

UK immigration.

Spouse/partner visa guide

Guiding you from your first application, whether inside or outside the UK, all the way through to your Indefinite Leave to Remain and British citizenship applications



Introduction

Thank you for downloading our guide on how to apply for a spouse visa. Whether you're applying for your first visa, an extension or indefinite leave, we hope that you find it helpful.

Applying for a spouse or partner visa can be a daunting process, with a lot of conflicting information. The refusal rate, for what many assume would be a simple visa, is high with nearly one in five applications being refused. All visa applications can be difficult, but the partner category can be more stressful than most as:

- The Rules are complicated. In 2012 the Home Office introduced Rules designed to make the process easier, but the end result was that applications can be refused if documents aren't in the correct format or there are minor errors in their contents.
- It's a long process. Most UK visas can be obtained in two - three weeks but a partner visa can take eight - twelve weeks. Though you may opt to pay for the "priority" decision you should only expect a decision within six weeks. Even a minor error can lead to this period becoming much longer if you need to go through the appeal process.

It's an expensive process and there are no refunds if you get it wrong.

This guide is designed to provide you with basic information about the application process and the documents needed but it is not a definitive guide on how to make your own visa application. Every application is different and the documents needed vary from case to case, so it's important to make sure you provide the documents that fit your circumstances and do not rely on general checklists.

The process varies from country to country, and if you are already inside the UK you may be able to apply to switch visas. Understanding the process from the start can help make it less stressful and allow you to plan properly.

Please get in touch if you have any questions as we offer a range of services designed to fit your specific needs including:

- Providing tailored document lists setting out exactly what you need to submit to be successful;
- One off checking services to give you peace of mind before you apply;
- More detailed advice and support including multiple reviews of documents to help prepare the best application pack possible; and
- A full service where we complete the application, arrange your appointment and upload the documents to the Home Office site.

What are the requirements for a spouse or partner visa?

The main requirements that need to be met when applying for this type of visa are:

- You must have a partner who is British, or holds Indefinite Leave to Remain in the UK;
- You need to show that you have a genuine and subsisting relationship;
- You need to show that you can meet the financial requirement;
- You have to have somewhere to live in the UK;
- If you aren't from a country on the Home Office list of English speaking countries, you'll need to sit an approved English language test. There are a long list of English language tests but only some of these meet the Home Office standards so it is a common source of refusals; and
- If you are applying from certain countries you need to get a medical certificate confirming you don't have TB. Again, there are only certain providers that can issue these certificates so it is an area where care needs to be taken.

On the face of it, these requirements may seem simple but it is necessary to understand what some key terms mean:

- Partner: The Home Office have a very strict definition of who qualifies for a partner visa. It is limited to:
 - People who are married or in recognised civil partnerships;
 - People who have lived together for two years, as if they were married or in a civil partnership. This requires people to provide evidence other than their own statements that they have lived together; or
 - People who are engaged and intend to get married in the UK within the next six months (these people get a shorter visa known as a fiancé visa rather than the standard partner visa).

- **Genuine and Subsisting Relationship:** Showing that you meet the definition of a partner isn't enough to get the visa, it is still necessary to show that your relationship is genuine and subsisting. This means providing evidence that you are a genuine couple. Every relationship is different, so it is important to consider what evidence you can provide.
- **Financial Requirement:** In most cases it is necessary to show that the British partner (or the person holding Indefinite Leave to Remain in the UK) has an income of £18,600 a year before tax or the couple have access to cash savings to make up any shortfall. The Home Office calculation for savings is complicated and means that a high level of savings are required.

The financial requirement is considerably higher in cases where non-British children are involved.

The financial requirement can be different if the British person (or the person holding Indefinite Leave to Remain in the UK) is receiving certain benefits.

Common mistakes with applications

Common mistakes with applications

In 2019/20 there were more than 40,000 visas granted to the partners of British nationals moving to the UK, however the refusal rate for applications was nearly 22%. Despite the commonly held view that being married to a British national entitles someone to live in the UK, the visa requires a strict set of requirements to be met.

