent of a child in the UK. It is a route intended for a parent who has sole responsibility for or direct access to the child following the breakdown of their relationship with the child's other parent. The route is for applicants who:

- have sole parental responsibility for their child; **or**
- do 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; **or**
- (only in a leave to remain application) are 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 with a child who are in a continuing genuine and subsisting partner relationship together. Applicants in this position must apply under the partner route where, or when, they are eligible to do so, or under the private life route. An applicant cannot apply under the parent route if they are or will be eligible to apply under the partner route, including where the applicant is in a partner relationship but the couple have not yet been living together for two years.

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 the Immigration 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); and
- 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(s)' inability to care for the child.

Applications for entry clearance, leave to remain or indefinite leave to remain as a parent will be considered under Appendix FM to the Immigration Rules:

### [Appendix FM family life as a parent](#)

Under Appendix FM, limited leave will be granted in periods of 30 months (33 months for entry clearance to allow time for travel to be arranged) on a 5-year or 10-year route to settlement as appropriate and generally subject to a condition of no recourse to public funds (see [section 12](#) of this guidance).

A person in the UK with entry clearance or limited leave to remain as a parent granted under Appendix FM on the basis of an application made on or after 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. Where such an applicant has extant leave under Appendix FM as a parent, up to 28 days of the extant leave remaining at the date of application will be added to any period of further leave as a parent granted under Appendix FM.

An applicant on a 5-year route as a parent will be eligible to apply for indefinite leave to remain (settlement) after a continuous period of 60 months (5 years) in the UK with limited leave as a parent under that route.

If the applicant does not otherwise meet the requirements of the Immigration Rules, and there are no exceptional circumstances, the application should be refused.

For further information on exceptional circumstances in entry clearance applications see [section 13](#) of this guidance.

## **5.2. Entry clearance requirements**

Under the 5-year parent route, an applicant must meet all of the suitability and eligibility requirements at every application stage. The requirements to be met by an applicant for entry clearance as a parent under paragraph EC-PT.1.1. of Appendix FM are that:

- (a) the applicant must be outside the UK;
- (b) the applicant must have made a valid application for entry clearance as a parent;
- (c) the applicant must not fall for refusal under any of the grounds in Section S-EC: Suitability—entry clearance; and
- (d) the applicant must meet all of the requirements of Section E-ECPT: Eligibility for entry clearance as a parent. These are:
  - E-ECPT.2.1. to E-ECPT.2.4.: Relationship requirements;
  - E-ECPT.3.1. to E-ECPT.3.2.: Financial requirements; and
  - E-ECPT.4.1. to E-ECPT.4.2.: English language requirement.

## **5.3. Leave to remain requirements**

Under the 5-year route, the requirements to be met by an applicant for leave to remain as a parent under paragraph R-LTRPT.1.1. of Appendix FM are that:

- (a) the applicant and the child must be in the UK;

- (b) the applicant must have made a valid application for limited or indefinite leave to remain as a parent; and
- (c) (i) the applicant must not fall for refusal under Section S-LTR: Suitability leave to remain; and  
(ii) the applicant meets all of the requirements of Section E-LTRPT: Eligibility for leave to remain as a parent. These are:
  - E-LTRPT.2.2. to E-LTRPT.2.4.: Relationship requirements;
  - E-LTRPT.3.1. to E-LTRPT.3.2.: Immigration status requirements;
  - E-LTRPT.4.1. to E-LTRPT.4.2.: Financial requirements; and
  - E-LTRPT.5.1. to E-LTRPT.5.2.: English language requirement.

The Immigration Rules can be accessed here:

[Appendix FM family life as a parent](#)

## **5.4. Indefinite leave to remain requirements**

The requirements to be met by a person seeking indefinite leave to remain (ILR) as a parent are set out in Section R-ILRPT.1.1.

The requirements to be met for indefinite leave to remain as a parent set out in Section R-ILRPT.1.1. are that:

- (a) the applicant must be in the UK;
- (b) the applicant must have made a valid application for indefinite leave to remain as a parent;
- (c) the applicant must not fall for refusal under any of the grounds in Section S-ILR: Suitability – indefinite leave to remain;
- (d) the applicant must meet all of the requirements of Section E-LTRPT: Eligibility for leave to remain as a parent; and
- (e) the applicant must meet all of the requirements of Section E-ILRPT: Eligibility for indefinite leave to remain as a parent.

## 6. General Grounds for Refusal

**This section applies to entry clearance and leave to remain applications.**

Applicants applying as a partner or parent under Appendix FM are not subject to the General Grounds for Refusal, except for the provisions in paragraph 320(3), (10) and (11) which continue to apply to applications under Appendix FM as set out in the General Grounds for Refusal:

### [Immigration Rules Part 9: general grounds for refusal](#)

In addition to the suitability criteria that an applicant must meet under Appendix FM, the following general grounds for refusal must be considered:

- **320(3)** – failure by a person seeking entry to the UK to produce to the Immigration Officer a valid national passport or other document satisfactorily establishing their identity and nationality, save that the document does not need to establish nationality where it was issued by the national authority of a state of which the person is not a national and the person's statelessness or other status prevents the person from obtaining a document satisfactorily establishing the person's nationality;
- **320(10)** – production by a person seeking entry clearance to the UK of a national passport or travel document issued by a territorial entity or authority which is not recognised by the UK as a state or is not dealt with as a government by the UK, or which does not accept valid UK passports for the purpose of its own immigration control; or a passport or travel document which does not comply with international passport practice; and
- **320(11)** – where the applicant has previously contrived in a significant way to frustrate the intentions of the Immigration Rules by:
  - (i) overstaying; or
  - (ii) breaching a condition attached to their leave; or
  - (iii) being an illegal entrant; or
  - (iv) using deception in an application for entry clearance, leave to enter or remain or in order to obtain documents from the Secretary of State or a third party required in support of the application (whether successful or not); and there are other aggravating circumstances, such as absconding, not meeting temporary admission/reporting restrictions or bail conditions, using an assumed identity or multiple identities, switching nationality, making frivolous applications or not complying with the re-documentation process.

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

## 7. Suitability Requirements

**This section applies to entry clearance and leave to remain applications.**

### 7.1. General

In considering **all** applications for entry clearance or leave to remain as a partner or parent the decision maker must consider whether the suitability requirements in [Appendix FM](#) are met. These are set out in the Family Life as a Partner section of [Appendix FM](#) but also apply to Family Life as a Parent.

### 7.2. Suitability – entry clearance

In **all** applications for entry clearance as a partner or parent the decision maker must consider whether the suitability requirements in paragraphs S-EC.1.1. to S-EC.3.2. of [Appendix FM](#) are met.

Under paragraph S-EC.1.1. the applicant **will be refused** entry clearance on the grounds of suitability if any of paragraphs S-EC.1.2. to S-EC.1.9. apply.

Under paragraph S-EC.2.1. the applicant **will normally be refused** entry clearance on grounds of suitability if any of paragraphs S-EC.2.2. to S-EC.2.5. apply.

Under paragraph S-EC.3.1. the applicant **may be refused** entry clearance on the grounds of suitability if the applicant has failed to pay litigation costs awarded to the Home Office.

Under paragraph S-EC.3.2. the applicant **may be refused** entry clearance on the grounds of suitability if one or more relevant NHS bodies has notified the Secretary of State that the applicant has failed to pay charges in accordance with the relevant NHS regulations on charges to overseas visitors and the outstanding charges have a total value of at least £500.

#### 7.2.1. Addressing suitability

In considering the suitability criteria under paragraphs S-EC.1.2. to S-EC.1.5. 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 paragraphs S-EC.1.6. to S-EC.1.8., S-EC.2.2. to S-EC.2.5. and S-EC.3.1. to S-EC.3.2. 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)

Under paragraph S-EC.1.8. an application made on or after 6 April 2013 must be refused where the applicant left or was removed from the UK as a condition of a caution issued in accordance with section 22 of the Criminal Justice Act 2003 less than 5 years prior to the date on which the application is decided.

## 7.2.2. Suitability – entry clearance and protection of children

### **Paragraph S-EC.1.9. applies to entry clearance applications only.**

The purpose of paragraph S-EC.1.9. of Appendix FM is to enable Entry Clearance Officers to make decisions consistent with the need to safeguard children where entry clearance applications involving children raise child welfare or child protection issues.

It provides a ground for refusing entry clearance on the basis of suitability where the applicant is a child and the applicant's parent or parent's partner is regarded as posing a risk to the applicant. In the specific instances covered in sub-paragraphs (a) to (c) of paragraph S-EC.1.9., there is a presumption that such a risk exists although the sponsor may rebut this. For instance, while offenders and other individuals subject to sex offender notification requirements are not prevented from having a private or family life, it will normally be the case that a change to their domestic circumstances will have to be notified to the police and non-compliance with this is itself a basis for presuming that a risk exists.

A Police National Computer (PNC) check is not mandatory in every case where the applicant is a child, but can be requested on a discretionary basis in respect of the child's parent or parent's partner to establish whether they have an unspent conviction of the type to which paragraph S-EC.1.9.(a) refers. This is a child protection measure.

A PNC check may be particularly relevant where the person's links with the child are not long-standing, or involve promises of long-term care, or a stated intention to adopt, particularly if these appear vague and are not substantively supported.

### **Factors in favour of refusal under paragraph S-EC.1.9**

Refusal under paragraph S-EC.1.9.(a) should be considered where the child applicant's parent or parent's partner has a conviction as an adult, whether in the UK or overseas, for an offence against a child. This is directed at instances where the child applicant's parent or parent's partner has been convicted of child neglect or child cruelty, or of assault or other form of violence against a child. A conviction for these offences will not have led to the offender being placed on the sex offender register.

Refusal under paragraph S-EC.1.9.(b) should be considered where a PNC check reveals that the child applicant's parent or parent's partner is a registered sex offender. The effect of being a registered sex offender is that the person must notify the police with respect to the following:

- All foreign travel;
- Weekly, where they are registered as having 'no fixed abode';
- Any change of home address;
- When they are living in a household with a child under the age of 18; and
- Details of bank accounts and credit cards held and of passports and other identity documents held.

If the information obtained from a PNC check is that the child applicant's parent or parent's partner has failed to notify the police of any of the above, the application can be refused on the grounds that the sponsor has failed to comply with notification requirements to which they are subject and therefore the suitability requirements are not met.

There may be instances where the information obtained from a PNC check is inconclusive, for instance, because of the absence of any record of contact between the police and the person



subject to notification requirements. In these cases, where a known offender is involved, up-to-date information must be sought from the local police where the individual lives. If the person has not been in touch with the police for a significant period, the police may wish to visit the home itself, as part of their role in risk managing that offender.

If the person provides correspondence from the police indicating that they are aware of the child's application and/or the person's travel overseas, a check should be made as to its genuineness.

Refusal under paragraph S-EC.1.9.(c) should be considered where the child applicant's parent or parent's partner is considered to pose a risk where they are required to comply with a sexual risk order made under the Anti-Social Behaviour, Crime and Policing Act 2014 and have failed to do so.

A sexual risk order can be made in relation to **any** individual who poses a risk of sexual harm in the UK or abroad, and does not require that they have a conviction for a relevant offence. The making of the order requires only that the person has committed an act of a sexual nature as a result of which such an order is necessary to protect the public. A sexual risk order may be made, for example, where there is evidence of attempts to "groom" a child or to engage in inappropriate internet conversations with a child.

The order prohibits the person subject to it from doing anything prescribed in the order and can include a prohibition on foreign travel. If a sexual risk order has been made in relation to a person, this will be recorded on PNC. If this is the case, then a check should be made with the local police to confirm that the person is fully complying with the order and that the child's application does not amount to a breach of the order or require other action from the police.

Where an application is refused on the basis of paragraph S-EC.1.9., the refusal letter should, where relevant, reflect which of sub-paragraphs (a) to (c) apply. This will inform the child applicant and their parent or parent's partner of the broad nature of the information underlying the refusal, but leaves it to the offender to inform those affected by the decision of the relevant details.

### **Factors against refusal under paragraph S-EC.1.9.**

Where the circumstances set out in one of sub-paragraphs (a) to (c) of paragraph S-EC.1.9. apply, it can be presumed that a risk to the child exists. The application should be refused unless additional information is available to rebut that presumption. Such information might be:

- Strong evidence that the relationships involved have endured for a long time, with the knowledge of the police or offender management authorities, and no harm has occurred;
- Evidence from the police or offender management authorities that there is little or no risk involved in these particular circumstances, or any risk that is present can be managed; or
- Evidence that the offending behaviour that led to the person being placed on the sex offender register was different in a significant way to the circumstances of the application.

A person on the sex offender register may want to have it taken into account that a long period has elapsed without any offending or other harmful behaviour.

These factors must be considered, and if necessary the views of the police or offender management authorities sought, and consideration given as to whether a refusal decision will be proportionate when all the available information is taken into account.

It is also important to note that cases will vary. In some cases there may be no pre-existing or long-term relationship with the child, for example where the person is forming a new family with a partner from overseas and that partner has a child from a previous relationship. In other cases, the person who is being checked may be able to demonstrate a long history of safe parental care for the child and of living together, with the person's partner, as a family unit.

It is important to note that sensitive personal information is involved. The PNC check is conducted on the child applicant's parent or parent's partner, not the applicant. It is likely that the PNC record accessed will be that of a British Citizen or a person settled in the UK. In addition, it is important to note that the applicant is the child, not the child's parent or parent's partner even though the check has been on them. The application process for the child makes clear to them as applicant that this check may take place in respect of their parent or their parent's partner and that their application may be refused as a result.

The sponsorship declaration on the application form indicates that that, where it is relevant to do so, information from checks on the sponsor or their partner may be communicated to the applicant. This will not be done by UKVI staff but, where relevant, will be done by the police as part of their role in such cases.

If the applicant falls for refusal on the basis of suitability under S-EC, the application will be refused. Guidance on refusal wordings under paragraph S-EC.1.9. or the other suitability provisions can be found at Annex A.

### 7.3. Suitability – leave to remain

In considering **all** applications for leave to remain as a partner or parent the decision maker must consider whether the suitability requirements in paragraphs S-LTR.1.1. to .4.5. of [Appendix FM](#) are met.

Under [paragraph S-LTR.1.1.](#) an applicant **will be refused** leave to remain on the grounds of suitability if any of 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 grounds of suitability if any of 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.

#### 7.3.1. 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 [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.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 [paragraph S-LTR.2.5.](#), 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 under consideration 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.

### 7.3.2. Criminality

Where an application for further leave on the 5-year partner or parent route is received from a foreign criminal:

- who has previously been considered for deportation; and
- where deportation was not effected (because Criminal Casework Directorate decided that it would breach Article 8 or an appeal against the deportation was allowed); and

- who was granted leave to remain on the basis of Article 8;

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 not 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.

If the applicant falls for refusal on the basis of suitability under S-LTR, the application will be refused. Guidance on refusal wordings under suitability can be found at [Annex A](#).

## 7.4. Suitability – indefinite leave to remain

In **all** applications for indefinite leave to remain as a partner or parent the decision maker must consider whether the suitability requirements in paragraphs S-ILR.1.1. to 4.5. of Appendix FM are met.

These are set out in the Family Life as a Partner section of [Appendix FM](#) but also apply to Family Life as a Parent.

Under paragraph S-ILR.1.1. the applicant **will be refused** indefinite leave to remain on the grounds of suitability if any of paragraphs S-ILR.1.2. to S-ILR.1.10. apply.

Under paragraph S-ILR.2.1. the applicant **will normally be refused** indefinite leave to remain on grounds of suitability if any of paragraphs S-ILR.2.2. to S-ILR.2.4. apply.

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

### 7.4.1. Addressing suitability

In considering the suitability criteria under paragraphs S-ILR.1.2. to S-ILR.1.8. 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 paragraphs S-ILR.1.9., S-ILR.2.2., S-ILR.2.4., S-ILR.3.1. and S-ILR.4.2. to S-ILR.4.4. 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)

To meet the suitability requirement for indefinite leave to remain under paragraph S-ILR.1.5., the applicant must not have been sentenced to imprisonment for less than 12 months, unless 7 years have passed since the end of the sentence.

To meet the suitability requirement for indefinite leave to remain under paragraph S-ILR.1.6., the applicant must not have received a non-custodial sentence or other out-of-court disposal that is recorded on their criminal record within 24 months prior to the date on which the application is decided.

In considering the suitability criteria under paragraph S-ILR.1.10. of Appendix FM, decision makers must refer to the Restricted Leave guidance:

- [Restricted Leave Guidance](#) (internal)
- [Restricted Leave Guidance](#) (external)

Under paragraph D-ILRP.1.2. if an applicant in the partner route does not meet the requirements of S-ILR.1.5. or 1.6., they can only be granted limited leave to remain, provided that they meet all the other requirements.

Under paragraph D-ILRPT 1.2. if an applicant in the parent route does not meet the requirements of S-ILR.1.5. or 1.6., they can only be granted limited leave to remain, provided that they meet all the other requirements.

Guidance on refusal wordings under suitability can be found at Annex A.

## 8. Eligibility Requirements: Partner

### 8.1. Relationship

**This section applies to entry clearance and leave to remain applications.**

As outlined in sections [5.2 and 5.3](#) of this guidance, to qualify for entry clearance or leave to remain as a partner under the 5-year route to settlement, the applicant must meet all the eligibility requirements in E-ECP of Appendix FM for entry clearance or in E-LTRP for leave to remain.

#### 8.1.1. General

To qualify for entry clearance or leave to remain as a partner the applicant must meet the relationship requirements in [Appendix FM – Family Life as a Partner](#). The relevant paragraphs are:

Entry clearance: **E-ECP.2.1. to E-ECP.2.10.**

Leave to remain: **E-LTRP.1.2. to E-LTRP.1.12.**

#### 8.1.2. Present and settled

When considering paragraph **E-ECP.2.1.(b)** and paragraph **E-LTRP.1.2.(b)**, the decision maker must be satisfied that the applicant's partner is present and settled in the UK.

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 the 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 is:

- (i) a member of HM Forces serving overseas, or
- (ii) 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(e), proposed civil partner, spouse, civil partner, unmarried partner, same sex partner, child, or adult dependent 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 (EEA) 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 (EEA) Regulations 2006 or the Immigration (EEA) 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, must hold a valid residence document issued under the Immigration (EEA) 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 (EEA) Regulations 2006 or the Immigration (EEA) Regulations 2016, in order to be regarded as present and settled in the UK.

### 8.1.3. Minimum age

When considering paragraphs **E-ECP.2.2.**, **E-ECP.2.3.**, **E-LTRP.1.3.** and **E-LTRP.1.4.**, the decision maker must be satisfied that the applicant and their partner are aged 18 or over at the date of application.

### 8.1.4. Prohibited degree of relationship

When considering paragraph **E-ECP.2.4.** and paragraph **E-LTRP.1.5.**, 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

### 8.1.5. Couple to have met in person

When considering paragraph **E-ECP.2.5.** and paragraph **E-LTRP.1.6.**, 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 two infants would not. A mutual sighting or mere coming face-to-face followed by telephone or written contact would not suffice. The Tribunal has 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 refusal notice, although not having met in person can be the sole ground for refusal.

### 8.1.6. Genuine and subsisting relationship

When considering paragraph **E-ECP.2.6.** and paragraph **E-LTRP.1.7.**, 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 two years prior to the date of application and must provide documentary evidence of this.

