



Home Office

Immigration Directorate Instruction

Family Migration:

Appendix FM Section 1.0a

Family Life (as a Partner or Parent):

5-Year Routes

August 2015

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1. Purpose

1.1. Use of this guidance

This guidance must be used 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, 295AA of Part 8,
- [Appendix FM](#).

This guidance must also be used by decision makers overseas when considering exceptional circumstances in all partner or parent entry clearance applications falling for refusal under the Rules.

Decision makers in country must refer to the [Family Life \(as a Partner or Parent\) and Private Life - 10-Year Routes](#) guidance when considering exceptional circumstances in a leave to remain application falling for refusal under the Rules for the 5-year and 10-year routes.

1.2. The best interests of the 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 children who are in the UK means that consideration of the child's best interests is a primary consideration in immigration cases. This guidance and the Immigration Rules it covers form part of the arrangements for ensuring that this duty is discharged.

Decision makers must carefully consider all of the information and evidence provided concerning the best interests of a child in the UK when assessing whether an applicant meets the requirements of the Rules, and where they do not meet those requirements, whether there are exceptional circumstances that warrant a grant of leave outside the Rules.

The decision notice or letter must demonstrate that a consideration has taken place of all the information and evidence provided concerning the best interests of a child in the UK. 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 please see Section 14 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 which were 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, same sex partner or unmarried partner of 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 fiancé(e) or proposed civil partner) of a British Citizen or person settled in the UK; or
- parent of a British Citizen child who is living in the UK or a settled child who is 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 migrant partner applies under the PBS provisions under Part 8. It does however apply to partners of Relevant PBS Migrants who are applying under Appendix FM for leave to remain in the UK, whose partner 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 Home Office internet on 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 interpreted as including Entry Clearance Officers 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 addition to explaining which Immigration Rules are not met and why, at entry clearance and in country every refusal notice or letter must explain why a grant of entry clearance or leave to remain outside the Rules on the basis of exceptional circumstances 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 European Convention on Human Rights (ECHR) (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 policy on exceptional circumstances, provide a clear basis for considering immigration cases in compliance with ECHR Article 8. In particular, the Immigration Rules reflect the qualified nature of Article 8, setting requirements which correctly 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 in the UK.

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, HC244 which came into force on 10 June 2013, HC 628 which came into force on 1 October 2013, HC803 which came into force on 1 December 2013, HC 1138 which came into force on 6 April 2014, HC198 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 and HC 297 which came into force on 3 August 2015. This guidance reflects the Rules as they apply to **all applications decided from 3 August 2015**.

2.2. Approach

This guidance reflects a two-stage approach of considering applications under the family and private life Rules in [Appendix FM](#) and paragraphs [276ADE\(1\)-DH](#) and going on to consider exceptional circumstances.

First, the decision maker must consider whether the applicant meets the requirements of the Immigration Rules, and if they do, leave under the rules should be granted. In country, applications failing to meet the requirements for leave to remain under the 5-year partner or parent routes will then 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](#).

If the applicant does not meet the requirements of the Immigration Rules, the decision maker must move on to a second stage and consider whether, considering all the factors raised by the application, there are exceptional circumstances which mean refusal of the application would result in unjustifiably harsh consequences for the applicant or their family such that refusal would not be proportionate under Article 8. If there are exceptional circumstances, leave outside the Rules should be granted. 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](#)

Please note that 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 who wishes to apply for leave to remain on or after 6 April 2014, where their partner has been granted indefinite leave to remain under the long residence provisions of the Immigration Rules, must do so under Appendix FM.

2.4. General information about applications

From 6 April 2015, under the Immigration (Health Charge) Order 2015, applications for 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 and parent routes 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 member of HM Diplomatic Service, or comparable UK based staff member of the British Council, the Department of International Development or the Home Office

Under Appendix FM, the partner of a member of HM Diplomatic Service or of a comparable UK based staff member of the British Council, the Department for International Development or the 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 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 suitability and eligibility requirements of the Immigration Rules at every stage;
- the 10-year route as a partner or parent, which is only applicable to in-country applications, is for 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 is also met. Paragraph EX.1. is not an exception to the Rules, but to certain eligibility requirements of the 5-year partner and parent routes under Appendix FM. It provides the basis on which an applicant in the UK who does not meet all of the eligibility requirements of the 5-year partner or parent route can qualify for leave to remain under the Rules on the basis of their family life in the UK.

Paragraphs [276ADE\(1\)-DH of Part 7](#) of the Immigration Rules provide a 10-year route to settlement in the UK on the basis of private life.

Applications for leave on the 5-year routes to settlement can be made from outside the UK or in the UK.

Applications for leave on the 10-year routes to settlement **cannot** be made from outside the UK and can only be made in 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), but 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 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 know they cannot meet certain of the eligibility requirements of the 5-year routes.

In respect of entry clearance and leave to remain, in all cases that fall for refusal under the Immigration Rules, the decision maker must consider whether there are exceptional circumstances. These exist where refusal of the application would result in unjustifiably harsh consequences for the applicant or their family such that refusal would not be proportionate under Article 8. Where the Rules are not met but there are exceptional circumstances, entry clearance or leave to remain outside the Rules should be granted. Guidance on considering exceptional circumstances in an entry clearance application can be found in Section 10 of this guidance. Guidance on considering exceptional circumstances in a leave to remain application can be found in the guidance for the 10-year partner, parent or private life routes.

