



SUPPORTING RESIDENTS STRUGGLING WITH APPLICATION FEES

Home Office application fees are extremely expensive.

However, people who are making an application based on their human rights, but who can't afford the fee, might be able to apply for something called a fee waiver. If it's granted, they won't have to pay the Home Office application fee, and/or the Immigration Health Surcharge.

Applying for a fee waiver can seem very complicated. This guide explains who can apply, what evidence they need and how to use a fee waiver if it is granted.

WHAT IS A FEE WAIVER?

Usually, people applying for a visa based on their human rights have to pay two fees to the Home Office: the Home Office fee and the Immigration Health Surcharge (IHS).

However, they can apply to the Home Office for a "fee waiver." If this is granted, they won't have to pay the Home Office fees and/or the IHS.

The Home Office isn't allowed to make people pay to make a human rights claim if they can't afford the fee. The purpose of the fee waiver is to make sure that people who can't afford the Home Office fee can still apply for leave to remain based on their human rights.

WHO CAN APPLY?

People who are coming to the UK and applying for their first visa can apply for a fee waiver if they are coming as:

- The partner of a British citizen or person who is settled here (also known as having Indefinite Leave to Remain)
- The partner of someone who has refugee status in the UK, if you met after your partner arrived in the UK
- The partner or child of a UK citizen who is in the UK armed forces
- The partner or child of someone who is not a UK citizen but has been in the UK armed forces for 4 years

People applying in any of the ways listed above, who cannot afford the application fee, can apply for a fee waiver. It should be the person applying for a visa – not their family member in the UK - who applies for a fee waiver.

People who are already in the UK and are applying to stay can apply for a fee waiver for the following applications:

- as a parent or partner under the 10-year route
- as a parent under the five-year route
- as a partner under the five-year route if your partner doesn't have to meet the minimum income threshold (for example because they're exempt)
- on the basis of their Article 8 (family and private life) rights, or any other human right, as long as their human rights are the main reason they are applying
- on a discretionary basis, including if they have been refused asylum or humanitarian protection, or are a victim of trafficking

People can apply if they have No Recourse to Public Funds – **a fee waiver is not a public fund.**

However, fee waivers are not available for all applications, for example if you're applying for indefinite leave to remain, or to register as British.

WILL IT AFFECT THEIR APPLICATION?

No. People who get a fee waiver can then apply for a visa separately. The two systems are separate, and applying for a fee waiver does NOT mean someone is less likely to get a visa.

A leave to remain application, and the conditions of any leave that is granted, will also NOT be negatively impacted if the person applied for a fee waiver.

WHEN TO APPLY FOR A FEE WAIVER

If this is their first visa to come to the UK: they can apply for a fee waiver when they are ready to submit their main application. So for example, if they are applying to come to the UK because their partner lives here, they would apply for a fee waiver once they have all the other evidence ready for the main application. This is because, if they are granted a fee waiver, they will have 28 working days to submit your main application.

If they are already in the UK and have leave to remain: they must apply for a fee waiver no more than 28 days before their current leave to remain expires. Once they make a fee waiver application, all of their existing rights and entitlements will continue as if they had made a leave to remain application.

This extended leave is known as Section 3C leave, under Section 3C of the Immigration Act 1971. This means that as long as they applied for a fee waiver 28 days or less before their leave expires, they don't need to worry if they haven't had a response from the Home Office by the time their existing leave expires.

If they are already in the UK and do not currently have leave to remain: they must apply for a fee waiver before they apply for leave to remain.

People who are already in the UK must make their application for leave to remain within 10 days of getting a decision on their fee waiver (whether it is granted or refused).

If they do not apply within 10 working days of the decision on their fee waiver application, any existing leave they have will come to an end. If they were granted a fee waiver, the code for redeeming the fee waiver will no longer be valid.

APPLYING FOR A FEE WAIVER

Applications are made online, using [this form](#). It is free to apply. If they have other family members applying with them, they will need to include their details on the same form.

If they are not yet in the UK, they will have 28 working days to provide supporting documents (see below) once they submit their application.

If they are already in the UK, they have 10 working days to provide supporting documents once they submit their application.

The Home Office aims to make a decision “promptly”. They should normally expect to wait around 4 weeks for a decision.

If they are granted a fee waiver, they will be given a code. They'll need to enter this code when they make their application for leave to remain.

WHAT MUST THEY PROVE?

Can they (and anyone else involved in their application) afford to pay the fee? If they can't, that is all they really need to show.

The Home Office guidance has lots of wording about destitution and exceptional circumstances – but they do not have to prove either of these things. They only need to show that they cannot afford the fee.

They don't need to show that they would not be able to borrow the money from other people – the courts have found that it would be unlawful for the Home Office to require this.

WHAT WILL THE HOME OFFICE CONSIDER?

- The Home Office guidance says that people applying for fee waivers have to show that they do not “have sufficient funds at their disposal, after meeting their essential needs, to pay the fee”
- The Home Office will consider whether they have made any “non-essential or excessive purchases [...] holidays, gambling or other non-essential purchases”. Remember: what is essential is subjective, so if they have any such expenses, they should explain why they were needed.
- The Home Office will also consider their savings. However, the fact that they have savings does not mean that they cannot get a fee waiver. They should explain why it is important to have some savings (e.g. for the welfare of a child, in case they lose their job, in case of emergency etc.)
- In making a decision, the Home Office must consider the best interests and welfare of children in the UK who would be affected by the decision.

A table clearly setting out their income and expenses, in a covering letter, can really help to show the Home Office that they cannot afford the fee. They should explain any large or regular income or expenses on their bank statements. For irregular income or expenses, they can provide an average based on the last six months.

REFUSALS

Applications can be refused if the applicant has not provided enough evidence, and is unable to do so when prompted.

Applications may also be refused if the Home Office believes that the applicant could save the application fee in a few months, and does not have an urgent need to travel to the UK (in the case of first-time applicants). People applying a fee waiver for their first visa should seek to prove that they urgently need to travel to the UK.

There is no right of appeal against a fee waiver decision. However, people who are refused do have a few options:

- Challenge the refusal through judicial review – this is usually not practical for people who are renewing their leave to remain. This is because judicial reviews can take a long time, but their leave will expire if they don't apply for further leave within 10 days of the fee waiver decision
- Apply again with better evidence – again, this is not a suitable option for people who are renewing their leave to remain
- If they are already in the UK, they can find a way to pay the fee and make their leave to remain application within 10 working days

If you would like further information about any of the above, you can contact the [**Migrant Champions Network**](#). We will be able to signpost you to further support, and may be able to help you speak to a legal advisor.