For guidance on assessing whether a relationship is genuine and subsisting, see [FM 2.0 Genuine and Subsisting Relationship guidance](#)

### 8.1.7. Valid marriage or civil partnership

When assessing whether an applicant claiming to be married or in a civil partnership meets the requirements of paragraph **E-ECP.2.7.** and paragraph **E-LTRP.1.8.**, the decision maker must be satisfied that the applicant and partner have a valid marriage or civil partnership.

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 following guidance:

- FM 1.3 [Recognition of marriage and divorce](#)
- FM 2.1 [Eligibility, registration, dissolution & glossary of terms - civil partnerships](#)

### 8.1.8. Fiancé(e) or proposed civil partner seeking entry

When considering paragraph **E-ECP.2.8.**, the decision maker must be satisfied that an applicant for entry clearance as a fiancé(e) or proposed civil partner is coming to the UK to enable the marriage or civil partnership to take place.

### 8.1.9. Previous relationship has broken down permanently

When considering paragraph **E-ECP.2.9.(i)** and paragraph **E-LTRP.1.9.**, 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 Rules.

When considering paragraph **E-ECP.2.9.(ii)**, the decision maker must be satisfied that neither the applicant nor their partner is married to, or in a civil partnership with, another person at the date of an application for entry clearance as a fiancé(e) or proposed civil partner under Appendix FM.

Where the applicant and/or their partner has 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 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 following guidance:

- [FM 1.3 Recognition of Marriage and Divorce](#)
- [FM 2.1 Eligibility, registration, dissolution & glossary of terms - civil partnerships](#)

### 8.1.10. Intention to live together permanently in the UK

When considering paragraph **E-ECP.2.10.** and paragraph **E-LTRP.1.10.**, 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 limited 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 the UK, 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.

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. 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.

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 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.

## 8.2. Financial requirement

**This section applies to both entry clearance and leave to remain applications.**

To qualify for entry clearance or leave to remain as a partner on the 5-year route to settlement the applicant must meet the financial requirement in [Appendix FM - Family Life as a Partner](#). The relevant paragraphs are:

Entry clearance: **E-ECP.3.1. to E-ECP.3.3.**

Leave to remain and indefinite leave to remain: **E-LTRP.3.1. to E-LTRP.3.3.**

This includes providing the required evidence specified in [Appendix FM-SE](#). For guidance on the financial requirement, see [FM1.7. Financial Requirement Guidance](#).



Applicants who are exempt from the minimum income threshold under the financial requirement in Appendix FM (because their partner is in receipt of a specified benefit or allowance) must instead demonstrate that their partner is able to maintain themselves, the applicant and any dependants “adequately” without recourse to public funds. Specified evidence must be provided as set out in Appendix FM-SE. See [FM1.7A - Maintenance Guidance](#).

Copies of all documentary evidence submitted should be retained on file, in chronological order.

### 8.3. Accommodation

**This section applies to entry clearance and leave to remain applications.**

To qualify for entry clearance or leave to remain as a partner on the 5-year route to settlement the applicant must meet the accommodation requirement in [Appendix FM - Family Life as a Partner](#). The relevant paragraphs are:

Entry clearance: **E-ECP.3.4.**

Leave to remain and indefinite leave to remain: **E-LTRP.3.4.**

The applicant must provide evidence that there will be adequate accommodation, without recourse to public funds, for the family (including other family members who are not included in the application but who live in the same household), which the family own or occupy exclusively.

Accommodation will not be regarded as adequate if:

- (a) it is, or will be, overcrowded; or
- (b) it contravenes public health regulations.

For further guidance on the accommodation requirement, see [Family members - Maintenance & Accommodation](#)

### 8.4. English language

**This section applies to entry clearance and leave to remain applications.**

#### 8.4.1. General

To qualify for entry clearance or leave to remain as a partner on the 5-year route to settlement the applicant must meet the English language requirement in [Appendix FM - Family Life as a Partner](#). The relevant paragraphs are:

Entry clearance: **E-ECP.4.1. to E-ECP.4.2.**

Leave to remain: **E-LTRP.4.1. and E-LTRP.4.2.**

#### 8.4.2. Entry clearance and leave to remain

Under paragraphs **E-ECP.4.1. to 4.2** and paragraphs **E-LTRP.4.1. to 4.2.** the applicant must provide evidence as specified in paragraphs 27 to 32D of [Appendix FM-SE](#) that the English language requirement is met.

The applicant can meet the English language requirement in one of the following ways:

- by being a national of a majority English speaking country listed in paragraph [GEN.1.6.](#);
- by passing an English language test in speaking and listening at a minimum of level A1 of the Common European Framework of Reference for Languages (CEFR) with a provider approved by the Home Office;
- by having an academic qualification which is either a Bachelor's or Master's degree or PhD if awarded in the UK; or, if awarded outside the UK, is deemed by UK NARIC to meet or exceed the recognised standard of a Bachelor's or Master's degree or PhD in the UK, and UK NARIC has confirmed that the degree was taught or researched in English to level A1 of the CEFR or above; or
- by qualifying for an exemption.

From 1 May 2017, under paragraph E-LTRP.4.2A. a person applying to extend their stay after two and a half years in the UK as a partner on the 5-year route to settlement, who met the English language requirement in their previous application by passing an approved test at level A1, must provide evidence as specified in paragraphs 27 to 32D of [Appendix FM-SE](#) that they meet the requirement:

- by being a national of a majority English speaking country listed in paragraph [GEN.1.6.](#);
- by passing an English language test in speaking and listening at a minimum of level A2 of the CEFR with a provider approved by the Home Office;
- by having an academic qualification which is either a Bachelor's or Master's degree or PhD if awarded in the UK; or, if awarded outside the UK, is deemed by UK NARIC to meet or exceed the recognised standard of a Bachelor's or Master's degree or PhD in the UK, and UK NARIC has confirmed that the degree was taught or researched in English to level A2 of the CEFR or above; or
- by qualifying for an exemption.

For further guidance on the English language requirement, including exemptions, see [FM 1.21 English Language Requirement guidance](#).

An applicant for leave to remain who was exempt from the English language requirement at the entry clearance stage needs to meet the requirement at paragraphs **E-LTRP.4.1. to .4.2.** when they apply for further leave to remain in the UK on the 5-year route to settlement, unless they again qualify for an exemption, on the same or a different basis.

### 8.4.3. Indefinite leave to remain

To qualify for indefinite leave to remain as a partner on the 5-year route to settlement the applicant must have sufficient knowledge of language and life (KoLL) in the UK in accordance with [Appendix KoLL](#).

The relevant paragraph is:

Indefinite leave to remain: **E-ILRP.1.6.**

Under paragraph D-ILRP.1.2, if the applicant cannot meet the requirements in accordance with Appendix KoLL, they can only be granted limited leave to remain, provided they meet all the other requirements.

For further guidance on the KoLL requirement, including exemptions, see:

- [Knowledge of Language and Life Guidance](#) (internal)
- [Knowledge of Language and Life Guidance](#) (external)

From 28 October 2013 all applicants for settlement are required to present a speaking and listening qualification at CEFR level B1 or above and pass the Life in the UK test.

## 8.5. Immigration status

**This section applies to leave to remain applications only.**

### 8.5.1. General

The immigration status requirements are set out in paragraphs **E-LTRP.2.1. to E-LTRP.2.2.** of Appendix FM. For leave to remain as a partner on the 5-year route to settlement the applicant must not be in the UK:

- as a visitor; or
- with valid leave granted for a period of 6 months or less, unless that leave is as a fiancé(e) or a proposed civil partner or was granted pending the outcome of family court or divorce proceedings; or
- on temporary admission or temporary release; or
- in breach of immigration laws (except that, where [paragraph 39E of the Rules](#) applies, any current period of overstaying will be disregarded).

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)

A visitor who has overstayed (by any period of time) cannot qualify for the 5-year route.

## 9. Eligibility Requirements: Parent

**This section applies to entry clearance and leave to remain applications.**

As outlined in [section 5.2 and 5.3](#) of this guidance, to qualify for entry clearance or leave to remain as a parent the applicant must meet all of the eligibility requirements in E-ECPT of Appendix FM for entry clearance or in E-LTRPT for leave to remain.

### Proof of parentage

An applicant will not always be named on a birth certificate. The decision maker must carefully consider any evidence submitted and be satisfied that it proves the parental relationship.

### 9.1. General

To qualify for entry clearance or leave to remain as a parent the applicant must meet the relationship requirements in [Appendix FM - Family Life as a Parent](#). The relevant paragraphs are:

Entry clearance: **E-ECPT.2.1. to E-ECPT.2.4.**

Leave to remain: **E-LTRPT.2.2. to E-LTRPT.2.4.**

### 9.2. Relationship

#### 9.2.1. Age requirements

When considering paragraph **E-ECPT.2.1.** for an entry clearance application the decision maker must be satisfied that the applicant is aged 18 or over at the date of application.

When considering paragraph **E-ECPT.2.2.(a)** for an entry clearance application the decision maker must be satisfied that the applicant's child is under the age of 18 at the date of application.

When considering paragraph **E-LTRPT.2.2.(a)** for a leave to remain application the decision maker must be satisfied that the applicant's child is under the age of 18 at the date of application, or where the 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 as defined in paragraph 6 of the Immigration Rules.

Under paragraph 27 of the Immigration Rules, the decision maker must make a decision on an application for entry clearance in the light of the circumstances existing at the time of decision. The exception to this is where a child reaches the age of 18 after such an application has been lodged, but before it has been decided. In that situation, the application should not be refused solely because the applicant has turned 18.

The applicant must prove that the child they have sole responsibility for, or are seeking access to, 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.

### 9.2.2. Leading an independent life

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, then, for the requirement of paragraph **E-LTRPT.2.2.(a)** to be met, the decision maker must be satisfied that the child has not formed an independent family unit and is not leading an independent life, as defined in [paragraph 6](#) of the Immigration Rules.

### 9.2.3. Living in the UK

When considering paragraphs **E-ECPT.2.2.(b)** and **(c)** the decision maker must be satisfied that the applicant's child is living in the UK and is either a British Citizen or settled in the UK.

When considering paragraphs **E-LTRPT.2.2.(b)** and **(c)**, the decision maker must be satisfied that the applicant's child is living in the UK and is either a British Citizen or settled in the UK.

"Living in the UK" means that the child concerned is living in the UK at 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.

### 9.2.4. Relationship with the child

For entry clearance applications where the applicant is outside the UK, when considering paragraphs **E-ECPT.2.3.** and **E-ECPT.2.4.**, the decision maker must be satisfied that the applicant has:

- sole parental responsibility for the child; or
- 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. In addition in such cases:
  - the parent or carer with whom the child normally lives must be a British Citizen in the UK or settled in the UK and not the partner of the applicant; and
  - the applicant must not be eligible to apply for entry clearance as a partner under Appendix FM; and
- in all cases, the applicant must provide evidence that they are taking, and intend to continue to take, an active role in the child's upbringing.

For leave to remain applications where the applicant is in the UK, when considering paragraphs **E-LTRPT.2.3.** and **E-LTRPT.2.4.** the decision maker must be satisfied that:

- the applicant has sole parental responsibility for the child; or
- 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; or
- the applicant has 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. In addition in such cases:
  - the parent or carer with whom the child normally lives must be a British Citizen in the UK or settled in the UK and not the partner of the applicant (which here includes a person

who has been in a relationship with the applicant for less than two years at the date of application); and  
- the applicant must not be eligible to apply for leave to remain as a partner under Appendix FM; and

- in all cases, the applicant must provide evidence that they are taking, and intend to continue to take, an active role in the child's upbringing.

For both entry clearance and leave to remain applications as a parent, if the child normally lives with their other British Citizen or settled parent or carer, that person cannot be the partner of the applicant (which for leave to remain includes a person who has been in a relationship with the applicant for less than two years prior to the date of application) and the applicant must not be eligible to apply for entry clearance or leave to remain as a partner under Appendix FM.

The parent route under Appendix FM is not for couples with a child who are in a continuing genuine and subsisting relationship together. Applicants in this position must apply under the partner route where, or when, they are eligible to do so, or under the private life route. An applicant cannot apply under the parent route if they are or will be eligible to apply under the partner route, including where the applicant is in a partner relationship but the couple have not yet been living together for two years.

### 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 the following:

- has evidence been provided 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?
- has evidence been provided that 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?
- has evidence been provided that the applicant parent has exclusive responsibility for:
  - making decisions regarding the child's education, health and medical treatment, religion, residence, holidays and recreation?
  - protecting the child and providing them with appropriate direction and guidance?
  - the child's property?
  - 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 a person 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) 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:

- a joint residence order, or
- 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 interests 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 joint or 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 that the child normally lives with the applicant (where they are in the UK) or with their British Citizen or settled parent.



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 seven 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, 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 parent confirming joint or shared custody;
- a doctor, hospital or dentist;
- a school or playgroup;
- the Department for Work and Pensions;
- HM Revenue & Customs;
- local authority children’s services.

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 in the UK 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 a 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 to the child by submitting evidence such as:

- a residence order or contact order granted by a court in the UK;
- a letter or sworn affidavit from the UK-resident parent or carer of the child; or
- 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 a sworn 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. Where a parent applies for entry clearance to join a child in the UK, they must provide evidence of maintaining contact with the child and evidence that they intend to maintain contact once in the UK. The decision maker must be satisfied that direct contact in person with the child is the main reason for the application.

### 9.3. Immigration status

**This section applies to leave to remain applications only.**

#### 9.3.1. General

The immigration status requirements are set out in paragraphs **E-LTRPT.3.1. to E-LTRPT.3.2.** of Appendix FM. To qualify for leave to remain as a parent on the 5-year route to settlement the applicant must not be in the UK:

- as a visitor; or
- 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; or
- on temporary admission or temporary release; or
- in breach of immigration laws (except that, where [paragraph 39E of the Rules](#) applies, any current period of overstaying will be disregarded).

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)

A visitor who has overstayed (by any period of time) cannot qualify for the 5-year route.

### 9.4. Financial – Maintenance

**This section applies to entry clearance and leave to remain applications.**

To qualify for entry clearance or leave to remain as a parent on the 5-year route to settlement the applicant must meet the financial requirements in [Appendix FM - Family Life as a Parent](#). The relevant paragraphs are:

Entry clearance: **E-ECPT.3.1.**

Leave to remain: **E-LTRPT.4.1.**

In order to meet the financial requirements the applicant must provide evidence that they will be able to adequately maintain and accommodate themselves and any dependants in the UK without recourse to public funds.

For guidance on the maintenance requirements, see [FM1.7A - Maintenance Guidance](#).

Copies of all documentary evidence submitted should be retained on file, in chronological order.

## 9.5. Financial – Accommodation

**This section applies to entry clearance and leave to remain applications.**

To qualify for entry clearance or leave to remain as a parent on the 5-year route to settlement the applicant must meet the accommodation requirement in [Appendix FM - Family Life as a Parent](#). The relevant paragraphs are:

Entry clearance: **E-ECPT.3.2.**

Leave to remain: **E-LTRPT.4.2.**

The applicant must provide evidence that there will be adequate accommodation, without recourse to public funds, for the family (including other family members who are not included in the application but who live in the same household), which the family own or occupy exclusively.

Accommodation will not be regarded as adequate if:

- (a) it is, or will be, overcrowded; or
- (b) it contravenes public health regulations.

For further guidance on the accommodation requirement, see: [Family members - Maintenance & Accommodation](#)

## 9.6. English language

**This section applies to entry clearance and leave to remain applications.**

### 9.6.1. General

To qualify for entry clearance or leave to remain as a parent on the 5-year route to settlement the applicant must meet the English language requirement in [Appendix FM - Family Life as a Parent](#). The relevant paragraphs are:

Entry clearance: **E-ECPT.4.1. to E-ECPT.4.2.**

Leave to remain: **E-LTRPT.5.1. and E-LTRPT.5.2.**

### 9.6.2. Entry clearance and leave to remain

Under paragraphs **E-ECPT.4.1. to 4.2** and paragraphs **E-LTRPT.5.1. to 5.2.** the applicant must provide evidence as specified in paragraphs 27 to 32D of [Appendix FM-SE](#) that the English language requirement is met.

The applicant can meet the English language requirement in one of the following ways:

- by being a national of a majority English speaking country listed in paragraph [GEN.1.6.](#);

- by passing an English language test in speaking and listening at a minimum of level A1 of the Common European Framework of Reference for Languages (CEFR) with a provider approved by the Home Office;
- by having an academic qualification which is either a Bachelor's or Master's degree or PhD if awarded in the UK; or if awarded outside the UK, is deemed by UK NARIC to meet or exceed the recognised standard of a Bachelor's or Master's degree or PhD in the UK, and UK NARIC has confirmed that the degree was taught or researched in English to level A1 of the CEFR or above; or
- by qualifying for an exemption.

From 1 May 2017, under paragraph E-LTRPT.5.1A. a person applying to extend their stay after two and a half years in the UK as a parent on the 5-year route to settlement, who met the English language requirement in their previous application by passing an approved test, must provide evidence as specified in paragraphs 27 to 32D of [Appendix FM-SE](#) that they meet the requirement:

- by being a national of a majority English speaking country listed in paragraph [GEN.1.6.](#);
- by passing an English language test in speaking and listening at a minimum of level A2 of the CEFR with a provider approved by the Home Office;
- by having an academic qualification which is either a Bachelor's or Master's degree or PhD if awarded in the UK; or, if awarded outside the UK, is deemed by UK NARIC to meet or exceed the recognised standard of a Bachelor's or Master's degree or PhD in the UK, and UK NARIC has confirmed that the degree was taught or researched in English to level A2 of the CEFR or above; or
- by qualifying for an exemption.

For further guidance on the English language requirement, including exemptions, see [FM1.21 English Language Requirement guidance](#).

An applicant for leave to remain who was exempt from the language requirement at the entry clearance or initial leave to remain stage has to meet the requirement at paragraphs **E-LTRPT.5.1. to 5.2.** when they apply for further leave to remain in the UK under the 5-year route to settlement, unless they again qualify for an exemption, on the same or a different basis.

### 9.6.3. Indefinite leave to remain

To qualify for indefinite leave to remain as a parent on the 5-year route to settlement the applicant must have sufficient knowledge of language and life (KoLL) in the UK in accordance with [Appendix KoLL](#).

The relevant paragraph is:

Indefinite leave to remain: **E-ILRPT.1.5.**

Under paragraph D-ILRPT.1.2., if the applicant cannot meet the requirements in accordance with Appendix KoLL, they can only be granted limited leave to remain, provided they meet all the other requirements.

For further guidance on the KoLL requirement, including exemptions, see:

- [Knowledge of Language and Life Guidance](#) (internal)
- [Knowledge of Language and Life Guidance](#) (external)

From 28 October 2013 all applicants for settlement are required to present a speaking and listening qualification at CEFR level B1 or above and pass the Life in the UK test.

## 10. Decisions: Partner

**This section applies to entry clearance and leave to remain applications.**

### 10.1. Granting entry clearance or leave to remain as a partner

Where the Rules are met leave should be granted as explained in the following paragraphs.