2.7. Specified evidence

Appendix FM must be read together with Appendix FM-SE, which sets out the specified evidence that must be submitted with an application, and Appendix O, which sets out the English language tests approved for an application for entry clearance or limited leave to remain as a partner or parent. An applicant must provide all of the documents specified in Appendix FM-SE that 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 .2.2. of Appendix FM set out general provisions.

Decision makers should refer to the general provisions in full when making a decision:

[Appendix-FM](#)

This guidance applies to consideration of applications for entry clearance to and leave to remain in the UK on the basis of family life as a partner of a British Citizen, a person present and settled in the UK, or a person in the UK with limited leave as a refugee or humanitarian protection (to whom Part 11 of the rules does not apply).

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 GEN.1.2 a “partner” is defined as:

- (i) the applicant’s spouse;
- (ii) the applicant’s civil partner;
- (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.

Where an applicant meets all the other requirements of the rules but does not meet the definition of “partner” at GEN.1.2. because they are unmarried or not in a civil partnership **and** have not been living together in a relationship akin to a marriage or civil partnership for at least 2 years, the relevant refusal paragraphs in [Annex A](#) should be used.

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

Paragraph GEN.1.14. of Appendix FM introduces a condition on 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.

4. Family Life as a Partner

4.1. General

The Immigration Rules provide the basis on which a person can 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 route to settlement (indefinite leave to remain) and 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 meet the requirements of the rules, and there are no exceptional circumstances, the application should be refused.

For further information on exceptional circumstances in entry clearance applications see [section 14](#) 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 from 9 July 2012 should apply for further leave to remain no more than 28 days before their extant leave expires or no more than 28 days before they have completed 30 months in the UK with such leave. Up to 28 days of extant leave remaining at the date of application will be added to the period of leave granted.

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 as a partner (excluding in all cases any period of leave granted completed 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 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. 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. – E-ECP.2.10.: Relationship requirements;
- E-ECP.3.1. – E-ECP.3.4.: Financial requirements; and
- E-ECP.4.1. – E-ECP.4.2.: English language requirement.

4.3. Leave to remain requirements

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 on the 5-year route 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. – E-LTRP.1.12.: Relationship requirements;
- E-LTRP.2.1. – E-LTRP.2.2.: Immigration status requirements;
- E-LTRP.3.1. – E-LTRP.3.4.: Financial requirements; and
- E-LTRP.4.1. – 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.

The first application for ILR on the 5-year partner route will not be received until 2017. This guidance will be updated to include full guidance for ILR applications closer to that date.

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 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 responsibility for or access to their child following the breakdown of their relationship with the child's other parent. The route is for single parent applicants who:

- have sole parental responsibility for their child; **or**
- do not live with the child (who lives with a British or settled parent or carer), 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**
- (for 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 together who are in a genuine and subsisting relationship. Applicants in this position must apply under the partner route where eligible to do so. An applicant cannot apply under the parent route if they are eligible to apply under the partner route.

As well as 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 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 297-303);
- in the case of a child born in the UK who is not a British Citizen, a person to whom there has been a genuine transfer of parental responsibility on the ground 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 route to settlement (indefinite leave to remain) and 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 from 9 July 2012 should apply for further leave to remain no more than 28 days before their extant leave expires or no more than 28 days before they have completed 30 months in the UK with such leave. Up to 28 days of extant leave remaining at the date of application will be added to the period of leave granted.

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.

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

For further information on exceptional circumstances in entry clearance applications see [section 14](#) 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. 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. – E-ECPT.2.4.: Relationship requirements;
 - E-ECPT.3.1. – E-ECPT.3.2.: Financial requirements; and
 - E-ECPT.4.1. – E-ECPT.4.2.: English language requirement.

5.3. Leave to remain requirements

The requirements to be met by an applicant for leave to remain as a parent on the 5-year route 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. – E-LTRPT.2.4.: Relationship requirements;
- E-LTRPT.3.1. – E-LTRPT.3.2.: Immigration status requirements;
- E-LTRPT.4.1. – E-LTRPT.4.2.: Financial requirements; and
- E-LTRPT.5.1. – 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 partner.

The first application for ILR on the 5-year parent route will not be received until 2017. This guidance will be updated to include full guidance for ILR applications closer to that date.

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 the person seeking entry to the United Kingdom to produce to the Immigration Officer a valid national passport or other document satisfactorily establishing his identity and nationality;

320(10) production by the person seeking entry clearance to the United Kingdom of a national passport or travel document issued by a territorial entity or authority which is not recognised by Her Majesty's Government as a state or is not dealt with as a government by them, or which does not accept valid United Kingdom 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 his 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 the General Grounds for Refusal above apply in the applicant's case 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](#) of the Rules are met.

These are set out in the Family Life as a Partner section of [Appendix FM](#) of the Immigration Rules 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. to .2.5. 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 .1.8. 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 .2.5. apply.

In addressing 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 addressing suitability criteria under paragraphs S-EC.1.6, to S-EC.1.8 and S-EC.2.2. to .S-LTR.2.5. 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)

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.

If the applicant falls for refusal on the basis of suitability under S-EC, the application will be refused.

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

7.3. Suitability – leave to remain

In **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 .3.1. 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 .1.7. 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 .2.4. 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.