We often receive enquiries from people who have made applications but were unfortunate enough to receive a refusal and here are some of the common errors we've seen:

1. Applicants not aware of the financial requirements

Since 2012, the Home Office have required someone applying to sponsor a partner, with no dependents to be earning at least £18,600 before tax (or have cash savings of £62,500). Despite the fact the rule has now been in place for several years, we still come across people who don't realise this applies to their case and don't meet the requirement.

There are limited exceptions to the financial requirement but these are interpreted strictly so it is important that Applicants take time to make sure they are aware of the conditions they need to meet.

2. Applicants not being aware of the documents needed to meet the financial requirement

It's not enough for someone to be earning £18,600, or have cash savings of £62,500, there are strict Rules about how the money must be earned, how long it must be earned for and what documents must be provided to evidence income or savings.

Many of the refusals we've seen have occurred because the wrong documents were submitted with an application. Unfortunately the Home Office do not always request additional documents from Applicants, and often the default position is to refuse an application.

3. Applicants submitting the wrong English language evidence

One of the most common reasons for refusal we've come across is someone submitting the wrong English language test. This is complicated by the fact that IELTS, who run the required test, offer two virtually identical tests:

- IELTS Life Skills
- IELTS Like Skills for UKVI

Only the latter of these tests is suitable for UK visa applications, as the former test is not considered secure. The UKVI test is not offered in every location, and sometimes people tell us they have been wrongly advised by test centre staff. Submitting and submitting the wrong test leads to an automatic refusal.

What are the consequences of a refusal?

If someone is refused they have two options:

- Appeal the decision which, for someone outside the UK, can mean several months of being separated from their partner. Appeals are lengthy and expensive, and the process of going to a tribunal is stressful for those involved; or
- Submit a fresh application and pay the application fees again, as these are not refunded if an application is refused.



Application process

Regardless of whether you are applying from inside or outside the UK, the application process starts with an online application form. This asks for details about:

- You;
- Your family;
- Any previous criminal convictions or driving offences;
- Your partner;
- Your relationship;
- Where you will live; and
- How you will meet the financial requirement.

When you set up the application you will receive an email with a link to your personal form, keep this safe as without it you can't re-access the application and will need to restart the drafting process.

It is possible to save the form and come back to it later so please take your time to ensure it is accurate. Once the application is ready, you can submit it and will be asked to pay:

- The Immigration Health Surcharge (unless you are applying for a six month fiancé visa);
- The Home Office application fee; and
- Any appointment fee, this applies in the UK and at certain international centres.

An application is submitted once the application fee is paid, and this is a very important stage. Financial documents usually need to be dated within 28 days of the date the online form is submitted, and not the date of the appointment.

Once the form has been submitted, the process will vary depending on whether you are inside the UK or applying from abroad.



Process inside the UK

Once you've paid for the application, you are directed to the website of a commercial provider, Sopra Steria. They operate visa centres inside the UK, and you need to book an appointment with them.

Some centres offer free appointments, and others offer appointments for a fee. You can also pay for appointments outside prime working hours. The key thing to remember is that the online form has to be paid for before your visa expires, you don't need to attend the appointment before your visa expiry date.

Once an appointment has been booked, you can upload your supporting documents to the Sopra Steria website. This must either be done before your appointment or you can pay for it to be done at the visa centre. You do not need to upload all of your documents at the same time.

At the appointment you will show your original passport, and the centre staff will check the documents have been uploaded. They will then take your biometrics (photograph and your fingerprints).

You but you cannot travel until a decision is made on your application. If you travel outside of the UK before a decision is made on your application, your application will automatically be withdrawn and you will not be able to return to the UK. Decisions will be sent by email or letter, and you will receive a biometric card that acts as your visa by courier.



Process outside the UK

Once you've paid for the application, you will be directed to the relevant commercial provider in your country. This will either be VFS or Teleperformance.

You will have three options for uploading your documents before an appointment:

1. Upload them yourself;
2. Pay for them to be scanned at the visa centre; or
3. Pay for them to be scanned at one of the UK scanning sites operated by the commercial provider.