#### 10.1.1. Granting entry clearance as a partner

Under paragraph D-ECP.1.1., if the applicant meets the requirements for entry clearance as a partner (not a fiancé(e) or proposed civil partner) under the 5-year route, they should be granted entry clearance for an initial period of no more than 33 months and subject to a condition of no recourse to public funds.

The applicant should be advised that they will need to make an application for further leave to remain once they have completed a period of 30 months in the UK. They should make that application 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. They may be able to qualify for indefinite leave to remain (settlement) after completing 60 months (5 years) in the UK with limited leave as a partner under the 5-year route under Appendix FM.

Where a partner is being granted on the basis of paragraph D-ECP.1.1., any dependent child who is applying at the same time should be considered under paragraph EC-C.1.1. and if they meet those requirements, should be granted entry clearance under paragraph D-ECC.1.1. for a period and subject to conditions in line with those of their parent who is, or has been, granted entry clearance under the partner Rules of Appendix FM.

Under paragraph D-ECP.1.2., if the applicant meets the requirements for entry clearance as a partner (not a fiancé(e) or proposed civil partner) under the 10-year route, they should be granted entry clearance for an initial period of no more than 33 months and generally subject to a condition of no recourse to public funds. For further guidance on the policy on recourse to public funds, see [section 12](#) of this guidance.

The applicant should be advised that they will need to make an application for further leave to remain once they have completed a period of 30 months in the UK. They should make that application 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. They may be able to qualify for indefinite leave to remain (settlement) after completing 120 months (10 years) in the UK with limited leave as a partner under Appendix FM.

Where a partner is being granted on the basis of paragraph D-ECP.1.2., any dependent child who is applying at the same time should be considered under paragraph EC-C.1.1. and if they meet those requirements (except that, where the applicant's parent is granted entry clearance following consideration under paragraph GEN.3.2., the applicant does not have to meet the requirements in paragraphs E-ECC.2.1. to E-ECC.2.4.), should be granted entry clearance under paragraph D-ECC.1.1. for a period and subject to conditions in line with those of their parent who is, or has been, granted entry clearance under the partner Rules of Appendix FM.

### 10.1.2. Granting entry clearance as a fiancé(e) or proposed civil partner

Under paragraph D-ECP.1.1. or D-ECP.1.2., if the applicant meets the requirements for entry clearance as a partner where they are a fiancé(e) or proposed civil partner, they should be granted entry clearance for a period not exceeding 6 months and subject to a condition of no recourse to public funds and to a prohibition on employment in the UK.

The applicant should be advised that they will be eligible to apply for leave to remain in the UK as a partner once the marriage or civil partnership has taken place.

A spouse or civil partner can re-enter the UK following a honeymoon abroad during the remaining validity of their entry clearance as a fiancé(e) or proposed civil partner if they can satisfy the Immigration Officer, in the light of the change in their marital or civil partnership status (which they should evidence with a copy of the marriage or civil partnership certificate), of their intention, within the remaining validity of that entry clearance, to regularise their status in the UK as a spouse or civil partner.

Following the marriage or civil partnership and subject to a subsequent successful application for leave to remain (and in due course for further leave to remain) as a partner on the 5-year or 10-year route, they may be able to qualify for indefinite leave to remain (settlement) after completing 60 months (5 years) or 120 months (10 years) in the UK with limited leave as a partner. The 5-year or 10-year period will exclude any period(s) of entry clearance or limited leave as a fiancé(e) or proposed civil partner.

Where a fiancé(e) or proposed civil partner is being granted on the basis of paragraph D-ECP.1.1., any dependent child who is applying at the same time should be considered under paragraph EC-C.1.1. and if they meet those requirements, should be granted entry clearance under paragraph D-ECC.1.1. for a period and subject to conditions in line with those of their parent who is, or has been, granted entry clearance as a fiancé(e) or proposed civil partner under the partner Rules of Appendix FM.

Where a fiancé(e) or proposed civil partner is being granted on the basis of paragraph D-ECP.1.2., any dependent child who is applying at the same time should be considered under paragraph EC-C.1.1. and if they meet those requirements (except that, where the applicant's parent is granted entry clearance following consideration under paragraph GEN.3.2., the applicant does not have to meet the requirements in paragraphs E-ECC.2.1. to E-ECC.2.4.), should be granted entry clearance under paragraph D-ECC.1.1. for a period and subject to conditions in line with those of their parent who is, or has been, granted entry clearance as a fiancé(e) or proposed civil partner under the partner Rules of Appendix FM.

### 10.1.3. Granting leave to remain as a partner under the 5-year route

Where an applicant is applying to join, or to extend their leave under, the 5-year partner route to settlement in the UK and they meet the requirements of R-LTRP.1.1.(a) to (c), the applicant will be granted leave to remain as a partner under D-LTRP.1.1. for 30 months on the 5-year route to settlement, subject to a condition of no recourse to public funds. For further guidance on the policy on recourse to public funds, see [section 12](#) of this guidance.

Where an applicant has extant leave as a partner under the 5-year route at the date of application, any period of extant leave, up to a maximum of 28 days, will be added to the period of leave that they are being granted under paragraph D-LTRP.1.1. An applicant with extant leave in this scenario will therefore be granted a period of leave slightly in excess of 30 months.

If an applicant granted leave to remain as a partner is receiving their first grant of limited leave on the 5-year route (rather than their second grant following an earlier grant of entry clearance or leave to remain as a partner under that route), the applicant should be advised they will in due course need to make an application for further leave to remain as a partner of 30 months. They should make that application 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. They may be eligible to apply for settlement after completing 60 months (5 years) in the UK with leave to remain as a partner under the 5-year route under Appendix FM.

Where a partner is being granted on the basis of paragraph D-LTRP.1.1., any dependent child included in the application who requires leave should be considered under paragraph R-LTRC.1.1. 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, or has been, granted leave under the partner Rules of Appendix FM.

#### 10.1.4. Granting an extension of leave to remain as a fiancé(e) or proposed civil partner

Under paragraph D-LTRP.1.1. or D-LTRP.1.2., if paragraph E-LTRP.1.11. applies (extension as a fiancé(e) or proposed civil partner), an applicant will be granted leave to remain for a period not exceeding 6 months, subject to a condition of no recourse to public funds and to a prohibition on employment. Any extant leave as a fiancé(e) or proposed civil partner will **not** be added to any period of further leave as a fiancé(e) or proposed civil partner granted under paragraph D-LTRP.1.1. or D-LTRP.1.2. or when they seek to switch from fiancé(e) or proposed civil partner following their marriage or civil partnership.

The applicant should be advised that they will be eligible to apply for leave to remain as a partner once the marriage or civil partnership has taken place.

Following the marriage or civil partnership and a subsequent successful application for leave to remain (and in due course for further leave to remain) as a partner on the 5-year or 10-year partner route, they may be eligible to apply for settlement after completing 60 months (5 years) or 120 months (10 years) in the UK with leave to remain as a partner. The 5-year or 10-year period will exclude any period(s) of entry clearance or limited leave as a fiancé(e) or proposed civil partner.

Where paragraph E-LTRP.1.11. applies and an extension as a fiancé(e) is being granted to an applicant on the basis of paragraph D-LTRP.1.1. or D-LTRP.1.2., any dependent child included in the application who requires leave should be considered under paragraph R-LTRC.1.1. 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, or has been, granted leave under the partner Rules of Appendix FM.

#### 10.1.5. Granting indefinite leave to remain as a partner

Where an applicant meets the requirements of R-ILRP.1.1., they will be granted indefinite leave to remain under D-ILRP.1.1.



### 10.1.6. Granting leave to remain following an application for indefinite leave to remain

If an applicant fails to meet all of the requirements for indefinite leave to remain because:

- (i) paragraph S-ILR.1.5. or S-ILR.1.6. applies; and/or
- (ii) the applicant has not demonstrated sufficient knowledge of the language and life in the UK requirement in accordance with Appendix KoLL,

under paragraph D-ILRP.1.2. the applicant will be granted further limited leave to remain as a partner for a period not exceeding 30 months, subject to a condition of no recourse to public funds, provided that any requirement to pay the Immigration Health Surcharge under the Immigration (Health Charge) Order 2014 is met.

Under paragraph D-ILRP.1.3., if the applicant meets the requirements for leave to remain as a partner under the 10-year route, they will be granted leave to remain for a period not exceeding 30 months as a partner under paragraph D-LTRP.1.2. of Appendix FM. Under paragraph GEN.1.11A, this grant of limited 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. For further guidance on the policy on recourse to public funds, see [section 12](#) of this guidance

Where an applicant has extant leave as a partner under Appendix FM at the date of application, any period of extant leave, up to a maximum of 28 days, will be added to the period of leave that they are being granted under paragraph D-LTRP.1.2. or D-ILRP.1.2. An applicant with extant leave in this scenario will therefore be granted a period of leave slightly in excess of 30 months.

If the applicant has already completed 60 or 120 months in the UK with limited leave as a partner, they should be informed that, should the reason they do not meet the requirements for indefinite leave to remain be overcome, they will be eligible to make a further charged application for indefinite leave to remain at any time within the 30 month period of leave granted under paragraph D-LTRP.1.2. or D-ILRP.1.2. They do not need to wait until their leave expires if they become able to meet all the requirements. If not, they should make their next application no more than 28 days before their leave is due to expire, or within 28 days of completing the period of leave in the UK required for them to be eligible to apply for indefinite leave to remain.

Where a partner is being granted leave to remain on the basis of paragraph D-LTRP.1.2. or D-ILRP.1.2., any dependent child included in the application who requires leave should be considered under paragraph R-LTRC.1.1. If the child meets those requirements, 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, or has been, granted leave under the partner Rules of Appendix FM.

## 10.2. Refusing entry clearance or leave to remain

When an application otherwise falls for refusal under the relevant Immigration Rules, the decision maker must consider, under paragraph GEN.3.2. of Appendix FM, whether there are any exceptional circumstances that require a grant of entry clearance or leave to remain on ECHR Article 8 grounds because refusal would result in unjustifiably harsh consequences for the applicant or their family.

### 10.2.1. Refusing entry clearance

Entry clearance as a partner will be refused if the decision maker is not satisfied that all of the relevant requirements of the Immigration Rules are met and is satisfied that there are no exceptional circumstances.

Where refused under paragraph D-ECP.1.3., the decision notice should indicate the refusal under this paragraph, with reference to the relevant suitability and/or eligibility paragraphs.

In every entry clearance case otherwise falling for refusal under the Rules, the decision maker must go on to consider whether there are exceptional circumstances. For further guidance see [section 13](#) of this guidance.

Decision makers should refer to [Annex A](#) and [Annex B](#) of this guidance for suggested standard refusal paragraphs for inclusion in the refusal notice.

### 10.2.2. Refusing leave to remain as a partner or fiancé(e) or proposed civil partner

Leave to remain as a partner or fiancé(e) or proposed civil partner in the UK will be refused if the decision maker is not satisfied that all of the relevant requirements of the Immigration Rules are met and is satisfied that there are no exceptional circumstances.

The decision maker should go on to consider whether an applicant failing to meet the requirements of the 5-year partner route can meet the requirements for leave to remain under the 10-year partner route on the basis of exceptional circumstances (see [section 13](#) of this guidance) or under the 10-year family or private life routes (see [Family Life \(as a Partner or Parent\) and Private Life: 10-Year Routes](#)).

Where refused under paragraph [D-LTRP.1.3.](#), the decision letter should indicate the refusal under this paragraph, with reference to the relevant suitability and/or eligibility paragraphs, and explain why the requirements of the 10-year routes are not met and why there are no exceptional circumstances.

### 10.2.3. Refusing indefinite leave to remain

If the applicant does not meet the requirements for indefinite leave to remain under D-ILRP.1.1., or for further leave to remain under paragraph D-ILRP.1.2. or D-ILRP.1.3., and there are no exceptional circumstances, the application will be refused.

## 11. Decisions: Parent

**This section applies to entry clearance and leave to remain applications.**

### 11.1. Granting entry clearance or leave to remain as a parent

Where the Rules are met leave should be granted as explained in the following paragraphs.

#### 11.1.1. Granting entry clearance as a parent

Under paragraph D-ECPT.1.1., if the applicant meets the requirements for entry clearance as a parent under the 5-year route, they should be granted entry clearance for an initial period of no more than 33 months and subject to a condition of no recourse to public funds.

The applicant should be advised they will need to make an application for leave to remain once they have completed a period of 30 months in the UK. They should make that application 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 leave as a parent. They may be able to qualify for indefinite leave to remain (settlement) after completing 60 months (5 years) in the UK with limited leave as a parent under the 5-year route under Appendix FM.

Where a parent is being granted on the basis of paragraph D-ECPT.1.1., any dependent child who is applying at the same time should be considered under paragraph EC-C and if they meet the requirements of those Rules, should be granted entry clearance under paragraph D-ECC.1.1. for a period and subject to conditions in line with those of their parent who is, or has been, granted entry clearance under the parent Rules of Appendix FM.

Under paragraph D-ECPT.1.2., if the applicant meets the requirements for entry clearance as a parent under the 10-year route, they should be granted entry clearance for an initial period of no more than 33 months and generally subject to a condition of no recourse to public funds. For further guidance on the policy on recourse to public funds, see [section 12](#) of this guidance.

The applicant should be advised they will need to make an application for leave to remain once they have completed a period of 30 months in the UK. They should make that application 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 leave as a parent. They may be able to qualify for indefinite leave to remain (settlement) after completing 120 months (10 years) in the UK with limited leave as a parent under Appendix FM.

Where a parent is being granted on the basis of paragraph D-ECPT.1.2., any dependent child who is applying at the same time should be considered under paragraph EC-C.1.1. and if they meet those requirements (except that, where the applicant's parent is granted entry clearance following consideration under paragraph GEN.3.2., the applicant does not have to meet the requirements in paragraphs E-ECC.2.1. to E-ECC.2.4.), should be granted entry clearance under paragraph D-ECC.1.1. for a period and subject to conditions in line with those of their parent who is, or has been, granted entry clearance under the parent Rules of Appendix FM.

#### 11.1.2. Granting leave to remain as a parent under the 5-year route

Where an applicant is applying to join, or to extend their leave under, the 5-year parent route to settlement in the UK and they meet the requirements of R-LTRPT.1.1.(a) to (c), the applicant

will be granted leave to remain as a parent under D-LTRPT.1.1. for 30 months on a 5-year route to settlement, subject to a condition of no recourse to public funds.

Where an applicant has extant leave under the 5-year parent route at the date of application, any period of extant leave, up to a maximum of 28 days, will be added to the period of leave that they are being granted under paragraph D-LTRPT.1.1. An applicant with extant leave in this scenario will therefore be granted a period of leave slightly in excess of 30 months.

If an applicant granted leave to remain as a parent is receiving their first grant of limited leave on the 5-year route (rather than their second grant following an earlier grant of entry clearance or leave to remain as a parent under Appendix FM), the applicant should be advised they will in due course need to make an application for further leave to remain as a parent of 30 months. They should make that application 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 leave as a parent. They may be eligible to apply for settlement after completing 60 months (5 years) in the UK with limited leave as a parent under the 5-year route under Appendix FM.

Where a parent is being granted on the basis of paragraph D-LTRPT.1.1., any dependent child included in the application who requires leave should be considered under paragraph R-LTRC.1.1. 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, or has been, granted leave under the parent Rules of Appendix FM.

### **11.1.3. Granting indefinite leave to remain as a parent**

Where an applicant meets the requirements of R-ILRPT.1.1. (a) to (e) they will be granted indefinite leave to remain under D-ILRPT.1.1.

### **11.1.4. Granting leave to remain following refusal of indefinite leave to remain**

If an applicant fails to meet all of the requirements because:

- (i) paragraph S-ILR.1.5. or S-ILR.1.6 applies; and/or
- (ii) the applicant has not demonstrated sufficient knowledge of the language and life in the UK requirement in accordance with Appendix KoLL,

under paragraph D-ILRPT.1.2. the applicant will be granted further limited leave to remain as a parent for a period not exceeding 30 months, subject to a condition of no recourse to public funds, provided that any requirement to pay the Immigration Health Surcharge under the Immigration (Health Charge) Order 2014 is met.

Under paragraph D-ILRPT.1.3., if the applicant meets the requirements for leave to remain as a parent under the 10-year route, they 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. 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. For further guidance on the policy on recourse to public funds, see [section 12](#) of this guidance.

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

If the applicant has already completed 60 or 120 months in the UK with limited leave as a parent, they should be informed that, should the reason they do not meet the requirements for indefinite leave to remain be overcome, they will be eligible to make a further charged application for indefinite leave to remain at any time within the 30 month period of leave granted under paragraph D-LTRPT.1.2. or D-ILRPT.1.2.: they do not need to wait until their leave expires if they become able to meet all the requirements. If not, they should make their next application no more than 28 days before their extant leave is due to expire, or within 28 days of completing the period of leave required for them to be eligible to apply for indefinite leave to remain.

Where a parent is being granted on the basis of paragraph D-LTRPT.1.2. or D-ILRPT.1.2., any dependent child included in the application who requires leave should be considered under paragraph R-LTRC.1.1. 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, or has been, granted leave under the parent Rules of Appendix FM.

## **11.2. Refusing entry clearance or leave to remain as a parent**

When an application otherwise falls for refusal under the relevant Immigration Rules, the decision maker must move on to consider, under paragraph GEN.3.2. of Appendix FM, whether there are any exceptional circumstances that require a grant of entry clearance or leave to remain on ECHR Article 8 grounds because refusal would result in unjustifiably harsh consequences for the applicant or their family.

### **11.2.1. Refusing entry clearance as a parent**

Entry clearance as a parent will be refused if the decision maker is not satisfied that all of the relevant requirements of the Immigration Rules are met and is satisfied that there are no exceptional circumstances.

Where refused under paragraph D-ECPT.1.3., the decision notice should indicate the refusal under this paragraph, with reference to the relevant suitability and/or eligibility paragraphs.

In every entry clearance case otherwise falling for refusal under the Rules, the decision maker must go on to consider whether there are exceptional circumstances. For further guidance see [section 13](#) of this guidance.

Decision makers should refer to [Annex A](#) and [Annex B](#) of this guidance for suggested standard refusal paragraphs for inclusion in the refusal notice.

### **11.2.2. Refusing leave to remain as a parent**

Leave to remain as a parent in the UK will be refused if the decision maker is not satisfied that all of the relevant requirements of the Immigration Rules are met and is satisfied that there are no exceptional circumstances.

The decision maker should go on to consider whether an applicant failing to meet the requirements of the 5-year parent route can meet the requirements for leave to remain under the 10-year parent route on the basis of exceptional circumstances (see [section 13](#) of this guidance) or under the 10-year family or private life routes (see [Family Life \(as a Partner or Parent\) and Private Life: 10-Year Routes](#)).

Where refused under [paragraph D-LTRPT.1.3.](#), the decision letter should indicate the refusal under this paragraph, with reference to the relevant suitability and/or eligibility paragraphs, and explain why the requirements of the 10-year routes are not met and why there are no exceptional circumstances.

### **11.2.3. Refusing indefinite leave to remain**

If the applicant does not meet the requirements for indefinite leave to remain under D-ILRPT.1.1., or for further leave to remain under paragraph D-ILRPT.1.2. or D-ILRPT.1.3., and there are no exceptional circumstances, the application will be refused.