In addressing 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 addressing suitability criteria under paragraphs S-LTR.1.7, S-LTR.2.2. to S-LTR.2.4. and S-LTR.3.1. 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)

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 within/could be considered within:

- [Paragraphs S-LTR.1.5. to S-LTR.1.6.](#)

In doing so, decision makers should look at whether their conduct, (including any convictions which do not fall within paragraphs S-LTR.1.3. to S-LTR.1.5). mean the applicant's presence in the UK is undesirable or non-conducive to the public good under conduct, character, associations or other reasons. The applicant can 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](#) to this guidance.

Where an applicant is a foreign criminal, has previously been granted leave to remain on the basis of Article 8 (either because Criminal Casework decided that deportation would breach Article 8 or because the foreign criminal's appeal against the decision to deport was allowed on Article 8 grounds) and applies for further leave on the 5-year partner or parent routes, the application must be considered under Part 13 of the Immigration Rules, not under Appendix FM. This is because deportation remains conducive to the public good and in the public interest

even though the foreign criminal has previously been exempted from deportation for a limited period.

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 suitability requirements S-ILR.1.1. to 3.1. under Appendix FM are met.

These are set out in the Family Life as a Partner section of [Appendix FM](#) of the Immigration Rules 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 1.9. 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 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.

In addressing 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 addressing suitability criteria under paragraphs S-ILR.1.9. , S-ILR.2.2. to S-ILR.2.4. and S-ILR.3.1. 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.

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

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

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

8. Eligibility Requirements: Partner

8.1. Relationship

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

As outlined in [5.2 and 5.3](#) of this guidance, to qualify for entry clearance or leave to remain as a partner the applicant must meet all of the eligibility requirements in paragraphs E-ECP for entry clearance and 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, the Department for International Development or the 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” are to be disregarded.

In any application for entry clearance as a fiancé(e) or proposed civil partner under Appendix FM, an EEA national who holds a document certifying permanent residence issued under the 2006 EEA Regulations is to be regarded as present and settled in the UK.

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

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 make 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 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 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 should 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](#)

For further guidance on doubtful cases, see [FM 1.1 Doubtful cases guidance](#) (internal).

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 required evidence of marriage or civil partnership is specified in paragraphs 22 to 26 of [Appendix FM-SE](#).

The applicant and their partner must provide evidence that their marriage or civil partnership is valid in the UK.

For further guidance, see:

- [Recognition of marriage and divorce](#)
- [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.** and paragraph **E-LTRP.1.9.**, the decision maker must be satisfied that any previous relationship of the applicant or their partner must have broken down permanently, unless it is a polygamous marriage or civil partnership which falls within paragraph 278(i) of the Rules.

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.

Note: An applicant whose marriage or civil partnership to a previous partner (or that of the applicant's partner) has not been legally dissolved, may qualify under Appendix FM as an unmarried partner or same sex partner, provided that they meet the criteria of 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.

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 live, have been living, or 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 in connection with the applicant's or their partner's employment, holidays, training or study.

If the couple have spent the majority of the period overseas, there may be reason to doubt that all the requirements of the Rules have been met, e.g. 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 sponsor 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, the

Department for International Development or the 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, the Department for International Development or the 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. They 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.

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 [FM 1.7 Financial Requirement Guidance](#).

Applicants who are exempt from the minimum income threshold under the financial requirement in Appendix FM (because they are 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](#).

Note: 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 Leave 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 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 being a national of a majority English speaking country listed in paragraph [Gen.1.6.](#); or
- by having an academic qualification recognised by UK NARIC to be equivalent to a Bachelor's or Master's degree or PhD in the UK, which was taught or researched in English; or
- by qualifying for an exemption.

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

Note: 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, unless they qualify for an exemption again.

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)

Note: 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
- in temporary admission or temporary release; or
- in breach of immigration laws (disregarding any period of overstaying of 28 days or less).

8.5.2. Consideration of overstaying

The 28-day period of overstaying is calculated from the latest of:

- the end of the last period of entry clearance or leave to remain granted;
 - the end of any extension of leave under sections 3C or 3D of the Immigration Act 1971;
- or
- the point that a migrant is deemed to have received a written notice of invalidity/rejection, in accordance with paragraph 34C or 34CA of the Immigration Rules, in relation to an in-time application for leave to remain.

When considering refusing an application on the grounds that it was made by an applicant who has overstayed by more than 28 days, the decision maker must consider any evidence of exceptional circumstances which prevented the applicant from applying within the first 28 days of overstaying. The threshold here for what constitutes exceptional circumstances in relation to overstaying beyond the first 28 days is high, but could include delays resulting from unexpected or unforeseeable circumstances such as the following:

- serious illness which meant that the migrant or their representative was unable to submit the application in time (where supported by appropriate medical documentation);
- travel or postal delays which meant that the migrant or their representative was unable to submit the application in time; or
- inability to provide necessary documents. This would only apply to exceptional or unavoidable circumstances beyond the applicant's control, such as the Home Office being at fault in the loss of, or delay in returning, travel documents; or delay in the migrant being able to replace documents following loss as a result of theft, fire or flood (where supported by evidence of the date of loss and the date replacement documents were sought).

Any decision to exercise discretion on such grounds and not refuse the application must be authorised by a senior caseworker (at SEO grade or above). Leave granted in these circumstances may be granted under the Rules. The decision letter will need to make clear that such leave is being granted because the Home Office has accepted that there were exceptional circumstances which prevented them from applying within the 28-day period required by the rules.