In most cases, all of the documents must be uploaded at one time.

At the appointment, you will hand in your original passport. Once a decision is made on your application, you will either have to collect the passport from the visa centre or you can pay for it to be couriered to you.

If you are successful in applying as a married or unmarried partner, your passport will have a 30 day travel permit stamped in it. You must travel to the UK during this period and will then collect a biometric card which acts as your visa.

If you are successful in applying as a fiancé, your passport will have a full 6 month visa stamped in it.



Top tips for a successful application

When you are preparing your application, the following tips will help give you the best chance of success, and reduce the stress of the process:

1. Prepare a document checklist at the start of the process

If you take some time at the start of the process to work out the documents required that apply to your case, it will make the process easier. However be wary of information freely available on websites as every case is different and the documents vary depending on:

- Whether you are married, unmarried or engaged;
- Where you are applying from;
- Whether either of you have been married before; and
- How you will meet the financial requirement.

Any sample checklist, and even the checklist generated by the online form, will only be sufficient for some circumstances. If you submit the wrong documents you will be unsuccessful.

2. Plan your application well in advance

You can apply up to three months before you intend to travel to the UK, so start the process as early as possible to give you time to get the documents in the correct format.

3. Have all of your documents ready when you submit the online form

If you have all of your documents ready, in the correct format, when you apply online you can upload them at the same time. This makes your life easier, but also ensures that you don't have any last minute rushes to get a document before a visa centre appointment.

4. Check every document before you upload them

It's easy to miss one payslip or a key document, and often the Home Office won't contact you if anything is missing. Before uploading the documents, compare the application pack with your checklist to make sure everything has been scanned properly and that the scan is clear to read.

5. Don't forget about formatting

Always remember that documents need to be in the correct format, so bank statements may need to be stamped if they are not on bank stationery or you may need translations of some documents

What happens after you get the visa?

Unfortunately, a spouse visa isn't permanent and it will only be valid for a certain length of time. Instead you have to live in the UK for five years before you can apply for a permanent right to stay, known as Indefinite Leave to Remain. Once you have Indefinite Leave to Remain you can also look to become a British citizen, but first check if your home country allows dual nationality.

The process for anyone with a partner visa is as follows:

1. Anyone entering with a fiancé visa

| | |
|-----------------------|---|
| Fiance visa | <ul style="list-style-type: none">• Must marry in the UK within this time frame• Valid for six months |
| Spouse visa | <ul style="list-style-type: none">• Must marry in the UK within this time frame• Valid for six months |
| Spouse visa extension | <ul style="list-style-type: none">• Before spouse visa expires, must extend visa• Valid for a further two and a half years |
| ILR | <ul style="list-style-type: none">• Before spouse visa extension expires, apply for ILR (Indefinite Leave to Remain) |

2. For anyone entering with a partner visa

| | |
|-----------------------|---|
| Spouse visa | <ul style="list-style-type: none">• Valid for two and three-quarter years (33 months) |
| Spouse visa extension | <ul style="list-style-type: none">• Before spouse visa expires must apply for this• Valid for a further two and a half years |
| ILR | <ul style="list-style-type: none">• Before spouse visa extension expires, apply for ILR (Indefinite Leave to Remain) |

3. For anyone switching to the partner visa from inside the UK

| | |
|-----------------------|---|
| Spouse visa | <ul style="list-style-type: none">• Switch from current visa to spouse visa• Valid for two and a half years |
| Spouse visa extension | <ul style="list-style-type: none">• Before spouse visa expires, must extend visa• Valid for a further two and a half years |
| ILR | <ul style="list-style-type: none">• Before spouse visa extension expires, apply for ILR (Indefinite Leave to Remain) |

At each stage in the process, the same visa requirements need to be met but the English language requirement increases at each stage.

How can Morton Fraser help?

We hope you have found this guide helpful, but if you have further questions or you want some support with your application we can help.