## 12. Recourse to Public Funds

**This section applies to entry clearance and leave to remain applications.**

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.

Under Appendix FM, entry clearance or leave to remain:

- Under the 5-year partner and parent routes;
- As a bereaved partner;
- As a fiancé(e) or proposed civil partner,

will be granted subject to a condition of no recourse to public funds.

Under Appendix FM, entry clearance or leave to remain under the 10-year partner and parent routes will be granted subject to a condition of no recourse to public funds, unless the decision maker determines, in line with paragraph GEN.1.11A of Appendix FM that this condition should not be applied. For further guidance, see [section 14](#) of the guidance on the 10-year family or private life routes: [Family Life \(as a Partner or Parent\) and Private Life: 10-Year Routes](#)



## 13. Exceptional Circumstances

### 13.1. Introduction

**This section applies to entry clearance and leave to remain applications.**

In light of:

- The Supreme Court judgment in *MM (Lebanon) & Others v SSHD [2017] UKSC 10*, which required:
  - that, in circumstances where refusal of the application could otherwise breach ECHR Article 8, we take into account other credible and reliable sources of earnings or finance available to a couple in considering whether they meet the minimum income requirement under Appendix FM; and
  - that Appendix FM give “direct effect” to the Secretary of State’s existing duties under section 55 of the Borders, Citizenship and Immigration Act 2009 and Article 3 of UN Convention on the Rights of the Child, to take into account, as a primary consideration, the best interests of a child affected by an immigration decision;

and

- The Supreme Court judgment in *Agyarko & Ikuga v SSHD [2017] UKSC 11*, which upheld the Secretary of State’s approach in applying a test of “unjustifiably harsh consequences” for the applicant or their family in deciding (in a case falling for refusal under the Immigration Rules) whether exceptional circumstances existed such that refusal of leave would constitute a breach of Article 8;

and

- The Secretary of State’s wish to streamline decision-making, particularly in relation to entry clearance, in cases which may raise exceptional circumstances requiring leave to be granted on Article 8 grounds:

**the Statement of Changes in Immigration Rules HC 290, which came into effect on 10 August 2017, restructured Appendix FM such that it now provides a complete framework for our Article 8 decision-making in cases decided under it.**

Appendix FM, supported by Appendix FM-SE (specified evidence) and Part 9 (for the relevant general grounds for refusal), now incorporates, in accordance with the criteria the Supreme Court has upheld, all aspects of our Article 8 decision-making in family cases falling to be decided under it. In particular, under HC 290, implemented on 10 August 2017 for all applications decided from that date:

- Where:
  - an application for entry clearance or limited leave to remain as a partner or child under Appendix FM does not otherwise meet the minimum income requirement, as specified in Appendix FM and, in respect of the evidential and other requirements, in Appendix FM-SE; but

- refusal of the application **could result in unjustifiably harsh consequences for the applicant, their partner or a relevant child**, (taking into account, as a primary consideration, the **best interests of any relevant child** affected by the decision),

then the decision maker will consider other credible and reliable sources of income, financial support or funds available to the couple in order to assess whether the minimum income requirement under Appendix FM is met. This provision is made by paragraphs GEN.3.1. and GEN.3.3. of Appendix FM, inserted by HC 290.

- Those other credible and reliable sources of income, financial support or funds (such as a guarantee of third party support or the migrant partner's prospective earnings) **must** enable the minimum income requirement to be met, in order for entry clearance or limited leave to remain to be granted on this basis. Where it is met, this will be granted under the 10-year partner route to ILR under Appendix FM, with scope for the applicant to apply in-country to switch to start the 5-year route if they subsequently meet the requirements for this.
- Paragraph 21A of Appendix FM-SE, inserted by HC 290, sets out **objective criteria by which decision makers will assess the genuineness, credibility and reliability of other sources of income, financial support or funds**. Each case will be considered on its merits, in the light of all the information and evidence provided by the applicant. But, generally speaking, the more these criteria are met, the more likely it is that the decision maker will be satisfied as to the genuineness, credibility and reliability of the other source(s) of income, financial support or funds and count it towards meeting the minimum income requirement.
- Those Appendix FM cases which would previously have fallen for consideration outside the Immigration Rules on Article 8 grounds – subject to the test of whether there were exceptional circumstances which meant refusal **would result in unjustifiably harsh consequences for the applicant or their family** – will now fall to be considered, against the same test, under Appendix FM: that is, within the Immigration Rules. As before, in conducting this assessment the decision maker must take into account, as a primary consideration, the **best interests of any relevant child** affected by the decision. This provision is made by paragraphs GEN.3.2. and GEN.3.3. of Appendix FM, inserted by HC 290.
- Where an applicant is successful on this basis, entry clearance or limited leave to remain will be granted on the 10-year partner or parent route to ILR under Appendix FM, with scope for the applicant to apply in-country to switch to start the 5-year route if they subsequently meet the requirements for this.
- These new provisions enable Entry Clearance Officers to conduct full Article 8 considerations under Appendix FM, removing the need to refer those entry clearance cases that potentially raise exceptional circumstances (requiring leave to be granted on Article 8 grounds) to the Referred Casework Unit.

## 13.2. Overview

These changes in the Immigration Rules have two key implications for Entry Clearance Officers and caseworkers deciding applications under Appendix FM.

**First, where an application for entry clearance or limited leave to remain as a partner or child under Appendix FM does not otherwise meet the minimum income requirement applicable under paragraph E-ECP.3.1., E-ECC.2.1., E-LTRP.3.1. or E-LTRC.2.1.:**

Then, under paragraphs GEN.3.1. and GEN.3.3. of Appendix FM, the decision maker must consider whether refusal of the application could breach ECHR Article 8 because it **could** result in unjustifiably harsh consequences for the applicant, their partner or a relevant child. **In conducting this assessment, the decision maker must have regard to all of the information and evidence provided by the applicant. The decision maker must take into account, as a primary consideration, the best interests of any relevant child.**

Section 13.6, below, provides guidance on considering the best interests of any relevant child.

Sections 13.4 and 13.5, below, provide guidance on considering whether, taking into account the best interests of any relevant child as a primary consideration, refusal could result in unjustifiably harsh consequences for the applicant, their partner or a relevant child.

**Where, under paragraph GEN.3.1. of Appendix FM, the decision maker considers that refusal could breach ECHR Article 8 because it could result in unjustifiably harsh consequences for the applicant, their partner or a relevant child, they must give the applicant an opportunity to show whether the minimum income requirement can be met through any other credible and reliable source(s) of income, financial support or funds available to the couple.**

If the applicant has not already done so, the decision maker must contact the applicant (or their legal representative) in writing giving them 21 days in which to provide information and evidence in writing of any other credible and reliable source(s) of income, financial support or funds available to the couple which enables the minimum income requirement to be met. This can be in addition to, or in place of, the income or funds on which the application relied.

Section 10 of the IDI on Appendix FM 1.7: financial requirement provides guidance on the application of paragraph 21A of Appendix FM-SE, which sets out objective criteria by which the decision maker will assess the genuineness, credibility and reliability of other sources of income, financial support or funds.

**Second, where an application for entry clearance or limited leave to remain under Appendix FM does not otherwise meet the requirements of that Appendix or Part 9 of the Rules:**

Then, under paragraphs GEN.3.2. and GEN.3.3. of Appendix FM, the decision maker must consider 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. **In conducting this assessment, the decision maker must have regard to all of the information and evidence provided by the applicant. The decision maker must take into account, as a primary consideration, the best interests of any relevant child.**

Section 13.6, below, provides guidance on considering the best interests of any relevant child.

Sections 13.4 and 13.5, below, provide guidance on considering whether, taking account of the best interests of any relevant child as a primary consideration, there are exceptional circumstances which would render refusal of entry clearance a breach of ECHR Article 8 because it would result in unjustifiably harsh consequences for the applicant or their family.

**Where, under paragraph GEN.3.2. of Appendix FM, the decision maker considers that refusal would result in unjustifiably harsh consequences for the applicant or their family, they must grant entry clearance or limited leave to remain.**

### 13.3. Definitions

**“Exceptional circumstances”** means circumstances which could or would render refusal of entry clearance or limited leave to remain a breach of ECHR Article 8 (the right to respect for private and family life), because refusal could or would result in unjustifiably harsh consequences for the applicant, their partner or a relevant child, or would result in unjustifiably harsh consequences for another family member whose Article 8 rights it is evident from the application would be affected by a refusal.

“Exceptional” does not mean “unusual” or “unique”. Whilst all cases are to some extent unique, those unique factors do not generally render them exceptional. For example, a case is not exceptional just because the criteria set out in the Immigration Rules have been missed by a small margin.

Instead, “exceptional” means circumstances in which refusal of the application could or would result in unjustifiably harsh consequences for the individual or their family such that refusal would not be proportionate under Article 8.

“Unjustifiably harsh consequences” are ones which involve a harsh outcome(s) for the applicant or their family which is not justified by the public interest, including in maintaining effective immigration controls, preventing burdens on the taxpayer, promoting integration and protecting the public and the rights and freedoms of others.

This involves consideration of whether refusal would be proportionate, taking into account all the facts of the case and, as a primary consideration, the best interests of any relevant child. The case-law makes clear that where the applicant does not meet the requirements of the Rules, and has established their family life in “precarious” circumstances (e.g. when they have limited leave to enter or remain in the UK), something “very compelling” is required to outweigh the public interest in refusal. Likewise, where family life is formed or exists with a person outside the UK who has no right to enter the UK and does not meet the requirements of the Rules for entry clearance, Article 8 does not require that they be granted entry, in the absence of such exceptional circumstances.

A **“relevant child”** means 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 would be affected by a decision to refuse the application.

### 13.4. “Exceptional circumstances” and “unjustifiably harsh consequences”

Applicants for entry clearance or limited leave to remain as a partner under the 5-year route are generally required to demonstrate that they meet the minimum income requirement under Appendix FM with reference to the specified forms and evidence of income or cash savings under Appendix FM-SE (excluding paragraph 21A). The level of the minimum income

requirement set, and the general requirement to demonstrate compliance with it in accordance with Appendix FM-SE (excluding paragraph 21A), was upheld by the Supreme Court in MM (Lebanon).

However, in some (likely to be unusual) cases, applicants will be permitted to demonstrate that they meet the minimum income requirement with reference to other credible and reliable sources of income, financial support or funds.

Paragraph GEN.3.1. of Appendix FM sets out the threshold test to be met before it is necessary for the decision maker to consider such other sources. The decision maker will ask whether the refusal of the application could breach ECHR Article 8, because it **could result in unjustifiably harsh consequences** for the applicant, their partner or a relevant child (taking into account, as a primary consideration, the best interests of that child).

This is a high threshold. After all, it is only in exceptional circumstances that Article 8 requires entry to or leave to remain in the UK to be granted when a person does not otherwise meet the requirements of the Immigration Rules.

However, the threshold to be met before it is necessary to consider other credible and reliable sources of income, financial support or funds under the minimum income requirement is not as high as the ultimate test, under paragraph GEN.3.2. of Appendix FM, of whether refusal of the application would be disproportionate under Article 8 because it **would result in unjustifiably harsh consequences** for the applicant or their family, taking account, as a primary consideration, of the best interests of any relevant child. Where this test is met, entry clearance or leave to remain has to be granted in any event, regardless of whether the minimum income requirement (or indeed any other requirement of the Rules) is met.

The Immigration Rules in Appendix FM and Part 9 reflect the weight to be given to the Article 8 “public interest considerations”, as expressed by Parliament in primary legislation (in Part 5A of the Nationality, Immigration and Asylum Act 2002). These include, in particular, the public interest in maintaining effective immigration controls, in preventing burdens on the taxpayer and promoting integration through migrants being financially independent and able to speak English, and in protecting the public and the rights and freedoms of others.

The relevant Rules therefore reflect the position of the Secretary of State, approved by Parliament, as to proportionality under Article 8 in cases decided under Appendix FM. In so doing, they provide the basis for a clear, consistent and transparent decision-making process. This means that a decision made in accordance with those Rules – including following consideration under paragraph GEN.3.1. or GEN.3.2. of Appendix FM, where relevant – should be proportionate under ECHR Article 8.

The decision maker must consider all the circumstances relating to the applicant and their family, based on the information and evidence provided by the applicant.

In the entry clearance context, a key question in the assessment, taking into account as a primary consideration the best interests of any relevant child, will be: why can't the UK partner go or remain overseas to continue or maintain their family life with the applicant? Alternatively, is it proportionate to expect the family to separate or for existing separation to be maintained?

If that approach:

- **Could** result in unjustifiably harsh consequences for the applicant, their partner or a relevant child – taking account of the particular circumstances of the case, the best



interests of any relevant child as a primary consideration, and the due weight to be given to the public interest – then, where the minimum income requirement is not otherwise met, the applicant must be given an opportunity to show whether that requirement can be met through any other credible and reliable source(s) of income, financial support or funds available to the couple.

- **Would** result in unjustifiably harsh consequences for the applicant or their family – taking account of the particular circumstances of the case, the best interests of any relevant child as a primary consideration and the due weight to be given to the public interest – then entry clearance or limited leave to remain must be granted on Article 8 grounds, where the requirements of the relevant Immigration Rules are not otherwise met.

Exceptional circumstances on the basis of Article 8 can only be established where Article 8 is engaged. Article 8 is not usually engaged where the relationship relied upon is one between adult family members (other than partners), such as parents and their adult children, or adult siblings; or between wider family members, such as grandparents and grandchildren or aunts/uncles and nephews/nieces. There may be exceptions to this general rule in cases of unusual or exceptional dependency.

### 13.5. Relevant factors

The particular circumstances of each case must be considered in the light of all the information and evidence provided by the applicant. In determining whether there are exceptional circumstances which mean that refusal of the application could or would result in unjustifiably harsh consequences, the decision maker must consider **all relevant factors** raised by the applicant, and weigh them against the public interest under Article 8. In so doing, the best interests of any relevant child must be a primary consideration.

Relevant factors include:

- The best interests of a relevant child.** See section 13.6, below, for further guidance.
- Ability to lawfully remain in or enter another country.** In respect of an entry clearance application, the decision maker should consider the ability of the members of the family unit (both the applicant and others) to lawfully remain in or enter another country. The onus is on the applicant to show that it is not feasible for the family to remain in or enter another country. 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 or resuming overseas. In turn, that may mean that refusal of entry clearance will result in unjustifiably harsh consequences. The decision maker may consider relevant country information (but may not seek to go behind any decision to grant refugee status).
- The nature and extent of the family relationships involved**, including such matters as:
  - the evidence that the couple have a genuine family life together, including the length of the cohabitation of partners who are not married or in a civil partnership;
  - if the relationship is between adult family members or wider family members, evidence of an unusual or exceptional level of dependency such that Article 8 is engaged;
  - how frequently the applicant currently has direct contact with their child if they do not live with them;

- any evidence that the applicant has sole parental responsibility for a child of a previous relationship who lives with them, or that the other parent of that child has consented to the child's relocation to the UK with the applicant and that this is in the child's best interests. As outlined in section 9.2.4. of 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 the following in particular:

- has evidence been provided 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?
- has evidence been provided that 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?
- has evidence been provided that the applicant parent has exclusive responsibility for:
  - making decisions regarding the child's education, health and medical treatment, religion, residence, holidays and recreation?
  - protecting the child and providing them with appropriate direction and guidance?
  - the child's property?
  - 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.

**d. Where relevant, the circumstances giving rise to the applicant being separated from their partner and or/child in the UK, such as:**

- whether the family have previously lived together overseas;
- any reasons why that situation could not continue or now resume;
- whether the couple chose to commence their family life together whilst living in separate countries, or while one of them was temporarily in another country, therefore knowing that they would have to meet the immigration requirements of one country or another in order to live together;



- whether a clear pattern of life has been entered into by the couple – of maintaining a separate lifestyle in two countries – which has become undesirable, rather than unjustifiably harsh (perhaps solely through a change in economic circumstances); and
- whether there are any reasons why the partner and/or child in the UK cannot join or rejoin the applicant overseas. Would it be unjustifiably harsh for them to do so? Would it be unjustifiably harsh to expect the family to continue to live apart?

Decision makers will note that the fact that refusal may, for example, result in the continued separation of family members does not of itself constitute exceptional circumstances or unjustifiably harsh consequences, particularly where the family have chosen to commence or continue their relationships in separate countries.

- e. **The likely impact on the applicant, their partner and/or child if the application is refused.** The impact on each family member raised in the application must be considered, as well as on the family unit as a whole.
- f. **Serious cultural barriers to relocation overseas.** This might be relevant in situations where a person 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 and guidance](#) 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 in which they would be required to continue or resume living is not in itself an obstacle to family life continuing or resuming overseas.

- g. **The impact of a mental or physical disability or of a serious illness which requires ongoing medical treatment.** Living in or 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 continue or resume living. As such, in the absence of a third country alternative, it could amount to an obstacle to family life continuing or resuming overseas, such that refusal of entry clearance would result in unjustifiably harsh consequences.
- h. **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 either continue or to commence living there may give rise to very serious hardship that renders

refusal unjustifiably harsh. 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 and guidance](#) in relation to the country or countries in which the applicant and their family do or could lawfully reside.

- i. **The immigration status of the applicant and their family members.** The decision maker should take into account the circumstances around the applicant's entry to and stay in the UK and the proportion of the time they have been in the UK legally as opposed to illegally. Did they form their relationship with their partner at a time when they were in the UK unlawfully? Family life formed in the knowledge that a person's stay here is unlawful should be given less weight (when weighed against the public interest in their removal) than family life formed by a person lawfully present in the UK. Is the applicant in the UK as a visitor, meaning that they have undertaken to leave the UK at the end of their visit as a condition of their visit visa or leave to enter?
- j. **Whether there are any factors which might increase the public interest in refusal,** for example where the applicant has failed to meet the suitability requirements because of criminality, deception or issues around their character or conduct; or where the applicant does not speak English or is not financially independent meaning that they are less likely to be able to integrate and more likely to be a burden on the taxpayer.
- k. **Cumulative factors should be considered.** Cumulative factors weighing in favour of the applicant should be balanced against cumulative factors weighing in the public interest in deciding whether refusal would be unjustifiably harsh for the applicant or a relevant family member.

The decision maker must have regard to the individual circumstances of the applicant, their partner and any relevant child, based on all the information and evidence which has been provided.

Where the applicant's partner is in the UK, the question of whether refusal of entry clearance could or would result in unjustifiably harsh consequences requires a very stringent assessment. 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 unjustifiably harsh consequence in this context. ECHR Article 8 does not oblige the UK to accept the choice of a couple as to which country they would prefer to reside in.

The assessment of whether family life can continue or resume overseas will generally be considered with reference to the country in which the applicant is resident (or of which they are a national), unless there is information to suggest that the applicant or their partner might have a choice about where they choose to live overseas, such as where one or both of them has a right to reside in a country other than the country in which the applicant is resident, or where one or both of them has more than one nationality. In that case the decision maker should consider whether there are obstacles to family life continuing or resuming in any of the relevant countries (such that refusal is likely to result in unjustifiably harsh consequences).