Note: 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 paragraphs E-ECPT for entry clearance and E-LTRPT for leave to remain.

Proof of parentage

An applicant will not always be named on a birth certificate. You must carefully consider any evidence submitted and be satisfied it proves the 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 such situations, the decision maker must consider the application in the same way as if the child was still under 18.

The applicant must prove 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 18 years of age.

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, for the requirement of paragraph **E-ECPT.2.2.(a)** to be met, the decision maker must be satisfied that at the time of application and decision, the child 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 time of application, is physically present here and the applicant intends to make the UK their home with the child, if the application is successful.

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
- the parent or carer with whom the child normally lives must be a British Citizen in the UK or settled in the UK.

For leave to remain applications where the applicant is in the UK, when considering paragraphs **E-LTRPT.2.3.** and **ELTRPT.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 (and that other parent is a British Citizen or settled in the UK); or
- the parent or carer with whom the child normally lives must be a British Citizen in the UK or settled in the UK.

For both entry clearance and leave to remain applications if the child normally lives with their other British Citizen or settled parent or carer:

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

An applicant for entry clearance as a parent must provide evidence to show that they:

- have 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; and

- are taking, and intend to continue to take, an active role in the child's upbringing.

An applicant for leave to remain as a parent must provide evidence to show that they:

- have sole parental responsibility for the child, or that the child normally lives with them; 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; and
- are taking, and intend to continue to take, an active role in the child's upbringing.

Sole parental responsibility

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

Sole 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.

A parent who claims to have sole responsibility must provide evidence they have exercised this role since the other parent abdicated or abandoned their parental role. This may be over a period of several years or may be several months before an application.

Decision makers must consider the following:

- have decisions and actions in relation to the upbringing of the child been done under the direction of the applicant and not the other parent or any other person?
- is the parent responsible and answerable for the child's welfare and what happens to them in key areas of the child's life to the exclusion of others?
- sole responsibility is not the same as legal custody.
- a person saying they have sole responsibility must provide evidence of meeting all elements of the definition:
 - evidence of significant or even exclusive financial provision for a child by their parent does not in itself demonstrate 'sole responsibility'.
- who asserts continual control with regards to the child's upbringing including, but not limited to:
 - decisions regarding the child's education.
 - decisions regarding the child's health.
 - consenting to medical treatment for the child.
 - decisions regarding the child's religion.
 - decisions regarding the child's residence.
 - maintaining personal relations and direct contact with the child.
 - providing the child with appropriate direction and guidance.
 - protecting the child.
 - responsibility for the child's property.
 - acting as the child's legal representative.
 - decisions regarding how a child spends their holidays or recreational time.
- where both parents are involved in the child's upbringing it will be rare for a person to establish sole responsibility.
- sole responsibility can be recent or long standing. Any recent change of arrangements should be scrutinised to make sure this is genuine rather than seeking to get around 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 and answerable for the welfare of the child, this does not prevent the applicant from being a parent with sole responsibility within the meaning of the Immigration Rules.

The decision maker is not considering whether the applicant (or anyone else) has day-to-day responsibility for the child, but whether the parent 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 responsibility for the child.

The decision maker must not make a decision that would have the effect of denying a parent who has not abdicated or abandoned parental responsibility contact with that child. The decision maker must carefully consider each application and on a case by case basis.

The burden of proof is on the applicant to provide satisfactory evidence that they meet the Rules. In some instances it may be appropriate to interview an applicant to establish whether they have sole responsibility for the child or contact the other parent to confirm they have no parental responsibility.

Normally lives with

This means both parents (one of whom is a British Citizen or settled person), who are no longer in a subsisting relationship, 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 the migrant parent.

From 13 December 2012 applicants who apply for leave to remain in the UK can apply in this category where they have:

- a joint residence order, or
- 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 has broken down with a British Citizen or settled person and who has shared or equal custody of a child to remain in the UK where it is in the child's best interest.

In establishing who the child normally lives with decision makers must be satisfied that:

- the relationship between the applicant and the other parent has broken down and the relationship is no longer subsisting;
- the applicant has joint or shared custody of the child or children;
- evidence of shared custody has been provided in the form of a court order or consensual agreement from the British Citizen or settled parent;
- evidence that the child normally lives with the applicant in the UK and not their British Citizen or settled parent has been provided.

An applicant simply being a parent of a child in the UK is not enough to meet the requirements of the Rules.

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

In legal terms, a child can only have one primary residence. However, where a child spends equal time with either parent, for example 7 days out of 14 with both throughout the year, for the purposes of this route and so as not to disadvantage the migrant parent, the child is considered to normally live with the migrant parent.

The “normally lives with” requirement is not intended to cover a parent who:

- the child occasionally lives with, for example at the weekend, during holidays or an overnight stay once a week; or
- can qualify as a partner under Appendix FM of the Immigration Rules.

There is no specified evidence that an applicant has to provide, but the onus is on the applicant to show that a child normally lives with them.

Evidence to show a child normally lives with an applicant can include, but is not exclusive to correspondence from:

- court in the form of a court order showing joint or shared custody;
- the settled partner confirming joint or shared custody;
- a doctor, hospital or dentist;
- school or playgroup;
- the Department for Work and Pensions (DWP);
- HM Revenue & Customs (HMRC);
- social services.