- Our immigration team is ranked as one of the best immigration teams in Scotland by two independent legal directories (Chambers and Legal 500).
- The partner in charge of the team is one of a handful of solicitors in Scotland recognised as a specialist in the field of immigration and heads the Law Society of Scotland's Immigration and Asylum Law Sub-Committee.
- We specialise in dealing with all partner visa applications, and have helped many clients through every stage in the process up to and including British citizenship.
- We can tailor a support package to your individual needs, and budget, to make sure you have the best chance of success without overspending. This includes:
- Providing tailored document lists setting out exactly what you need to submit to be successful;
- One off checking services to give you peace of mind before you apply;
- More detailed advice and support including multiple reviews of documents to help prepare the best application pack possible; and
- A full service where we complete the application, arrange your appointment and upload the documents to the Home Office site.

If you would like our help please get in touch, and we can provide you with a free quote.

"Morton Fraser's very supportive and knowledgeable team (Stuart McWilliams and Esther Bury) handled our fiancée visa. We'd like to say thank you especially to Stuart McWilliams whose professionalism and strength exceeded our expectations. We're definitely going to use his services again!!"

"I really appreciate all the efforts made by Averil Trimble for her great support and patience in understanding my frustrations during the application process. Highly recommend her for any spouse Visas applications."

"Professional, courteous, and very straight to the point which was exactly what we wanted and needed. He anticipated potential queries the Home Office might have about our specific situation and was clear in how we should proactively deal with them. He also kept on top of all of the constant updates to the visa process, and kept us informed of them. With all of those changes, I do not think we could have navigated the application process on our own. With his guidance we were able to apply and I have recently received my approved visa. We are very thankful for his help. I would also like to mention that Esther was a pleasure to email, and was always incredibly quick with her responses. Esther and Stuart made us feel secure in our application process."

"My journey started with Morton Fraser 5 years back, and I have always felt that help and guidance was at hand, whenever needed. The entire process was handled very professionally, and I the team was there to support me at every stage."

"In every respect the support, service and 'human touch' has been excellent from both Stuart and also his support team (Esther especially). The outcome was positive - the feedback would be the same should this have not been so but the thoroughness in detail was definitely a large factor in achieving the objective. A huge THANK YOU"

Meet our litigation partners



STUART MCWILLIAMS
Partner, Immigration
0131 247 1181
stuart.mcwilliams@morton-fraser.com

Stuart has a decade of experience dealing with applications for spouse and partner visas. He has particular expertise in relation to the financial requirement and is recognised as one of Scotland's leading immigration lawyers by Chambers and Partners.

He is the Convenor of the Law Society of Scotland's Immigration and Asylum law sub-committee and is regularly asked to speak about family migration issues at legal conferences and seminars.



NADIA WATSON
Solicitor
0141 274 1113
nadia.watson@morton-fraser.com

Nadia handles all types of family migration cases, and is praised by her clients for her knowledge and professionalism. She provides clear advice and is skilled at explaining complicated immigration requirements in easy to understand language.



AVERIL TRIMBLE
Senior Solicitor
0141 274 1153
averil.trimble@morton-fraser.com

Averil assists individuals with applications for leave to remain and indefinite leave to remain. She regularly deals with complex applications for partners of British nationals.

Averil has the reputation for being someone who will go the extra mile for her clients.



ESTHER BURY
Immigration Support Worker
0141 274 1150
esther.bury@morton-fraser.com

Esther provides the immigration team with specialist support and assists with the preparation and submission of applications to the Home Office

THANK YOU.



Morton Fraser is a growing Scottish independent law firm, delivering clear advice to businesses, the public sector, individuals and families.

For any of these services please contact us.

EDINBURGH
0131 247 1000

GLASGOW
0141 274 1100

INFO@MORTON-FRASER.COM

The contents of this document are for information only and are not intended to be construed as legal advice and should not be treated as a substitute for specific advice. Morton Fraser accepts no responsibility for the content of any third party website to which this document refers. Morton Fraser LLP is authorised and regulated by the Financial Conduct Authority.

www.morton-fraser.com