Examples of circumstances in which "unjustifiably harsh consequences" are **not** likely to arise include:

- a. **Lack of knowledge of a language spoken in the country in which the family would be required to continue or resume living.** It is reasonable to assume that the family have a language in which they can communicate together. Therefore, it is possible for family life to continue or resume outside the UK, whether or not the partner chooses to also learn a language spoken in the country in which the family would be required to continue or resume living. Although inability to speak the language of that country may cause difficulties for the partner, it is very unlikely to amount to unjustifiably harsh consequences: many people successfully move to a country where, at first, they do not speak the language.
- b. **Being separated from extended family members**, such as where the parents or siblings of the applicant or their partner live in the UK, unless there are particular factors in the case to establish the unusual or exceptional dependency required for Article 8 to be engaged.
- c. **A material change in the quality of life for the family in the country in which they would be required to continue or resume living**, such as the type of accommodation they would live in, or a reduction in their income or standard of living, unless this would lead to particular hardship or there were particular exceptional factors in the case.

Examples of circumstances in which the refusal of the application might result in “unjustifiably harsh consequences” might include:

- a. **The applicant and their partner have a child in the UK with serious mental health or learning difficulties**, and independent medical evidence establishes that good treatment and learning support are in place for the child here which would not be available in the country where the applicant resides.
- b. **The applicant’s partner has a genuine and subsisting parental relationship with a child in the UK** of a former relationship, is taking an active role in the child’s upbringing, and the particular circumstances of the case mean that (taking into account the child’s best interests as a primary consideration) it would be unjustifiably harsh to expect the child to relocate overseas with the applicant’s partner, or for the applicant’s partner to do so without the child. However, if the applicant’s partner had established their family life with the applicant in the knowledge that the applicant could not meet the requirements for entry clearance to the UK, then it might be reasonable to expect the applicant’s partner to choose between maintaining their family life overseas with the applicant and retaining their family life in the UK with the child of their former relationship. The best interests of the child must be a primary consideration, but that does not confer an unqualified right on the applicant’s partner to be joined in or accompanied to the UK by the applicant.

## 13.6. The best interests of a relevant child

Where making any decision which may affect the welfare of a child, but in particular where considering:

- Under paragraph GEN.3.1. of Appendix FM, whether refusal of an application for entry clearance or leave to remain as a partner or child which does not meet the minimum income requirement could result in unjustifiably harsh consequences for the applicant, their partner or a relevant child; or
- Under paragraph GEN.3.2. of Appendix FM, whether refusal of an application for entry clearance or leave to remain under Appendix FM – which does not otherwise meet the requirements of that Appendix or Part 9 (general grounds for refusal) – would result in unjustifiably harsh consequences for the applicant or their family,

the decision maker must take into account, as a primary consideration, the best interests of any “relevant child”.

As described in section 13.3, above, a “relevant child” is a child in the UK or overseas, who is under the age of 18 years at the date of application, and who it is evident from the information provided by the applicant would be affected by a decision to refuse the application.

The changes to the Immigration Rules in HC 290 and their specific references to the best interests of children do not change the substance of the consideration which section 55 of the 2009 Act has always required (and continues to require). However, together with this guidance, those provisions seek to underline that existing obligation.

The Supreme Court determined, in *ZH (Tanzania) [2011] UKSC 4*, that the “best interests of the child” broadly means their well-being and that in undertaking a proportionality assessment under Article 8 those best interests must be a primary consideration. However, they are not necessarily determinative, and they can be outweighed by public interest considerations. The Court also noted that while British Citizenship is not a “trump card”, it is of particular importance in assessing the best interests of a child.

In *FZ (Congo) [2013] UKSC 74*, the Supreme Court said:

“...The best interests of a child are an integral part of the proportionality assessment under Article 8 of the Convention; in making that assessment, the best interests of a child must be a primary consideration, although not always the only primary consideration; and the child’s best interests do not of themselves have the status of paramount consideration...”

### **How to consider the best interests of a relevant child**

In considering the best interests of a relevant child as a primary consideration within the Article 8 decision-making process, what matters is the substance of the attention given to the overall well-being of the child. That must be given distinct consideration, not simply regarded as an adjunct of the family life of their parent(s).

It is also essential that the child is not blamed for any failure by their parent(s) to comply with UK immigration controls. The immigration history of their non-British Citizen parent(s) is relevant to the public interest analysis, and must be given due weight in determining the overall proportionality of the decision under ECHR Article 8, but it does not affect the assessment of the child’s best interests or the need for those best interests to be taken into account as a primary consideration in the Article 8 decision.

The assessment of a child’s best interests requires a holistic consideration of all relevant factors in the particular case. The following is a non-exhaustive list of factors which are likely to be relevant. However, other factors may also be relevant in individual cases.

### **Factors relevant to the consideration of a child’s best interests will include:**

- the age of the child at the date of application;
- the child’s nationality, with particular importance to be accorded to British Citizenship where the child has this;

- the child's current country of residence and length of residence there;
- the family circumstances in which the child is living;
- the physical circumstances in which the child is living;
- the child's relationships with their parent(s) overseas and in the UK;
- how long the child has been in education and what stage their education has reached;
- the child's health;
- the child's connection with the country outside the UK in which their parents are, or one of their parents is, currently living or where the child is likely to live if their parents leave the UK; and
- the extent to which the decision will interfere with the child's family or private life.

**Where the child is resident overseas, additional relevant factors will include:**

- the reasons for the child being overseas;
- where the child is a child of a previous relationship of the applicant or their partner: whether it has been shown that the applicant or their partner has sole parental responsibility for the child, or that the child's other parent has consented to the child's relocation to the UK and that this is in the child's best interests;
- whether the child has siblings under the age of 18 overseas or in the UK, and their age and nationality;
- whether the child or those siblings were born in the UK; and
- whether the child has previously visited or lived in the UK.

**Where the child is resident in the UK, additional relevant factors will include:**

- how renewable the child's connection is with the country outside the UK in which their parents are, or one of their parents is, currently living;
- whether (and, if so, to what extent) the child will have linguistic, medical or other difficulties in adapting to life in that country;
- whether there are any factors affecting the child's well-being which can only be alleviated by the presence of the applicant in the UK; and
- what effective and material contribution the applicant's presence in the UK would make to safeguarding and promoting the child's well-being. Is this significant in nature? For example:
  - support during or following a major medical procedure, especially if this is likely to lead to a permanent change in the child's life.

- where there is no other family member in the UK able to care for the child and the applicant's presence in the UK will form part of achieving a durable solution for the child that is in their best interests.

Support for the child in the UK during exams is unlikely to be sufficient, unless there are additional factors in the child's circumstances requiring a clear contribution and support from the applicant and any plans of the other family member(s) in the UK that were in place to provide this cannot now be met.

The child's best interests, taken into account as a primary consideration, must constitute substantive and compelling factors for entry clearance to be granted following consideration under paragraphs GEN.3.2. and GEN.3.3. of Appendix FM, where the requirements of the Immigration Rules are not otherwise met. This will be particularly so where the applicant and their partner have chosen to commence or continue their relationship in separate countries.

The decision maker must take into account any order made by the Family Court in the UK, but this is not determinative of the immigration decision. Family orders, such as contact, care, ward of the court and residence orders, do not limit the exercise of the Secretary of State's powers with respect to immigration control. The decision maker does not have to grant leave because of such an order, but any order of this type is a relevant and important consideration to take into account in assessing the best interests of the child.



## 14. Compassionate Factors

**This section applies to entry clearance and leave to remain applications.**

Where an application for entry clearance or leave to remain as a partner or parent under Appendix FM does not meet the requirements of the Immigration Rules, the decision maker must consider whether the application raises compelling compassionate factors which mean that the Home Office should consider granting entry clearance or leave to remain outside the Rules.

Compelling compassionate factors are, broadly speaking, exceptional circumstances which mean that a refusal of entry clearance or leave to remain would result in unjustifiably harsh consequences for the applicant or their family, but which do not render refusal a breach of Article 8. An example might be where an applicant or relevant family member is suffering from serious ill-health, but which does not in itself render refusal a breach of ECHR Article 3 or Article 8.

Where an Entry Clearance Officer considers that an application for entry clearance raises compelling compassionate factors, they must refer the application to the Referred Casework Unit (RCU) in London for consideration. Borderline cases should be referred.

In making a referral to RCU, the Entry Clearance Officer must include all the relevant information and evidence available to them and a recommendation and their reasons for this.

Where an application for entry clearance or leave to remain as a partner or parent under Appendix FM is granted entry clearance or leave to remain outside the Immigration Rules on the basis of compelling compassionate factors, the period of entry clearance or leave to remain granted must reflect the individual circumstances of the application.



## 15. Partner and Parent Refusal Paragraphs

**This section applies to entry clearance and leave to remain applications.**

### 15.1. Entry clearance

The refusal notice should state:

Partners:

“On [\[enter date\]](#) you made an application for entry clearance to the UK under Appendix FM to the Immigration Rules on the basis of your family life with your partner [\[enter partner’s name\]](#) [\[and child\(ren\) – list name\(s\) of children if necessary\]](#).”

Your application has been considered under those Rules, and with reference to Article 8 of the European Convention on Human Rights (ECHR). The relevant Immigration Rules can be viewed on gov.uk here: [Immigration Rules - Guidance - GOV.UK](#).

This decision takes into account as a primary consideration the best interests of any relevant child in line with section 55 of the Borders, Citizenship and Immigration Act 2009.

We have considered your application under paragraph EC-P.1.1. of Appendix FM. However, you do not qualify for entry clearance under the 5-year partner route for the following reasons:”

Parents:

“On [\[enter date\]](#) you made an application for entry clearance to the UK under Appendix FM to the Immigration Rules on the basis of your family life with your child [\[enter child’s name\]](#) [\[and child\(ren\) – list names of any other child\(ren\) where necessary\]](#).”

Your application has been considered under those Rules, and with reference to Article 8 of the European Convention on Human Rights (ECHR). The relevant Immigration Rules can be viewed on gov.uk here: [Immigration Rules - Guidance - GOV.UK](#).

This decision takes into account as a primary consideration the best interests of any relevant child in line with section 55 of the Borders, Citizenship and Immigration Act 2009.

We have considered your application under paragraph EC-PT.1.1. of Appendix FM. However, you do not qualify for entry clearance under the 5-year parent route for the following reasons:”

The refusal notice should go on to state where the applicant has failed to meet the requirements of the Immigration Rules under the 5-year route, using (where possible) the paragraphs in [Annex A](#) of this guidance, and then include reference to exceptional circumstances under the 10-year route using one of the paragraphs in [Annex B](#) and appropriate paragraphs with reference to rights of appeal.

Closing paragraph:

Partners:

“In light of the above, your application is refused under paragraph D-ECP.1.3. of Appendix FM with reference to paragraph EC-P.1.1.(a), (b), (c) and (d) and you do not qualify for entry clearance on the 5-year partner route, or on the 10-year partner route on the basis of exceptional circumstances, under Appendix FM.”

Parents:

“In light of the above, your application is refused under paragraph D-ECPT.1.3. of Appendix FM with reference to paragraph EC-PT.1.1.(a), (b), (c) and (d) and you do not qualify for entry clearance on the 5-year parent route, or on the 10-year parent route on the basis of exceptional circumstances, under Appendix FM.”

Where compassionate factors were raised and considered, the refusal notice should also include:

“You do not fall for a grant of entry clearance outside the Immigration Rules on the basis of compassionate factors for the following reasons:”

## 15.2. Leave to remain

The refusal notice should state:

Partners:

“On [insert date] you made an application for leave to remain in the UK under Appendix FM to the Immigration Rules on the basis of your family life with your partner [insert name] [and child(ren) [list name(s)]].

Your application has been considered under those Rules, with reference to Article 8 of the European Convention on Human Rights (ECHR). The relevant Immigration Rules can be viewed on gov.uk here: [Immigration Rules - Guidance - GOV.UK](#).

This decision takes into account as a primary consideration the best interests of any relevant child in line with the Secretary of State’s duty under section 55 of the Borders, Citizenship and Immigration Act 2009.”

Parents:

“On [insert date] you made an application for leave to remain in the UK under Appendix FM to the Immigration Rules on the basis of your family life with your child [insert name(s)].

Your application has been considered under those Rules, with reference to Article 8 of the European Convention on Human Rights (ECHR). The relevant Immigration Rules can be viewed on gov.uk here: [Immigration Rules - Guidance - GOV.UK](#).

This decision takes into account as a primary consideration the best interests of any relevant child in line with the Secretary of State's duty under section 55 of the Borders, Citizenship and Immigration Act 2009."

The refusal notice should go on to state where the applicant has failed to meet the requirements of the Immigration Rules under the 5-year route, using (where possible) the paragraphs in [Annex A](#) of this guidance, and then include reference to exceptional circumstances under the 10-year route (see [Annex A of the 10-year routes guidance](#)) and appropriate paragraphs with reference to rights of appeal.

Closing paragraph:

Partners:

"In light of the above, your application is refused under paragraph D-LTRP.1.3. with reference to paragraph R-LTRP.1.1.(a), (b), (c)(i) and (ii), and (d)(i), (ii) and (iii) of Appendix FM, and under paragraph 276CE with reference to paragraph 276ADE(1)(i), (iii), (iv), (v) and (vi) of the Immigration Rules. Accordingly, you do not qualify for leave to remain under the 5-year or 10-year partner routes of Appendix FM, or the 10-year private life route of Part 7 of the Immigration Rules."

Parents:

"In light of the above, your application is refused under paragraph D-LTRPT.1.3. with reference to paragraph R-LTRPT.1.1.(a), (b), (c)(i) and (ii), and (d)(i), (ii) and (iii) of Appendix FM, and under paragraph 276CE with reference to paragraph 276ADE(1)(i), (iii), (iv), (v), and (vi) of the Immigration Rules. Accordingly, you do not qualify for leave under the 5-year or 10-year parent routes of Appendix FM, or the 10-year private life route of Part 7 of the Immigration Rules."

## 16. Indefinite Leave to Remain as a Bereaved Partner

**This section applies to indefinite leave to remain applications only.**

### 16.1. General

Section BPILR of Appendix FM makes provision for a partner of a British Citizen or a person settled in the UK who is bereaved during the probationary period to be granted indefinite leave to remain in the UK, **provided that** the relationship was subsisting and that they intended to live together permanently in the UK at the time of the death of the applicant's partner.

These rules do **not** apply for example to a person whose partner:

- (i) was not a British Citizen or a person settled in the UK;
- (ii) had limited leave as a migrant under the Points Based System;
- (iii) was their fiancé(e) or proposed civil partner; or
- (iv) was a European Economic Area national exercising Treaty rights in the UK.

### 16.2. Requirements for indefinite leave to remain as a bereaved partner

Section BPILR.1.1. sets out the requirements to be met for indefinite leave to remain as a bereaved partner. These are that:

- (a) the applicant must be in the UK;
- (b) the applicant must have made a valid application for indefinite leave to remain as a bereaved partner;
- (c) the applicant must not fall for refusal under any of the grounds in Section S-ILR: Suitability – indefinite leave to remain; and
- (d) the applicant must meet all of the requirements of Section E-BPILR: Eligibility for indefinite leave to remain as a bereaved partner.

### 16.3. Suitability requirements

The applicant must meet all of the suitability requirements of paragraphs S-ILR.1.2. to 3.1. to be granted indefinite leave to remain as a bereaved partner. Where the applicant is able to meet all the suitability requirements other than S-ILR.1.5. or S-ILR.1.6., they can be considered for limited leave to remain.

### 16.4. Eligibility requirements

To meet the eligibility requirements for indefinite leave to remain as a bereaved partner, all the requirements in paragraphs E-BPILR.1.2.to 1.4. must be met.

For further guidance on “genuine and subsisting” see [section 8.1.6.](#) of this guidance.

For further guidance on “intention to live together permanently in the UK” see [section 8.1.10](#) of this guidance.

In most cases, provided the eligibility requirements for indefinite leave to remain as a bereaved partner are met, it will be appropriate to grant indefinite leave to remain on sight of the partner's death certificate and without further enquiry. It will not normally be appropriate to make detailed enquiries as to the subsistence of the marriage, civil partnership or relationship unless there are doubts about this. In case of doubt, e.g. where doubts were expressed when the initial period of leave to remain was granted or where allegations have since been made about the genuine and subsisting nature of the relationship, it may be appropriate to refuse the application. However it must be borne in mind that the burden of proof on the Secretary of State will be very high, in view of the fact that the applicant is no longer in a position to prove the subsistence of the relationship.

The decision maker should remember that bereaved applicants may be in some distress and any necessary enquiries should be made with care and tact.

## 16.5. Timeliness of applications

The rules relating to indefinite leave to remain for bereaved partners are intended to benefit only those applicants whose partner has died **at any point** during the qualifying period of limited leave as a partner and who make their application whilst they still have entry clearance or leave to remain as a partner in the UK.

The Rules should also be applied to cases where the applicant's partner dies after an application for indefinite leave to remain has been submitted but before a decision has been reached.

## 16.6. Out-of-time applications

An applicant for indefinite leave to remain as a bereaved partner does not need to comply with the requirement not to have overstayed, provided that the circumstances of any period of overstaying relate to a period of bereavement and where compassionate considerations therefore apply.

## 16.7. Granting indefinite leave to remain as a bereaved partner

If the applicant meets all of the requirements for indefinite leave to remain as a bereaved partner under paragraph BPILR.1.1. the applicant will be granted indefinite leave to remain under paragraph D-BPILR.1.1.

If the applicant does not meet the requirements for indefinite leave to remain as a bereaved partner only because paragraph S-ILR.1.5. or S-ILR.1.6. is not met, the applicant will be granted further limited leave to remain for a period not exceeding 30 months under paragraph D-BPILR.1.2. and subject to a condition of no recourse to public funds.

If granted further limited leave to remain under paragraph D-BPILR.1.2., the applicant should be informed that they will be eligible to make a further charged application for indefinite leave to remain at any time within the 30-month period if they are then able to meet paragraph S-ILR.1.5. or S-ILR.1.6. Otherwise, they should make their next application no more than 28 days before their extant leave is due to expire.

A bereaved partner may not wish to settle in the UK, but prefer to return to their country of origin. In such a case an applicant may be granted further leave to remain for 6 months, subject

to the same conditions as their last grant of limited leave, to give them time to sort out their affairs.

## 16.8. Refusing indefinite leave to remain as a bereaved partner

Under paragraph D-BPILR.1.3., if the applicant does not meet the requirements for indefinite leave to remain or further leave to remain as a bereaved partner under D-BPILR.1.2., their application will be refused.

### 16.8.1. Bereaved partner refusal paragraphs

The refusal letter should state:

"You have applied for indefinite leave to remain in the UK as a bereaved partner of **[insert name]**";

go on to state where the applicant has failed to meet the requirements of the Immigration Rules using (where possible) the paragraphs in [Annex C](#):

"For these reasons your application for indefinite leave to remain in the UK as a bereaved partner is refused under paragraph D-BPILR.1.3. of Appendix FM to the Immigration Rules";

followed by appropriate closing paragraphs with reference to administrative review.

## 17. Indefinite Leave to Remain as a Victim of Domestic Violence

**This section applies to indefinite leave to remain applications only.**

This guidance does not include the consideration of applications from the victims of domestic violence. Guidance on these applications can be found at:

[Victims of Domestic Violence](#) (internal)

[Victims of Domestic Violence](#) (external).