Person who the child normally lives with

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

Evidence can include:

- a British passport;
- a foreign passport endorsed with ‘indefinite leave to remain’ or ‘no time limit’;
- letters 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 (where the applicant is entering on the grounds of access rights to a child).

Direct access

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 seek to confirm that the applicant parent can have 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 legal officer.

It is not enough for an applicant to provide evidence only that they have been granted direct access to a child. The Rules require an applicant to show they currently have direct access in person to the child, 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 applicant to seek entry to the UK and they are not trying to avoid applying under another category.

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 (disregarding any period of overstaying of 28 days or less).

9.3.2. Consideration of overstaying

The 28-day period of overstaying is calculated from the latest of:

- the end of the last period of entry clearance or leave to remain granted;
- the end of any extension of leave under sections 3C or 3D of the Immigration Act 1971; or
- the point that a migrant is deemed to have received a written notice of invalidity/rejection, in accordance with paragraph 34C or 34CA of the Immigration Rules, in relation to an in-time application for leave to remain.

When considering refusing an application on the grounds that it was made by an applicant who has overstayed by more than 28 days, the decision maker must consider any evidence of exceptional circumstances which prevented the applicant from applying within the first 28 days of overstaying. The threshold here for what constitutes exceptional circumstances in relation to overstaying beyond the first 28 days is high, but could include delays resulting from unexpected or unforeseeable circumstances such as the following:

- serious illness which meant that the migrant or their representative was unable to submit the application in time (where supported by appropriate medical documentation);
- travel or postal delays which meant that the migrant or their representative was unable to submit the application in time; or

- inability to provide necessary documents. This would only apply to exceptional or unavoidable circumstances beyond the applicant's control, such as the Home Office being at fault in the loss of, or delay in returning, travel documents; or delay in the migrant being able to replace documents following loss as a result of theft, fire or flood (where supported by evidence of the date of loss and the date replacement documents were sought).

Any decision to exercise discretion on such grounds and not refuse the application must be authorised by a senior caseworker (at SEO grade or above). Leave granted in these circumstances may be granted under the Rules. The decision letter will need to make clear that such leave is being granted because the Home Office has accepted that there were exceptional circumstances which prevented them from applying within the 28-day period required by the rules.

Note: 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](#).

Note: 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 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 being a national of a majority English speaking country listed in paragraph [Gen.1.6.](#);
- by having an academic qualification recognised by UK NARIC to be equivalent to a Bachelor's or Master's degree or PhD in the UK, which was taught or researched in English; or
- by qualifying for an exemption.

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

Note: An applicant for leave to remain who was exempt from the language requirement at the entry clearance stage needs to meet the requirement at paragraphs **E-LTRPT.5.1. to .5.2.** when they apply for further leave to remain in the UK unless they qualify for an exemption again when they next apply.

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)

Note: 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), 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.

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

Under paragraph D-ECP.1.1. 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.

Note: 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 route, 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. The 5-year period will exclude any period(s) of entry clearance or limited leave as a fiancé(e) or proposed civil partner.

10.1.3. Granting leave to remain as a partner

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 a 5-year route to settlement, subject to a condition of no recourse to public funds.

Where an applicant has extant leave as a partner 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 that 5-year route (rather than their second grant following an earlier grant of entry clearance or leave to remain as a partner 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 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.

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

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 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 partner route, they may be eligible to apply for settlement after completing 60 months (5 years) in the UK with leave to remain as a partner. The 5-year period will exclude any period(s) of entry clearance or limited leave as a fiancé(e) or proposed civil partner.

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 refusal of 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 and subject to a condition of no recourse to public funds unless the Secretary of State considers that the person should not be subject to such a

condition, provided any requirement to pay the Immigration Health Surcharge under the Immigration (Health Charge) Order 2014 is met. See [section 12](#) of this guidance.

Where an applicant has extant leave as a partner 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. 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-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.

10.2. Refusing entry clearance or leave to remain

When an application falls for refusal under the Immigration Rules, the decision maker must move on to consider whether there are any exceptional circumstances on the basis of Article 8 that would warrant a grant of entry clearance/leave to remain outside the Immigration Rules.

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.1.2., 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 falling for refusal under the Rules, the decision maker must go on to consider exceptional circumstances. For further guidance see [Section 14](#) of this guidance.

Where a decision is to be made on entry clearance outside the Immigration Rules, the decision maker must refer details of the case to the Referred Casework Unit (RCU). The decision maker must include a full recommendation based on their assessment of the application and on the evidence considered. Borderline cases should be referred. For details of the referral process and the appropriate referral form see [Referral and deferral guidance for ECOs](#) (internal).

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** 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, parent and private life routes, or on the basis of exceptional circumstances. For further guidance, see: [Family Life \(as a Partner or Parent\) and Private Life: 10-Year Routes](#).

Leave to remain as a **fiancé(e) or proposed civil partner** will be refused if the decision maker is not satisfied that all of the relevant requirements of the Immigration Rules are met. In this case the decision maker should not go on to consider the 10-year partner, parent or private life routes, or the guidance on exceptional circumstances.

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, 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.

11.1.2. Granting leave to remain as a parent

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 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 that 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.

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 and subject to a condition of no recourse to public funds unless the Secretary of State considers that the person should not be subject to such a condition, provided any requirement to pay the Immigration Health Surcharge under the Immigration (Health Charge) Order 2014 is met. (See [section 12](#) of this guidance).