## 18. Entry Clearance Visa Endorsements and Case Information Database (CID) Codes

### 18.1. Entry clearance endorsements

Where an applicant is granted entry clearance under Appendix FM, they are issued with a vignette (visa sticker in their passport), which is used to travel to the UK and is valid for 30 days. The endorsement on the vignette indicates the basis on which they have been granted entry clearance under the Rules and identifies the route they are being granted on (5-year or 10-year route). The endorsement also indicates when they are likely to be able to apply for settlement (assuming they continue to meet the relevant requirements and make the necessary applications for leave to remain). This is explained to the applicant in an accompanying letter that must be presented to an Immigration Officer on arrival in the UK.

#### 18.1.1. Partner Appendix FM EC-P

Where the applicant is being granted entry clearance as a partner on a 5-year route under paragraph D-ECP.1.1., the endorsement on the vignette includes the phrase:

- (Standard)

Where the applicant is being granted entry clearance as a partner on a 10-year route under paragraph D-ECP.1.2. because, following consideration under paragraph GEN.3.1., the minimum income requirement is met on the basis for which that paragraph provides, the endorsement on the vignette includes the phrase:

- (Non-Standard 1)

Where the applicant is being granted entry clearance as a partner on a 10-year route under paragraph D-ECP.1.2. because, following consideration under paragraph GEN.3.2., the decision-maker has decided that there are exceptional circumstances that would render refusal a breach of Article 8, the endorsement on the vignette includes the phrase:

- (Non-Standard 2)

#### 18.1.2. Child Appendix FM EC-C

Where the applicant is being granted entry clearance as a child on a 5-year route under paragraph D-ECC.1.1., the endorsement on the vignette includes the phrase:

- (Standard)

Where the applicant is being granted entry clearance under paragraph D-ECC.1.2. as a dependent child of a person who is being granted or has been granted entry clearance as a partner on a 10-year route because, following consideration under paragraph GEN.3.1., the minimum income requirement is met on the basis for which that paragraph provides, the endorsement on the vignette includes the phrase:

- (Non-Standard 1)

Where the applicant is being granted entry clearance under paragraph D-ECC.1.2. as a dependent child of a person who is being or has been granted entry clearance on a 10-year route because, following consideration under paragraph GEN.3.2., the decision-maker has decided that there are exceptional circumstances that would render refusal a breach of Article 8, the endorsement on the vignette includes the phrase:

- (Non-Standard 2)

### 18.1.3. Parent Appendix FM EC-PT

Where the applicant is being granted entry clearance as a parent on a 5-year route under paragraph D-ECPT.1.1., the endorsement on the vignette includes the phrase:

- (Standard)

Where the applicant is being granted entry clearance as a parent on a 10-year route under paragraph D-ECPT.1.2. because, following consideration under GEN.3.2., the decision-maker has decided that there are exceptional circumstances that would render refusal a breach of Article 8, the endorsement on the vignette includes the phrase:

- (Non-Standard 2)

## 18.2. Leave to Remain CID Codes

### 18.2.1. Appendix FM Partner – Grant LTR 5-Year Route

**LTR grant as an Appendix FM partner under paragraph D-LTRP.1.1.**

#### Case Outcome

Select from one of the following Case Outcomes for all partner leave to remain case types:

- Grant LTR. (ELT Passed) 1000200
- GRANT L.T.R. (ELT Eng Spk Country/Qual) 1000201
- GRANT L.T.R. (Exempt ELT) 1000202

#### Statistics Categories

Choose the appropriate Statistics Category to indicate the reason for the grant under the 5-year partner route:

- For Spouse of a Settled/Refugee/HP Person LTR, select from:
  - Spouse – Sp is Brit Cit – Extn. G1
  - Spouse – Sp is Settled – Extn. G2
  - Spouse – Sp is refugee/HP – Extn. G7
- For Civil Partner LTR, select from:

- Civil Partner – CP is Brit Cit – Extn DB
- Civil Partner – CP is not Brit Cit – Extn DC
- Civil partner – CP is Refugee/HP – Extn JPAGECA01
- For Unmarried Partners Same Sex Relationship – LTR, select from:
  - SSP – Initial Extn. D1
  - SSP – Further Extn. D2
  - SSP – of Refugee/HP Extn JPAGESA01
- For Unmarried Partners Common Law Spouse – LTR, select from:
  - CLS – of BC/Sett.per. K1
  - CLS – of Refugee/HP Extn KT

### 18.2.2. Appendix FM Partner – Refuse LTR 5-Year Route, Grant LTR 10-Year Route

**LTR grant as an Appendix FM partner under paragraph D-LTRP.1.2.**

#### Case Outcome

Select the following Case Outcome for all partner leave to remain case types:

- Grant Family/Private LTR 1000275

#### 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 or private life 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.3.1. MIR Additional Sources of Income U6
- Family LTR/extn – GEN 3.2. Breach of A8 Exceptional Circumstances U7

### 18.2.3. Appendix FM Parent – Grant LTR 5-Year Route

**LTR grant as an Appendix FM parent under paragraph D-LTRPT.1.1.**

#### Case Outcome

Select the following Case Outcome for the parent leave to remain case type:

- Grant L.T.R. 1000000

#### Statistics Categories

Choose the appropriate Statistics Category to indicate the reason for the grant under the 5-year parent route:

- Family extension – access rights (5 year probationary) UFAGEA
- Family extension – sole responsibility (5 year probationary) UFAGES

### 18.2.4. Appendix FM Parent – Refuse LTR 5-Year Route, Grant LTR 10-Year Route

#### LTR grant as an Appendix FM parent under paragraph D-LTRPT.1.2.

##### Case Outcome

Select the following case outcome for the parent leave to remain case type:

- Grant Family/Private LTR 1000275

##### 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

### 18.3. Indefinite Leave to Remain CID Codes

#### 18.3.1. Appendix FM Partner – Grant ILR

#### ILR grant as an Appendix FM partner under paragraph D-ILRP.1.1.

##### Case Outcome

Select one of the following Case Outcomes for all partner indefinite leave to remain (ILR) case types:

- Grant I.L.R. (ESOL) 1000005
- Grant I.L.R. (KOL TEST) 1000006
- Grant I.L.R. (Exempt FROM KOL) 1000100

##### Statistics Categories

Choose the appropriate Statistics Category to indicate the reason for the grant of ILR under the partner route:

- For Spouse of a Settled Person ILR, select from:
  - Spouse – Admitted as sp – sp is not BC. 5LA
  - Spouse – Admitted other than sp/fin sp not BC. 5NA
  - Spouse – Admitted as sp-sp is BC. 5RA
  - Spouse – Admitted other than sp/fin sp is BC. 5TA
  - Spouse – Admitted as other fiance(e) sp not BC. 5KA
  - Spouse – Admitted as Fiance(e) sp is BC. 5QA

- For Civil Partner ILR, select from:
  - Civil Partner – Sett – Switched to CP – CP is BC 5XA
  - Civil Partner – Sett – Switched to CP – CP is not BC 5YA
  - Civil Partner – Sett – Admitted as CP / CP BC 5ZA
  - Civil Partner – Sett – Admitted as CP / CP is not BC 52A
  - Civil Partner – Sett – CP admitted as Proposed CP / CP not BC 57A
  - Civil Partner – Sett – CP admitted as Proposed CP /CP is BC 56A
- For Unmarried Partners Same Sex Relationship ILR, select:
  - SSP – Same Sex Partner. 5WA
- For Unmarried Partners Common Law Spouse ILR, select:
  - CLS – Common Law Spouse. 5VA

### 18.3.2. Appendix FM Partner – Refuse ILR, Grant LTR 5-Year Route

**Refuse ILR but grant LTR as an Appendix FM partner under paragraph D-ILRP.1.2.**

#### **Case Outcome**

Select the following Case Outcome for all partner ILR case types:

- REFUSE I.L.R., GRANT L.T.R. 1000007

#### **Statistics Categories**

Choose the appropriate Statistics Category to indicate the reason the case is being refused ILR but granted further leave under the 5-year partner route:

- For Spouse of a Settled Person Refuse ILR, grant LTR select from:
  - Spouse – Admitted as sp – sp is not BC. 5LA
  - Spouse – Admitted other than sp/fin sp not BC. 5NA
- For Civil Partner Refuse ILR, grant LTR select from:
  - Civil Partner – CP is Brit Cit Extn. DB
  - Civil Partner – CP is not Brit Cit Extn. DC
- For Unmarried Partners Same Sex Relationship ILR, select:
  - SSP – Further Extn. D2
- For Unmarried Partners Common Law Spouse ILR, select:
  - CLS – of BC/Sett.per. K1

### 18.3.3. Appendix FM Partner – Refuse ILR, Grant LTR 10-Year Route

**Refuse ILR under paragraph D-ILRP.1.3., but grant LTR on the basis of Article 8 Family or Private Life**

#### **Case Outcome**

Select the following Case Outcome for all partner case types:

- Refuse ILR, Grant Family/Private LTR 1000175

#### **Statistics Categories**

For all partner ILR case types, choose the appropriate Statistics Category to indicate the reason the case is being refused ILR but granted leave under the 10-year family or private life route:

- Family/Private extn – Child's best interest [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.3.1. MIR Additional Sources of Income U6
- Family LTR/extn – GEN 3.2. Breach of A8 Exceptional Circumstances U7

### 18.3.4. Appendix FM Parent – Grant ILR

**ILR grant as an Appendix FM parent under paragraph D-ILRPT.1.1.**

#### **Case Outcome**

Select one of the following Case Outcomes for the parent ILR case type:

- Grant I.L.R. (ESOL) 1000005
- Grant I.L.R. (KOL TEST) 1000006
- Grant I.L.R. (Exempt FROM KOL) 1000100

#### **Statistics Categories**

Choose the following Statistics Category to indicate the reason the case is being granted ILR:

- Settl – Anything else 7DA

### 18.3.5. Appendix FM Parent – Refuse ILR, Grant LTR 5-Year Route

**Refuse ILR but grant LTR as an Appendix FM parent under paragraph D-ILRPT.1.2.**

#### **Case Outcome**

Choose the following Case Outcome for the parent ILR case type:

- REFUSE I.L.R., GRANT L.T.R. 1000007

## Statistics Categories

Choose the following Statistics Category to indicate the reason the case is being refused ILR but granted further leave under the 5-year parent route:

- Other – Extn Other reasons. X3

### 18.3.6. Appendix FM Parent – Refuse ILR, Grant LTR 10-Year Route

**Refuse ILR under paragraph D-ILRPT.1.3., but grant LTR on the basis of Article 8 Family or Private Life**

#### Case Outcome

Select the following Case Outcome for the parent case type:

- Refuse ILR, Grant Family/Private LTR 1000175

## Statistics Categories

Choose the appropriate Statistics Category to indicate the reason the case is being refused ILR but granted leave under the 10-year family or private life 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

### 18.3.7. Appendix FM Bereaved Partner – Grant ILR

**ILR grant as an Appendix FM bereaved partner under paragraph D-BPILR.1.1.**

#### Case Outcome

Select the following Case Outcome for all partner ILR case types:

- GRANT I.L.R. 1000001

## Statistics Categories

Choose the appropriate Statistics Category to indicate the reason the case is being granted ILR under the bereaved partner route:

- For Spouse of a Settled Person ILR, select:
  - Spouse – Death of spouse. 5DA
- For Civil Partner ILR, select:
  - Civil Partner – Sett – Death of Civil Partner 54A
- For Unmarried Partners Same Sex Relationship ILR, select:
  - SSP – Death of partner. 5FA



- For Unmarried Partners Common Law Spouse ILR, select:
  - CLS – Death of partner. 5EA

### 18.3.8. Appendix FM Bereaved Partner – Refuse ILR, Grant LTR

**Refuse ILR but grant LTR as an Appendix FM bereaved partner under paragraph D-BVILR.1.2.**

#### **Case Outcome**

Select the following Case Outcome for all partner ILR case types:

- GRANT L.T.R. (NO KOL) 1000101

#### **Statistics Categories**

Choose the appropriate Statistics Category to indicate the reason the case is being refused ILR but granted leave to remain under the bereaved partner route:

- For Spouse of a Settled Person Refuse ILR, grant LTR select from:
  - Spouse Extn – Death of spouse G9
- For Civil Partner Refuse ILR, grant LTR select from:
  - Civil partner Extn – Death of a partner JPAGECA02
- For Unmarried Partners Same Sex Relationship ILR, select:
  - SSP Extn – Death of a partner JPAGESA02
- For Unmarried Partners Common Law Spouse ILR, select:
  - CLS Extn – Death of a partner KU

## 19. Contact for Further Information

This guidance is owned by the Family Policy Team.

Any queries should be directed to: [Family Policy](#)

# Annex A: Refusal Wordings – 5-year route consideration

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

## Parent and Partner routes – Suitability

Refusal Reason	Suggested Wording
<b>Presence is not conducive to the public good (entry clearance only)</b>	The Secretary of State has personally directed that your exclusion from the United Kingdom is conducive to the public good. You therefore fail to meet the requirements for entry clearance as a <a href="#">partner/parent (delete as appropriate)</a> because paragraph S-EC.1.2 of Appendix FM to the Immigration Rules applies.
<b>Fails on basis of deportation order</b>	At the date of application you <a href="#">are/were</a> the subject of a deportation order issued on <a href="#">[insert date of deportation order]</a> . You therefore fail to meet the requirements for <a href="#">entry clearance/leave to remain (delete as appropriate)</a> as a <a href="#">partner/parent (delete as appropriate)</a> because paragraph <a href="#">S-EC.1.3. /S-LTR.1.2. (delete as appropriate)</a> of Appendix FM to the Immigration Rules applies.
<b>Fails on basis of criminality</b>	See refusal wording in Criminality & General Grounds for Refusal Guidance for entry clearance refusals under S-EC.1.4 and S-EC.2.5 and leave to remain refusals under S-LTR.1.3.-1.5.: <a href="#">General Grounds for Refusal – internal guidance</a> <a href="#">General Grounds for Refusal – external guidance</a>
<b>Fails on basis of conduct, character and associations or other reasons</b>	Your exclusion from the UK is conducive to the public good because <a href="#">[insert reasons why conduct/character/associations/other reasons make it undesirable to grant entry clearance/leave to remain – this could include convictions which do not fall within paragraph S-EC.1.4. or S-LTR.1.3. to S-LTR.1.5.]</a> . You therefore fail to meet the requirements for <a href="#">entry clearance/leave to remain (delete as appropriate)</a> as a <a href="#">partner/parent (delete as appropriate)</a> because paragraph <a href="#">S-EC.1.5./S-LTR.1.6.(delete as appropriate)</a> of Appendix FM to the Immigration Rules applies.
<b>Fails on basis of non-compliance</b>	You have failed to <a href="#">[attend an interview/provide information/provide physical data/undergo a medical examination or provide a medical report] (delete as appropriate)</a> . You have stated that <a href="#">[insert any reason given by the applicant for their non-compliance and reason why this reason is not accepted /or You have provided no reasonable excuse for your failure to comply with this requirement]</a> . You therefore fail to meet the requirements for <a href="#">entry clearance/leave to remain (delete as appropriate)</a> as a <a href="#">partner/parent (delete as appropriate)</a> because paragraph <a href="#">S-EC.1.6. /S-LTR.1.7. (delete as appropriate)</a> of Appendix FM to the Immigration Rules applies.
<b>Fails on the basis of medical reasons (entry clearance only)</b>	I have received confirmation from the Medical Referee that for medical reasons it is undesirable to admit you to the UK. You therefore fail to meet the requirements for entry clearance as a <a href="#">partner/parent (delete as appropriate)</a> because paragraph S-EC.1.7 of Appendix FM to the Immigration Rules applies.
<b>Left or was removed as a</b>	You <a href="#">left/were removed</a> from the United Kingdom as a condition of a caution issued in accordance with section 22 of the Criminal Justice Act

Refusal Reason	Suggested Wording
<b>condition of a caution issued (entry clearance only)</b>	2003 and, prior to the date your application was considered, it has been less than 5 years since the caution was issued against you. You therefore fail to meet the requirements for entry clearance as a <a href="#">partner/parent (delete as appropriate)</a> because paragraph S-EC.1.8 of Appendix FM to the Immigration Rules applies.
<b>Refusal under S-EC.1.9.</b>  <b>The Secretary of State considers that the applicant's parent /parent's partner poses a risk to the applicant</b>  <b>(a) because of a conviction as an adult, whether in the UK or overseas, for an offence against a child</b>	<p>The Secretary of State has noted that the person supporting your application as a parent / partner of your parent has a conviction in (state the country where the conviction took place) for a criminal offence against a child. Having considered all the information before her, including the following [refer to any countervailing evidence provided], the Secretary of State considers that this person poses a risk in accordance with paragraph S-EC.1.9.</p> <p>Your application is therefore refused on suitability grounds under paragraph S-EC1.9. of Appendix FM.</p>
<b>Refusal under S-EC.1.9.</b>  <b>The Secretary of State considers that the applicant's parent / partner poses a risk to the applicant</b>  <b>(b) because they are a registered sex offender and have failed to comply with any notification requirements</b>	<p>The Secretary of State has noted that the person supporting your application as a parent / partner of your parent is a registered sex-offender under the Sexual Offences Act 2003 and therefore subject to notification requirements.</p> <p>Having considered all the information before her, including the following [refer to any countervailing evidence provided], the Secretary of State considers that this person poses a risk in accordance with paragraph S-EC.1.9.</p> <p>Your application is therefore refused on suitability grounds under paragraph S-EC.1.9. of Appendix FM.</p> <p>It will not generally be necessary to say what the failure to meet the notification requirement is as this information (or proof that the notification requirements have been met) will be available to the relevant person. If it is necessary to refer to the specific non-compliance, the following may be used.</p> <p>The person supporting your application as a parent / partner of your parent has failed to comply with a requirement to notify the police of the following [select from following list]</p> <p><u>all</u> foreign travel; their whereabouts on a weekly basis, where registered as having 'no fixed abode'; where they are living in a household with a child under the age of 18; details of bank accounts and credit cards held and of passports and other identity documents that they hold; [any other requirement specific to the named individual]</p>

Refusal Reason	Suggested Wording
<p><b>Refusal under S-EC.1.9.</b></p> <p><b>The Secretary of State considers that the applicant's parent / partner poses a risk to the applicant</b></p> <p><b>(c) because they are required to comply with a sexual risk order made under the Anti-Social Behaviour Crime and Policing Act 2003 and have failed to do so</b></p>	<p>and on that basis your application is refused on suitability grounds under paragraph S-EC.1.9. of Appendix FM.</p> <p>The Secretary of State has noted that the person supporting your application as a parent / partner of your parent is required to comply with a sexual risk order made under the Anti-Social Behaviour Crime and Policing Act 2003 and has failed to do so. Your application is therefore refused on suitability grounds under paragraph S-EC.1.9. of Appendix FM.</p> <p>The Secretary of State has noted that the person supporting your application as a parent / partner of your parent is required to comply with a sexual risk order made under the Anti-Social Behaviour Crime and Policing Act 2003, but no information has been produced as to what the compliance requirements are and that they have been met. Your application is therefore refused on suitability grounds under paragraph S-EC.1.9. of Appendix FM.</p> <p>The Secretary of State has noted that the person supporting your application as a parent / partner of your parent is required to comply with a sexual risk order made under the Anti-Social Behaviour Crime and Policing Act 2003. This order includes the following requirement [specify] but the parent / parent's partner has failed to comply with this and considering the nature of the requirement the Secretary of State considers that this person poses a risk in accordance with paragraph S-EC.1.9. Your application is therefore refused on suitability grounds under paragraph S-EC.1.9. of Appendix FM.</p>
<p><b>Fails on the basis of false representations</b></p>	<p>[Insert nature of document or date and nature of false representations or information] was submitted in support of your application. This/These [document/information/representations] is/are false [insert basis for assessing document/information is false]. I have considered whether you should nevertheless be granted entry clearance/leave to remain (delete as appropriate) but have concluded that the exercise of discretion is not appropriate on this occasion because [insert reasons]. You therefore fail to meet the requirements for entry clearance/leave to remain (delete as appropriate) as a partner/parent (delete as appropriate) because paragraph S-EC.2.2.(a) /S-LTR.2.2.(a) (delete as appropriate) of Appendix FM to the Immigration Rules applies.</p>
<p><b>Fails on basis of failure to disclose material facts</b></p>	<p>In your application, [you or another person] failed to disclose the following facts [state facts]. I am satisfied that these facts were material to the application because [state reasons]. I have considered whether you should nevertheless be granted entry clearance/leave to remain but have concluded that the exercise of discretion is not appropriate on this occasion because [insert reasons]. You therefore fail to meet the requirements for entry clearance/leave to remain (delete as appropriate) as a partner/parent (delete as appropriate) because paragraph S-EC.2.2.(b) /S-LTR.2.2.(b). (delete as appropriate) of Appendix FM to the</p>

Refusal Reason	Suggested Wording
	Immigration Rules applies.
<b>Fails on the basis of lack of maintenance and accommodation undertaking</b>	On [date] a maintenance and accommodation undertaking from [name of sponsor] was requested [under paragraph 35 of the Immigration Rules or otherwise]. No such undertaking has been provided. I have considered whether you should nevertheless be granted entry clearance/leave to remain (delete as appropriate) but have concluded that the exercise of discretion is not appropriate on this occasion because [insert reasons]. You therefore fail to meet the requirements for entry clearance/leave to remain (delete as appropriate) as a partner/parent (delete as appropriate) because paragraph S-EC.2.4./S-LTR.2.4.(delete as appropriate) of Appendix FM to the Immigration Rules applies.
<b>Fails on the basis of service of notice under section 50(7)(b) of the Immigration Act 2-14, that the applicant or their partner had not complied with the investigation of their proposed marriage or civil partnership</b>	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.  I have considered whether you should nevertheless be granted leave to remain, but have concluded that the exercise of discretion is not appropriate on this occasion because [insert reasons]. You therefore fail to meet the requirements for leave to remain because paragraph S-LTR.2.5. of Appendix FM to the Immigration Rules applies.
<b>Fails on the basis that deception was used in a previous application</b>  <b>(In country only)</b>	The Secretary of State is satisfied that you made false representations/failed to disclose [a] material fact[s] (delete as appropriate) for the purpose of obtaining leave to enter/a previous variation of leave or in order to obtain documents from the Secretary of State or a third party in support of the application for leave to enter/a previous variation of leave (delete as appropriate).  [Explain reasons here].  In light of this, the Secretary of State has deemed that refusal is appropriate and is not prepared to exercise discretion in your favour.  You therefore fail to meet the requirements for leave to remain because paragraph S-LTR.4.2. of Appendix FM to the Immigration Rules applies.
<b>Fails on the basis that deception was used in a previous application for document to prove right to reside</b>  <b>(In country only)</b>	The Secretary of State is satisfied that you made false representations/failed to disclose [a] material fact[s] for the purpose of obtaining a document indicating that you have a right to reside in the UK.  [Explain reasons here]  In light of this, the Secretary of State has deemed that refusal is appropriate and is not prepared to exercise discretion in your favour.  You therefore fail to meet the requirements for leave to remain because paragraph S-LTR.4.3. of Appendix FM to the Immigration Rules applies.
<b>Failure to pay</b>	The Secretary of State is satisfied that you have failed to pay



Refusal Reason	Suggested Wording
<b>outstanding litigation costs awarded to the Home Office</b>	<p>outstanding litigation costs awarded to the Home Office.</p> <p>[Explain reasons here]</p> <p>In light of this, the Secretary of State has deemed that refusal is appropriate and is not prepared to exercise discretion in your favour.</p> <p>You therefore fail to meet the requirements for leave to <a href="#">enter/remain</a> because paragraph <a href="#">S-EC.3.1./S-LTR.4.3.(delete as appropriate)</a> of Appendix FM to the Immigration Rules applies.</p>
<b>Failure to pay an outstanding charge to the National Health Service (NHS)</b>	<p>The Secretary of State is satisfied that you have failed to pay an outstanding charge or charges with a total value of at least £500 in respect of National Health Service (NHS) treatment that you have received. This is in accordance with the relevant NHS regulations on charges for overseas visitors, based on evidence received from <a href="#">[insert name of relevant NHS body]</a>.</p> <p>[Explain reasons here]</p> <p>In light of this, the Secretary of State has deemed that refusal is appropriate and is not prepared to exercise discretion in your favour.</p> <p>You therefore fail to meet the requirements for leave to remain because paragraph <a href="#">S-EC.3.2/S-LTR.4.5.</a> of Appendix FM to the Immigration Rules applies.</p>
<b>Partner route</b>	
<b>Definition of 'Partner'</b>	<p>You have applied for <a href="#">entry clearance/leave to remain (delete as appropriate)</a> on the basis of your relationship with <a href="#">[insert name]</a>. The requirements for <a href="#">entry clearance/leave to remain (delete as appropriate)</a> as a partner are set out in section <a href="#">EC-P /R-LTRP (delete as appropriate)</a> of Appendix FM to the Immigration Rules. However, for the purposes of that section a "partner" is defined in paragraph GEN.1.2. of Appendix FM as the applicant's spouse, civil partner, fiancé(e) or proposed civil partner, or a person who has been living together with the applicant in a relationship akin to a marriage or civil partnership for at least two years prior to the date of application.</p> <p>From the information provided it appears that <a href="#">[insert reason why they do not meet the criteria under GEN.1.2.]</a>. Therefore, you do not fulfil the definition of a partner and cannot meet the requirements of <a href="#">section EC-P/R-LTRP (delete as appropriate)</a>. Your application is therefore refused under paragraph <a href="#">D-ECP.1.2./D-LTRP.1.3. (delete as appropriate)</a> of Appendix FM to the Immigration Rules.</p>
<b>Immigration status of partner</b>	<p>Your partner is not <a href="#">(choose one or more of the following options):</a></p> <ul style="list-style-type: none"> <li>• in the UK or returning to the UK with you as your partner</li> <li>• a British citizen</li> <li>• present and settled in the UK</li> <li>• being admitted for settlement on the same occasion as you</li> <li>• in the UK with refugee leave or humanitarian protection.</li> </ul>



Refusal Reason	Suggested Wording
<b>Immigration status of EEA national partner – not demonstrated present and settled</b>	<p>You therefore fail to meet the requirements of paragraph <a href="#">E-ECP.2.1./ E-LTRP.1.2. (delete as appropriate)</a> of Appendix FM to the Immigration Rules.</p> <p>You have applied for leave to remain on the basis of your relationship with your EEA partner [insert name].</p> <p>For the purposes of Appendix FM, “present and settled” or “present and settled in the UK” is defined in paragraph 6 of the Immigration Rules, and states that your EEA partner 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.</p> <p>From the information provided it appears that [insert reason why their EEA partner does not meet the criteria under “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 to the Immigration Rules.</p>
<b>Immigration status of non-EEA national partner – not demonstrated present and settled</b>	<p>You have applied for leave to remain on the basis of your relationship with your non-EEA partner [insert name].</p> <p>For the purposes of Appendix FM, “present and settled” or “present and settled in the UK” is defined in paragraph 6 of the Immigration Rules, and states that your non-EEA 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.</p> <p>From the information provided it appears that [insert reason why their non-EEA partner does not meet the criteria under “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 to the Immigration Rules.</p>
<b>Age</b>	<p>You were under the age of 18 at the date of your application. You therefore fail to meet the requirement of paragraph <a href="#">E-ECP.2.2. / E-LTRP.1.3. (delete as appropriate)</a> of Appendix FM to the Immigration Rules.</p> <p><b>AND/OR</b></p> <p>Your partner was under the age of 18 at the date of your application. You therefore fail to meet the requirement of paragraph <a href="#">E-ECP.2.3. / E-LTRP.1.4. (delete as appropriate)</a> of Appendix FM to the Immigration Rules.</p>

Refusal Reason	Suggested Wording
<b>Degree of relationship</b>	<p>You are the <b>[insert relationship to partner]</b> of <b>[insert name]</b>. 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.</p> <p>You therefore fail to meet the requirement of paragraph <b>E-ECP.2.4. / E-LTRP.1.5. (delete as appropriate)</b> of Appendix FM to the Immigration Rules.</p>
<b>Requirement to have met in person</b>	<p>It is considered that you and your partner have not met in person because <b>[insert reason why it is not accepted that applicant and partner have met in person]</b>.</p> <p>As it cannot be verified that you and your partner have met in person, you fail to meet the requirement of paragraph <b>E-ECP.2.5. / E-LTRP.1.6. (delete as appropriate)</b> of Appendix FM to the Immigration Rules.</p>
<b>Genuine and subsisting relationship</b>	<p>It is not accepted that your relationship with your partner is genuine and subsisting. <b>[Insert reasons, with reference to Guidance on determining a genuine relationship FM 2.0 Genuine and Subsisting Relationship Guidance]</b>.</p> <p>You therefore fail to meet the requirement of paragraph <b>E-ECP.2.6. / E-LTRP.1.7. (delete as appropriate)</b> of Appendix FM to the Immigration Rules.</p>
<b>Valid marriage or civil partnership</b>	<p>You have not provided specified evidence as required by paragraph <b>[22, 24 or 26 – list those that apply]</b> of Appendix FM-SE to the Immigration Rules that you and your partner are in a valid marriage/have entered into a valid civil partnership.</p> <p><b>OR</b></p> <p>The evidence you have provided as to the validity of your marriage/civil partnership is not accepted because <b>[provide reasons]</b>.</p> <p>You therefore fail to meet the requirement of paragraph <b>E-ECP.2.7. / E-LTRP.1.8. (delete as appropriate)</b> of Appendix FM to the Immigration Rules.</p>
<b>Previous relationship has not broken down permanently and/or polygamy</b>	<p>On <b>[insert date of previous marriage/civil partnership]</b> you <b>were married to/entered into a civil partnership with (delete as appropriate) [insert name of person]</b>.</p> <p>You claim to presently be <b>married/in a civil partnership with (delete as appropriate) [insert name of current partner]</b>.</p> <p>You have not provided the evidence specified in paragraph <b>[23 or 25 or 26 – list those that apply]</b> of Appendix FM-SE to the Immigration Rules that your <b>previous marriage/civil partnership (delete as appropriate)</b> with <b>[insert name of person]</b> has been dissolved. There is no evidence that this is a polygamous relationship that falls within paragraph 278(i) of the Immigration Rules.</p> <p>You therefore fail to meet the requirement of paragraph <b>E-ECP.2.9. / E-LTRP.1.9. (delete as appropriate)</b> of Appendix FM to the Immigration Rules.</p>
<b>Intention to live</b>	<p>It is not accepted that you and your partner <b>intend to live together/have</b></p>

Refusal Reason	Suggested Wording
<b>together permanently in the UK</b>	<p><b>lived together permanently in the UK (delete as appropriate) because [insert reason why this is not accepted].</b></p> <p>You therefore fail to meet the requirement of paragraph E-ECP.2.10. / E-LTRP.1.10. (delete as appropriate) of Appendix FM to the Immigration Rules.</p>
<b>Fiancé(e) or proposed civil partner seeking entry for marriage or civil partnership – applicant or partner is still married to, or in a civil partnership with, another person at date of application (entry clearance only)</b>	<p>You have stated that <b>you have/your partner has been married to/in a civil partnership with (delete as appropriate)</b> another person.</p> <p>You have not provided acceptable evidence that the previous <b>marriage/civil partnership (delete as appropriate)</b> has ended to enable your <b>marriage/civil partnership (delete as appropriate)</b> to take place.</p> <p>You therefore fail to meet the requirement of paragraph E-ECP.2.9.(ii) of Appendix FM to the Immigration Rules.</p>
<b>Fiancé(e) or proposed civil partner seeking entry for marriage or civil partnership (entry clearance only)</b>	<p>I am not satisfied that you are seeking entry to the UK to enable your <b>marriage/civil partnership (delete as appropriate)</b> to take place <b>[insert reasons]</b>. You therefore fail to meet the requirement of paragraph E-ECP.2.8. of Appendix FM to the Immigration Rules.</p>
<b>Marriage/civil partnership has not taken place (in country extension only)</b>	<p>You were granted entry clearance to the UK as a <b>fiancé(e) / proposed civil partner (delete as appropriate)</b> on <b>[insert date]</b>. Your <b>marriage/civil partnership (delete as appropriate)</b> has not taken place during the 6 month period of that entry clearance.</p> <p>You have stated that <b>[insert explanation provided by applicant]</b>. This explanation is not considered to be good reason why the <b>marriage/civil partnership (delete as appropriate)</b> did not take place because <b>[insert reasons]</b>.</p> <p><b>And/Or</b></p> <p>You have not provided evidence that the <b>marriage/civil partnership (delete as appropriate)</b> will take place in the next 6 months.</p> <p>You therefore fail to meet the requirement of paragraph E-LTRP.1.11. of Appendix FM to the Immigration Rules.</p>
<b>Immigration status requirement (in country only)</b>	<p>You are currently in the UK as <b>[insert nature of immigration status]</b>. In order to qualify for leave to remain as a partner, you must not be in the UK as <b>[insert immigration status failure]</b>. You therefore fail to meet the requirement of paragraph E-LTRP.2.2. of Appendix FM to the Immigration Rules.</p>
<b>Applicant is an overstayer</b>	<p>It is noted that your previous leave as <b>[insert previous leave]</b> ended on <b>[insert date]</b>. You have been in the UK without valid leave for more than</p>

Refusal Reason	Suggested Wording																		
(in country only)	X days and we have determined that paragraph 39E of the Immigration Rules does not apply in your case. You therefore fail to meet the requirement of paragraph E-LTRP.2.2. of Appendix FM to the Immigration Rules.																		
Applicant in UK on temporary admission/ temporary release (in country only)	You are currently in the UK on temporary admission/temporary release (delete as appropriate). In order to qualify for leave to remain as a partner, you must not be in the UK on [insert immigration status failure]. You therefore fail to meet the requirement of paragraph E-LTRP.2.2. of Appendix FM to the Immigration Rules.																		
Applicant has not met the required level of the financial requirement	In view of the fact that you have not met the required level of income or cash savings necessary in your circumstances I am / the Secretary of State is (delete as appropriate) not satisfied that you have met the financial requirement.																		
Applicant has not provided the specified evidence or covered the specified period	In view of the fact that you have not provided the specified evidence / the necessary evidence for the specified periods (delete as appropriate) as required in Appendix FM-SE to the Immigration Rules, I am / the Secretary of State is (delete as appropriate) not satisfied that you have met the financial requirement.																		
Applicant has not met adequate maintenance	<p>You have failed to demonstrate that there will be ‘adequate’ maintenance for yourself, your partner and any dependants without recourse to public funds.</p> <p>The calculation below sets out your net income after accommodation costs have been deducted. These figures demonstrate that your net income, after accommodation costs have been deducted, is less than the level a British family of that size would be entitled to under Income Support.</p> <p><b>Projected Income Calculation</b></p> <table><tr><th>Income source</th><th>Interval received</th><th>Equivalent weekly amount</th></tr><tr><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td></tr></table> <p>The following formula has been used to calculate the income available to maintain you and your partner (and any dependents) (delete as appropriate) in the United Kingdom, taking into account your projected income and your accommodation costs:</p> <p><math>A - B \geq C</math></p> <p><b>A</b> minus <b>B</b> is greater than or equal to <b>C</b>.</p> <p>Where:</p> <p><b>A</b> is the projected income (after deduction of income tax and national insurance contributions);</p> <p><b>B</b> is what needs to be spent on accommodation; and</p> <p><b>C</b> is the Income Support equivalent for a British family of that size.</p> <p>Using the figures provided in your application, as listed above, the</p>	Income source	Interval received	Equivalent weekly amount															
Income source	Interval received	Equivalent weekly amount																	

Refusal Reason	Suggested Wording															
	<p>formula has been completed as follows:</p> <p>A (insert figure showing projected income) – B (insert figure showing accommodation) = C (insert sum of two previous figures)</p> <p><b>Income support equivalent calculation</b></p> <table><tr><th>Element</th><th>Interval</th><th>Amount</th></tr><tr><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td></tr></table> <p>Based on the current benefit and tax rates it is apparent that your net income after accommodation costs have been deducted is less than would be available to a British family of equivalent size. It is therefore found that you do not have ‘adequate’ maintenance to support you and your partner <b>(and any dependants)</b> (delete as appropriate).</p> <p>You therefore fail to meet the requirements of paragraph E-ECP. 3.3.(b). /E-LTRP. 3.3.(b). (delete as appropriate) of Appendix FM to the Immigration Rules.</p>	Element	Interval	Amount												
Element	Interval	Amount														
<b>Applicant has not met adequate accommodation</b>	<p>You are required to provide evidence that adequate accommodation, without recourse to public funds, will be available for your family.</p> <p>You have failed to provide this evidence.</p> <p><b>OR</b></p> <p>The evidence you have provided does not demonstrate that adequate accommodation without recourse to public funds will be available.<b>[Insert reasons]</b>. You therefore fail to meet the requirements of paragraph E-ECP. 3.4. / E-LTRP. 3.4. (delete as appropriate) of Appendix FM to the Immigration Rules.</p>															
<b>Applicant has not met English language requirement</b>	<p>You are not exempt from the English language requirement under paragraph E-ECP.4.2. / E-LTRP.4.2. (delete as appropriate).</p> <p>In addition <b>(choose one or more of the following options)</b>:</p> <ul style="list-style-type: none"><li>○ you are not a national of a majority English speaking country listed in paragraph GEN.1.6., nor have you provided the evidence specified at paragraph 28-30 of Appendix FM-SE;</li><li>○ you have not passed an English language test in speaking and listening at a minimum of level A1/A2 (delete as appropriate)of the Common European Framework with a provider and/or at a test centre approved by the Home Office and/or have failed to provide the evidence specified at paragraph 27 of Appendix FM-SE;</li><li>○ you do not hold an academic qualification recognised by UK NARIC to be the equivalent to the standard of a Bachelor’s or Master’s degree or PhD in the UK, which was taught in English.</li><li>○ the English language test certificate or result you have provided does not meet the requirements set out in paragraphs 32B/32C/32D of Appendix FM-SE [set out reasons why].</li></ul>															