Where an applicant has extant leave 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. 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-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.

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

When an application falls for refusal under the Immigration Rules, you must move on to a second stage and consider whether there are any exceptional circumstances on the basis of Article 8 that would warrant a grant of entry clearance or leave to remain outside the Immigration Rules.

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.1.2., 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 falling for refusal under the Rules, the decision maker must go on to consider exceptional circumstances. For further guidance see [Section 14](#) of this guidance.

Where a decision is to be made on entry clearance outside the Immigration Rules, the decision maker must refer details of the case to the Referred Casework Unit (RCU). The decision maker must include a full recommendation based on their assessment of the application and on the evidence considered. Borderline cases should be referred. For details of the referral process and the appropriate referral form see [Referral and deferral guidance for ECOs](#) (internal).

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.

Decision makers 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 and private life routes, or on the basis of exceptional circumstances. For further guidance, 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.

13. 10-Year Routes to Settlement

This section applies to leave to remain applications only.

This section is relevant where an application as a partner or parent made in the UK under the 5-year route to settlement falls for refusal under the Immigration Rules.

Decision makers considering applications for leave to remain, where the application falls for refusal under the 5-year partner or parent route, must refer to the guidance [Appendix FM 1.0b Family Life \(as a Partner or Parent\) and Private Life: 10-Year Routes](#) to continue consideration of the application under the 10-year routes and in respect of exceptional circumstances.

Applications under the 10-year family and private life routes to settlement cannot be made from outside the UK.

14. Exceptional Circumstances or Compassionate Factors (Entry Clearance)

This section applies to entry clearance applications only.

Where an entry clearance application does not meet the requirements of the Immigration Rules, the Entry Clearance Officer must consider whether there are exceptional circumstances or compassionate factors which mean the Home Office should consider granting entry clearance outside the Rules.

Where the application does not meet the requirements of the rules for entry clearance, the Entry Clearance Officer must in every case consider whether there may be **exceptional circumstances** raised in the application which make refusal of entry clearance a breach of ECHR Article 8 (the right to respect for family life) because refusal would result in unjustifiably harsh consequences for the applicant or their family.

The Entry Clearance Officer must also consider whether the application raises any **compassionate factors – that is compelling compassionate reasons** – which might justify a grant of entry clearance outside the rules. Compassionate factors are, broadly speaking, exceptional circumstances, e.g. relating to serious ill health, which might mean that a refusal of entry clearance would result in unjustifiably harsh consequences for the applicant or their family but might not constitute a breach of Article 8.

Because Entry Clearance Officers cannot grant entry clearance outside the Rules, a case which the Entry Clearance Officer considers may meet the very high threshold of exceptional circumstances or compassionate factors must be referred 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.

14.1. Exceptional circumstances

Where an application for Entry Clearance does not meet the requirements of the Rules under Appendix FM and/or Appendix FM-SE, the Entry Clearance Officer must in every case go on to consider whether there may be exceptional circumstances which warrant a grant of entry clearance outside the Rules on Article 8 grounds because refusal would result in unjustifiably harsh consequences for the applicant or their family.

If the Entry Clearance Officer is of the view that there may be exceptional circumstances in line with this guidance, they must refer the application to the Referred Casework Unit (RCU), as outlined below.

The consideration of exceptional circumstances must include consideration of any factors relevant to the best interests of a child in the UK.

The Immigration Rules – now underpinned in respect of the weight to be given to the public interest under Article 8 by primary legislation in section 19 of the Immigration Act 2014 – set out the position of the Secretary of State on proportionality under Article 8. The Rules state how the balance should be struck between individual rights and the public interest in assessing Article 8. They provide clear instructions for the decision maker on the approach they must normally take

and they therefore provide the basis for a clear, consistent and transparent decision-making process. This means that it will be in exceptional circumstances only that a decision made in accordance with the Rules will lead to an outcome which is disproportionate under Article 8. This is likely to occur only rarely.

Process to be followed in considering exceptional circumstances

Where possible exceptional circumstances are raised, even if implicitly (e.g. where it is clear that the applicant has a child in the UK), there should be a consideration as to whether or not these factors might mean that refusal would result in unjustifiably harsh consequences for the applicant or their family:

- If the Entry Clearance Officer does not consider that the factors raised might make refusal unjustifiably harsh for the applicant or their family, the refusal notice should explain that:

“I have also considered whether the particular circumstances set out in your application constitute exceptional circumstances which, consistent with the right to respect for family life contained in Article 8 of the European Convention on Human Rights, warrant consideration by the Secretary of State of a grant of entry clearance to come to the United Kingdom outside the requirements of the Immigration Rules. I have decided that they do not, because **[set out reasons why the circumstances are not considered exceptional, including, where relevant, consideration of the best interests of any child in the UK]**. Your application for entry clearance to come to the United Kingdom is therefore refused”.

- If the Entry Clearance Officer considers that the factors raised **might** amount to exceptional circumstances warranting a grant of entry clearance outside the rules, the case must be referred for consideration by RCU. The Entry Clearance Officer should then make a recommendation for RCU to consider, setting out clear reasons as to whether a grant of entry clearance outside the rules is appropriate taking into account this guidance on exceptional circumstances.

If no exceptional circumstances are raised, either explicitly or implicitly, in an application, the refusal notice should state this. After explaining that the applicant has failed to meet the requirements of the Immigration Rules and why this is so, the refusal notice should state:

“I have also considered whether your application raises any exceptional circumstances which, consistent with the right to respect for family life contained in Article 8 of the European Convention on Human Rights, warrant consideration by the Secretary of State of a grant of entry clearance to come to the United Kingdom outside the requirements of the Immigration Rules. I have decided that it does not. Your application for entry clearance to come to the United Kingdom is therefore refused.”

How to consider exceptional circumstances

“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 would result in unjustifiably harsh consequences for the individual or their family such that refusal of the application would not be proportionate under Article 8. The fact that refusal may, for example, result in the continued separation of family members does not of itself constitute exceptional circumstances where the family have chosen to separate themselves. Cases that raise

exceptional circumstances to warrant a grant of entry clearance outside the Rules are likely to be rare.

Where considering whether there are exceptional circumstances the decision maker should consider circumstances relating to all family members of the applicant where these are raised, including wider family members beyond their partner and child, or parent where the applicant is a child.

In determining whether there are exceptional circumstances, the decision maker must consider **all** relevant factors raised by the applicant and weigh them against the public interest under Article 8. Examples of relevant factors include:

- **The best interests of any child in the UK affected by the decision.** See section below.
- **The nature of the family relationships involved**, such as the length of the applicant's marriage and how frequently they have contact with their children if they do not live with them. What evidence is there that the couple do or do not have a genuine family life?
- **The likely impact on the applicant, their partner and/or child if the application is refused.**
- **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 deception or issues around their character or conduct, or the fact that they do not speak English or are not financially independent.
- **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 their family.

Particular considerations concerning the best interests of a child in the UK

Where the best interests of a child in the UK are concerned, circumstances requiring consideration by RCU of a grant of entry clearance outside the rules are those in which the public interest in maintaining immigration control by requiring the Immigration Rules to be met may lead to a disproportionately detrimental effect on the best interests of the child in the UK. That is likely to be the case only rarely.

The key issue is whether there are any factors involving the child in the UK that can **only** be alleviated by the presence of the applicant in the UK. Consideration needs to be given to the effective and material contribution that the applicant's presence in the UK would make to safeguarding and promoting the welfare of the child. This contribution needs to be of a significant kind, e.g.

- Support during a major medical procedure, particularly if this is unforeseen or likely to lead to a permanent change in the child's life.
- Prevention of abandonment where there is no other family member in the UK to care for a child. Simply reducing the time and resource spent on a child's case by agencies such as children's services is unlikely to be sufficient. The applicant's presence in the UK must form part of achieving a durable solution for the child that is in his or her best interests.

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

Other means of meeting the child's best interests – than by the applicant's presence in the UK – need to have been considered and ruled out. The normal need for a child to be given genuine and effective care by both parents is reflected in the Immigration Rules and there must be substantive reasons why the child's best interests in this regard can only be met by granting entry clearance outside the Rules.

Therefore, individual family members, including parents, choosing to travel at different times will not of itself amount to a degree of separation that amounts to exceptional circumstances. Nor will a clear pattern of life entered into by parents or carers – of maintaining a separate lifestyle in two countries – which has become unviable solely through a change in economic circumstances.

Thus a situation in which a child has for some time been taken to school by a grandparent in the UK whilst a parent overseas has continued to study or work overseas may not count under this heading. However, the risk of an irrecoverable breakdown of a parental bond with a young child because the impact of natural disaster on the overseas parent's housing or employment makes it impossible for the child to return to live with them in the foreseeable future may count.

The decision maker should take into account any order made by the Family Court, 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.

In any case where, following referral to RCU, the RCU caseworker decides that it is appropriate for entry clearance to be granted outside the Rules, this should be granted for 33 months, and subject to a condition of no recourse to public funds.

An applicant granted entry clearance outside the Rules because of exceptional circumstances or compassionate factors should be advised that they will need to make an application for leave to remain outside the Rules, on the basis of the same or other such circumstances or factors, 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. They may be able to qualify for indefinite leave to remain (settlement) under the 10-year long-residence rule if they meet the requirements of paragraph 276B, under which all periods of continuous lawful residence (whether granted under the rules or outside) may be counted. They may be able to qualify for settlement more quickly if they subsequently apply and qualify for the 5-year partner (or 5-year parent) route (and then restart their probationary period before settlement under that route).

15. Partner and Parent Refusal Paragraphs

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

15.1. Decision makers Overseas

The refusal notice should state:

"You have applied for [entry clearance](#) to the UK as the [\[insert relationship\]](#) of [\[insert name\]](#). Your application has been considered under Appendix FM to the Immigration Rules."

go on to state where the applicant has failed to meet the requirements of the Immigration Rules, using (where possible) the paragraphs in [Annex A](#) of this guidance, and then you must include reference to exceptional circumstances using at least one of the paragraphs in [Annex B](#) and appropriate closing paragraphs with reference to rights of appeal.

Closing paragraph:

"In light of this, it is concluded that you do not qualify for [entry clearance](#) to the United Kingdom."

15.2. Decision makers In-Country

The refusal notice should state:

"You have applied for [leave to remain in](#) the UK as the [\[insert relationship\]](#) of [\[insert name\]](#)". Your application has been considered under Appendix FM to [\[and paragraphs 276ADE\(1\) – DH of\]](#) the Immigration Rules."