Refusal Reason	Suggested Wording
	You therefore fail to meet the requirements of paragraphs E-ECP.4.1. and E-ECP.4.2. / E-LTRP.4.1/ E-LTRP.4.1A. and E-LTRP.4.2. (delete as appropriate) of Appendix FM to the Immigration Rules and paragraphs 32B/32C/32D of Appendix FM-SE to the Immigration Rules.
<b>KoLL (ILR only)</b>	For suggested refusal paragraphs see guidance: <a href="#">Knowledge of Language and Life Guidance</a> (external).
<b>Current partner is not the same as at the last grant of leave</b>  (in country only)	You have applied for leave to remain/indefinite leave to remain (delete as appropriate) on the basis of your partner [insert name] who is not the same partner with whom you applied for your previous grant of leave.  You therefore fail to meet the requirement of paragraph E-LTRP.1.10. / E-ILRP.1.4. (delete as appropriate) of Appendix FM to the Immigration Rules.
<b>Parent route</b>	
<b>Definition of “parent”</b>	You have applied for leave to enter/remain (delete as appropriate) on the basis of your relationship with [insert name] who is a child. The requirements for leave to enter/remain (delete as appropriate) as a parent are set out in Section E-EC-PT/R-LTRPT (delete as appropriate) of Appendix FM of the Immigration Rules. However, for the purposes of that section, a “parent” is defined in paragraph 6 of the Immigration Rules.  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 E-EC-PT/R-LTRPT (delete as appropriate) with reference to paragraph 6 of the Immigration Rules.
<b>Not related as claimed</b>	You have applied for leave to enter/remain (delete as appropriate) on the basis of your relationship with [insert name] who is a child. The requirements for leave to enter/remain (delete as appropriate) as a parent are set out in Section E-EC-PT/R-LTRPT (delete as appropriate) of Appendix FM of the Immigration Rules. However, for the purpose of that section, a “parent” is defined in paragraph 6 of the Immigration Rules.  However, [insert reason why it is not accepted that the applicant and child are related as claimed]. In view of this fact, the Secretary of State is not satisfied that you are the parent of a child who is resident in the UK as you have claimed. You therefore fail to meet the requirements of paragraph E-EC-PT/E-LTRPT (delete as appropriate) with reference to paragraph 6 of the Immigration Rules.
<b>Parent does not have sole parental responsibility/ direct access to the child</b>  (entry clearance only)	In order to meet the requirements of paragraph E-ECPT.2.4.(a) an applicant must provide evidence to show that they either have sole parental responsibility, or 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. In view of this fact, it is not accepted that you have evidenced you have sole responsibility for your child/you have direct access in person to your child (delete as appropriate), and you therefore fail to meet the requirements of paragraph E-ECPT.2.4.(a) of Appendix FM to the Immigration Rules.
<b>Parent does not</b>	In order to meet the requirements of paragraph E-LTRPT.2.4.(a) an



Refusal Reason	Suggested Wording
<p><b>have sole parental responsibility/ direct access /the child does not normally live with them</b></p> <p>(in country only)</p>	<p>applicant must provide evidence to show that they have either sole parental responsibility for the child, or that the child normally lives with them, or they have direct access 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. In view of this fact, it is not accepted that you have evidenced you <del>have sole responsibility for your child/your child normally lives with you/you have direct access in person to your child</del> (delete as appropriate), and you therefore fail to meet the requirements of paragraph E-LTRPT.2.4.(a) of Appendix FM to the Immigration Rules.</p>
<p><b>Other parent or carer not a British citizen or settled</b></p> <p>(applications on basis of access rights only)</p>	<p>In order to meet the requirements of paragraph <del>E-ECPT.2.3./E-LTRPT.2.3.</del> (delete as appropriate) an applicant must show that the child's other parent or the carer that the child normally lives with is a British citizen or settled in the UK.</p> <p>However it is not accepted that the child's other parent or carer is British or settled in the UK because <del>[insert reasons why it is not accepted that they are British or settled]</del>. You therefore fail to meet the requirements of paragraph <del>E-ECPT.2.3./E-LTRPT.2.3.</del> (delete as appropriate) of Appendix FM to the Immigration Rules.</p>
<p><b>Child's other parent or carer is the partner of the applicant</b></p>	<p>In order to meet the requirements of paragraph <del>E-ECPT.2.3.(b)/E-LTRPT.2.3.(b)</del> (delete as appropriate) the parent or carer with whom the child normally lives must not be your partner.</p> <p>However, from the information provided it appears that <del>[insert reason why we believe the child's other parent or carer is the applicant's partner]</del>. You therefore fail to meet the requirements of paragraph <del>E-ECPT.2.3.(b)/E-LTRPT.2.3.(b)</del> (delete as appropriate) of Appendix FM to the Immigration Rules.</p>
<p><b>Applicant is eligible to apply as a partner</b></p> <p>(where the applicant's has a partner who is not the other parent or carer of the child)</p>	<p>In order to meet the requirements of paragraph <del>E-ECPT.2.3.(b)/E-LTRPT.2.3.(b)</del> (delete as appropriate) an applicant must not be eligible to apply for <del>leave to enter/remain</del> (delete as appropriate) as a partner under Appendix FM.</p> <p>However, from the information provided it appears that <del>[insert reason why we believe the applicant is eligible to apply for leave as a partner under Appendix FM]</del>. You therefore fail to meet the requirements of paragraph <del>E-ECPT.2.3.(b)/E-LTRPT.2.4.(b)</del> (delete as appropriate) of Appendix FM to the Immigration Rules.</p>
<p><b>No proof of direct access to the child</b></p>	<p>In order to meet the requirements of paragraph <del>E-ECPT.2.4(a)/E-LTRPT.2.4.(a)</del> (delete as appropriate) an applicant must provide evidence to show that they either have sole responsibility or direct access in person to their child/( for leave to remain only- that the child normally lives with them).</p> <p>In support of your application you have provided <del>[list the evidence that has been provided]</del>. However, 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 sworn statement from your child's other parent (or, if contact is supervised, from the supervisor), that you are maintaining contact with your child. In view of this fact, it is not accepted that you have evidenced you have direct access in person to your child, and you therefore fail to meet the requirements of paragraph <del>E-ECPT.2.4(a)/E-</del></p>

Refusal Reason	Suggested Wording
	LTRPT.2.4.(a) (delete as appropriate) of Appendix FM to the Immigration Rules.
<b>Applicant does not take, or intend to take an active role in the child's upbringing</b>	<p>In order to meet the requirements of paragraph E-ECPT.2.4.(b)/E-LTRPT.2.4.(b) (delete as appropriate) 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.</p> <p>From the information provided [list what evidence provided and why it is not acceptable evidence of taking and intending to continue to take an active role in the child's upbringing]. In view of this fact, it is not accepted that you have evidenced you are taking, and intend to continue to take, an active role in your child's upbringing. You therefore fail to meet the requirements of paragraph E-ECPT.2.4.(b)/E-LTRPT.2.4.(b) (delete as appropriate) of Appendix FM to the Immigration Rules.</p>
<b>Child not under 18</b>	Your child [insert name] was not under the age of 18 at the date of application. You therefore fail to meet the requirements of paragraph E-ECPT.2.2.(a)/E-LTRPT.2.2.(a) (delete as appropriate) of Appendix FM to the Immigration Rules.
<b>Immigration status of child</b>	<p>Your child: (choose one or more of the following options)</p> <ul style="list-style-type: none"> <li>• is not living in the UK</li> <li>• is not a British citizen</li> <li>• is not settled in the UK</li> </ul> <p>You therefore fail to meet the requirements of paragraph E-ECPT.2.2./E-LTRPT.2.2. (delete as appropriate) of Appendix FM to the Immigration Rules.</p>
<b>Maintenance and accommodation</b>	(In view of...) I am not satisfied that you will be able to adequately (maintain/accommodate/maintain and accommodate) yourself (and any dependants) without recourse to public funds (in accommodation which you own or occupy exclusively) and so you do not meet E-ECPT.3.1./E-LTRPT.4.1. (delete as appropriate) of Appendix FM to the Immigration Rules.
<b>English language requirement</b>	<p>You are not exempt from the English language requirement under paragraph E-ECPT.5.1. / E-LTRPT.5.2. (delete as appropriate).</p> <p>In addition (choose one or more of the following options):</p> <ul style="list-style-type: none"> <li>○ you are not a national of a majority English speaking country listed in paragraph GEN.1.6., nor have you provided the evidence specified at paragraph 28-30 of Appendix FM-SE;</li> <li>○ you have not passed an English language test in speaking and listening at a minimum of level A1/A2 (delete as appropriate) of the Common European Framework with a provider and/or at a test centre approved by the Home Office and/or have failed to provide the evidence specified at paragraph 27 of Appendix FM-SE;</li> <li>○ you do not hold an academic qualification recognised by UK NARIC to be the equivalent to the standard of a Bachelor's or Master's degree or PhD in the UK, which was taught in English.</li> <li>○ The English language test certificate or result you have provided does not meet the requirements set out in paragraphs 32B/32C/32D of Appendix FM-SE [set out reasons why].</li> </ul>

Refusal Reason	Suggested Wording
	You therefore fail to meet the requirements of paragraphs E-ECPT.4.1. and E-ECPT.4.2. / E-LTRPT.5.1./E-LTRPT.5.1A. and E-LTRPT.5.2. (delete as appropriate) of Appendix FM to the Immigration Rules and paragraphs 32B/32C/32D of Appendix FM-SE to the Immigration Rules.
<b>Applicant does not meet the immigration status requirement (in-country only)</b>	You are in the UK with leave as a visitor/with valid leave for six months or less which was not granted pending the outcome of family court or divorce proceedings/on temporary admission/temporary release and so do not meet the immigration status requirement under paragraph E-LTRPT.3.1./E-LTRPT.3.2. (delete as appropriate) of Appendix FM to the Immigration Rules.
<b>Applicant has remained in breach of the immigration laws (in-country only)</b>	You have remained in the UK in breach of the immigration laws for a period of ... (insert number of days or period of overstaying). You do not meet the immigration status requirement under paragraph E-LTRPT.3.2.(b) of Appendix FM to the Immigration Rules.

## Annex B: Refusal Wordings – Exceptional Circumstances

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

Refusal Reason	Suggested Wording
<p><b>Partner</b></p> <p><b>No exceptional circumstances</b> – Entry clearance</p> <p>Use this option where there are no exceptional circumstances. Only consider whether refusal COULD result in unjustifiably harsh consequences if you are refusing on the basis that the minimum income requirement is not met (on its own or along with other grounds).</p>	<p>We have considered, under paragraphs GEN.3.1. and GEN.3.2. of Appendix FM as applicable, whether there are exceptional circumstances in your case which could or would render refusal a breach of Article 8 of the ECHR because it could or would result in unjustifiably harsh consequences for you or your family. 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.</p> <p>No information or evidence provided:</p> <p>You have provided no information or evidence to establish that there are any exceptional circumstances in your case.</p> <p>Information or evidence provided:</p> <p>Based on the information you have provided we have decided that there are no such exceptional circumstances in your case.</p> <p>You have told us:</p> <p>We have reached this decision because:</p>
<p><b>Partner</b></p> <p><b>No exceptional circumstances raised</b> – Entry clearance</p> <p>Use this option where the minimum income requirement is not met, after inviting the applicant to provide other sources of income under GEN.3.1.</p>	<p>We have considered, under paragraphs GEN.3.1. and GEN.3.2. of Appendix FM as applicable, whether there are exceptional circumstances in your case which could or would render refusal a breach of Article 8 of the ECHR because it could or would result in unjustifiably harsh consequences for you or your family. 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.</p> <p>We wrote to you on [insert date] inviting you to provide information and evidence in writing of any other credible and reliable source(s) of income, financial support or funds available to you and/or your partner that would enable the minimum income requirement to be met, because we considered under paragraph GEN.3.1. of Appendix FM that there were exceptional circumstances in your case which could render refusal a breach of Article 8 of the ECHR because it could result in unjustifiably harsh consequences for you, your partner or a relevant child.</p> <p>Some information or evidence provided:</p>

Refusal Reason	Suggested Wording
	<p>You provided the following information and/or evidence in support of your application:</p> <p>However, based upon the information and/or evidence you have provided we are satisfied that the minimum income requirement is not met, and we have decided that you do not meet the financial requirement under paragraphs E-ECP.3.1. to E-ECP.3.4. of Appendix FM.</p> <p>We have reached this decision because:</p> <p>No further information or evidence provided:</p> <p>In response to our invitation, you have not provided any further information or evidence. We are therefore satisfied that the minimum income requirement is not met, and we have decided that you do not meet the financial requirement under paragraphs E-ECP.3.1. to E-ECP.3.4. of Appendix FM.</p> <p>All such refusals:</p> <p>We have also considered your application under paragraph GEN.3.2. of Appendix FM. We have concluded that there are no 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, your partner, a relevant child or another family member.</p> <p>You have told us:</p> <p>We have reached this decision because:</p>
<p><b>Parent</b></p> <p><b>No exceptional circumstances</b> – Entry clearance</p>	<p>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.</p> <p>No information or evidence provided:</p> <p>You have provided no information or evidence to establish that there are any exceptional circumstances in your case.</p> <p>Some information or evidence provided:</p> <p>Based on the information you have provided we have decided that there are no such exceptional circumstances in your case.</p> <p>You have told us:</p>

Refusal Reason	Suggested Wording
	We have reached this decision because:
<b>Partner or Parent</b>  <b>Exceptional circumstances</b> – In country	A paragraph referring to exceptional circumstances must be included in all refusal notices.  For suggested refusal paragraphs see guidance: <a href="#">Family Life (as a Partner or Parent) and Private Life - 10-Year Routes</a>
<b>Partner or Parent</b>  <b>Compassionate factors (non-Article 8) raised</b> – Entry clearance	You do not fall for a grant of entry clearance outside the Immigration Rules on the basis of compassionate factors.  You have told us <b>[insert here details of the compassionate factors raised]</b> .  We have decided that, based on the information you have provided, there are no compassionate factors in your case that warrant a grant of entry clearance outside the Immigration Rules.  We have reached this decision because:



## Annex C: Refusal Wordings – Bereaved Partners

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

Refusal Reason	Suggested Wording
<b>Fails on basis of deportation order</b>	At the date of application you are/were the subject of a deportation order issued on <b>[insert date of deportation order]</b> . You therefore fail to meet the requirement for leave to remain as a partner because paragraph S-ILR.1.2 of Appendix FM to the Immigration Rules applies.
<b>Presence is not conducive to the public good</b>	The Secretary of State has personally directed that your exclusion from the United Kingdom is conducive to the public good because you have been convicted of an offence for which you have been sentenced to imprisonment for at least 4 years. You therefore fail to meet the requirement for indefinite leave to remain as a partner because paragraph S-ILR.1.3 of Appendix FM to the Immigration Rules applies.
<b>Fails on basis of criminality</b>	See Criminality and General Grounds for Guidance for refusal wording under S-ILR.1.4 to S-ILR.1.7: <a href="#">General Grounds for Refusal</a> – internal guidance <a href="#">General Grounds for Refusal</a> – external guidance
<b>Fails on basis of conduct, character and associations or other reasons</b>	Your exclusion from the UK is conducive to the public good because <b>[insert reasons why conduct/character/associations/other reasons make it undesirable to grant indefinite leave to remain - this could include convictions which do not fall within paragraph S-ILR.1.4-1.7]</b> . You therefore fail to meet the requirement for leave to remain because paragraph S-ILR.1.8 of Appendix FM to the Immigration Rules applies.
<b>Fails on basis of non-compliance</b>	You have failed to <b>[attend an interview/provide information/ provide physical data/undergo a medical examination, or provide a medical report]</b> . You have stated that <b>[insert any reason given by the applicant for his non-compliance and reason why reason not accepted / or You have provided no reasonable excuse for your failure to comply with this requirement]</b> . You therefore fail to meet the requirement for indefinite leave to remain as a partner because paragraph S-ILR.1.9 of Appendix FM to the Immigration Rules applies.



Refusal Reason	Suggested Wording
<b>Fails on the basis of false representations</b>	<p>[Insert nature of document or date of and nature of false representations or information] was submitted in support of your application. This/These [document/information/ representations] is/are false [insert basis for assessing document/information is false]. I have considered whether you should nevertheless be granted indefinite leave to remain but have concluded that the exercise of discretion is not appropriate on this occasion because (insert reasons). You therefore fail to meet the requirement for indefinite leave to remain as a partner because paragraph S-ILR.2.2.(a) of Appendix FM to the Immigration Rules applies.</p>
<b>Refused on basis of failure to disclose material facts</b>	<p>In your application, [you or another person] failed to disclose the following facts [state facts]. I am satisfied that these facts were material to the application because [state reasons]. I have considered whether you should nevertheless be granted indefinite leave to remain but have concluded that the exercise of discretion is not appropriate on this occasion because (insert reasons). You therefore fail to meet the requirement for indefinite leave to remain as a partner because paragraph S-ILR.2.2.(b) of Appendix FM to the Immigration Rules applies.</p>
<b>Failure to pay an outstanding charge to the National Health Service (NHS)</b>	<p>The Secretary of State is satisfied that you have failed to pay an outstanding charge or charges with a total value of at least £500 in respect of National Health Service (NHS) treatment that you have received. This is in accordance with the relevant NHS regulations on charges for overseas visitors, based on evidence received from [insert name of relevant NHS body].</p> <p>[Explain reasons here]</p> <p>In light of this, the Secretary of State has deemed that refusal is appropriate and is not prepared to exercise discretion in your favour.</p> <p>You therefore fail to meet the requirements for leave to remain because paragraph S-ILR.4.5. of Appendix FM to the Immigration Rules applies.</p>
<b>Fails on the basis of lack of maintenance and accommodation undertaking</b>	<p>On [date] a maintenance and accommodation undertaking from [name of sponsor] was requested [under paragraph 35 of the Immigration Rules or otherwise]. No such undertaking has been provided. I have considered whether you should nevertheless be granted indefinite leave to remain but have concluded that the exercise of discretion is not appropriate on this occasion because [insert reasons]. You therefore fail to</p>

Refusal Reason	Suggested Wording
	meet the requirement for indefinite leave to remain as a partner because paragraph S-ILR.2.4 of Appendix FM to the Immigration Rules applies.
<b>Last grant of leave</b>	<p>Your last valid leave to remain in the United Kingdom was as <b>[insert nature of last leave and date granted]</b>. In order to qualify for indefinite leave to remain as a bereaved partner your last leave must have been as a partner or a bereaved partner of a British Citizen or a person settled in the UK. You therefore fail to meet the requirement of paragraph E-BPILR.1.2. of Appendix FM to the Immigration Rules.</p> <p><b>Or</b></p> <p>Your last valid leave to remain in the United Kingdom was as a fiancé(e) or proposed civil partner. You therefore fail to meet the requirement paragraph E-BPILR.1.2. of Appendix FM to the Immigration Rules.</p>
<b>Death of partner</b>	In order to qualify for indefinite leave to remain as a bereaved partner, the person who was your partner at the time of your last grant of leave of limited leave as a partner must have died. You have not demonstrated that your partner has died and you therefore fail to meet the requirement of paragraph E-BPILR.1.3. of Appendix FM to the Immigration Rules.
<b>Genuine and subsisting relationship / Intention to live together permanently in the UK</b>	It is not accepted that your relationship with your partner at the time of their death was genuine and subsisting <b>[insert reasons]</b> and/or you have not provided evidence that you and your partner intended to live together permanently in the UK. You therefore fail to meet the requirement of paragraph E-BPILR.1.4. of Appendix FM to the Immigration Rules.