Go on to state where the applicant has failed to meet the requirements of the Immigration Rules, using (where possible) the paragraphs in [Annex A](#) of this guidance, and then you must include reference to exceptional circumstances (see [Annex A of the 10 year guidance](#)) and appropriate closing paragraphs with reference to rights of appeal.

Closing paragraph:

"In light of this, it is concluded that you do not qualify for [leave to remain in](#) the United Kingdom."

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 by more than 28 days (at paragraph E-LTRP.2.2.), provided that the circumstances of any period of overstaying relate to a period of bereavement and where compassionate considerations therefore apply.

An application made out of time **where all the other requirements of the rules are met** should be considered sympathetically. An application should not normally be refused solely on the grounds that the applicant is here without leave. Acceptable reasons for the delay in making an application could be that the partner's death only occurred shortly before the application for settlement was due or that the distress of bereavement has led the applicant to overlook or not address the need to regularise their immigration status.

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, or within 28 days of completing the period of leave required for them to be eligible to apply for indefinite leave to remain.

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 the United Kingdom 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).

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
Presence is not conducive to the public good (entry clearance only)	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 partner/parent (delete as appropriate) because paragraph S-EC.1.2 of Appendix FM to the Immigration Rules applies.
Fails on basis of deportation order	At the date of application you are/were the subject of a deportation order issued on [insert date of deportation order] . 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.1.3. /S-LTR.1.2. (delete as appropriate) of Appendix FM to the Immigration Rules applies.
Fails on basis of criminality	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: General Grounds for Refusal – internal guidance General Grounds for Refusal – external guidance
Fails on basis of conduct, character and associations or other reasons	Your exclusion from the UK is conducive to the public good because [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.1.3-1.5] . 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.1.5. /S-LTR.1.6. (delete as appropriate) of Appendix FM to the Immigration Rules applies.
Fails on basis of non-compliance	You have failed to [attend an interview/provide information/provide physical data/undergo a medical examination or provide a medical report] (delete as appropriate) . You have stated that [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] . 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.1.6. /S-LTR.1.7. (delete as appropriate) of Appendix FM to the Immigration Rules applies.

Refusal Reason	Suggested Wording
<p>Fails on the basis of medical reasons (entry clearance only)</p>	<p>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 partner/parent (delete as appropriate) because paragraph S-EC.1.7 of Appendix FM to the Immigration Rules applies.</p>
<p>Left or was removed as a condition of a caution issued (entry clearance only)</p>	<p>You left/were removed from the United Kingdom as a condition of a caution issued in accordance with section 22 of the Criminal Justice Act 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 partner/parent (delete as appropriate) because paragraph S-EC.1.8 of Appendix FM to the Immigration Rules applies.</p>
<p>Fails on the basis of false representations</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>Fails on basis of failure to disclose material facts</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 Immigration Rules applies.</p>
<p>Refused on basis of debts owing to NHS</p>	<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 £1,000 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]. [Insert reasons]. 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 [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.2.3. /S-LTR.2.3. (delete as appropriate) of</p>

Refusal Reason	Suggested Wording
	Appendix FM to the Immigration Rules applies.
Fails on the basis of lack of maintenance and accommodation undertaking	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.
Partner route	
Definition of 'Partner'	<p>You have applied for entry clearance/leave to remain (delete as appropriate) on the basis of your relationship with [insert name]. The requirements for entry clearance/leave to remain (delete as appropriate) as a partner are set out in section EC-P /R-LTRP (delete as appropriate) 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 [insert reason why they do not meet the criteria under GEN.1.2.]. Therefore, you do not fulfil the definition of a partner and cannot meet the requirements of section EC-P/R-LTRP (delete as appropriate). Your application is therefore refused under paragraph D-ECP.1.2./D-LTRP.1.3. (delete as appropriate) of the Immigration Rules.</p>
Immigration status of partner	<p>Your partner is not (choose one or more of the following options):</p> <ul style="list-style-type: none"> • in the UK or returning to the UK with you as your partner • a British citizen • present or settled in the UK • being admitted for settlement on the same occasion as you • in the UK with refugee leave or humanitarian protection. <p>You therefore fail to meet the requirements of paragraph E-ECP.2.1./ E-LTRP.1.2. (delete as appropriate) of Appendix FM to the Immigration Rules.</p>
Age	You were under the age of 18 at the date of your application. You therefore fail to meet the requirement of paragraph E-ECP.2.2. / E-LTRP.1.3. (delete as appropriate) of Appendix FM to the Immigration Rules.

Refusal Reason	Suggested Wording
	<p>AND/OR</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 E-ECP.2.3. / E-LTRP.1.4. (delete as appropriate) of Appendix FM to the Immigration Rules.</p>
<p>Degree of relationship</p>	<p>You are the [insert relationship to partner] of [insert name]. 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 E-ECP.2.4. / E-LTRP.1.5. (delete as appropriate) of Appendix FM to the Immigration Rules.</p>
<p>Requirement to have met in person</p>	<p>It is considered that you and your partner have not met in person because [insert reason why it is not accepted that applicant and partner have met in person].</p> <p>As it cannot be verified that you and your partner have met in person, you fail to meet the requirement of paragraph E-ECP.2.5. / E-LTRP.1.6. (delete as appropriate) of Appendix FM to the Immigration Rules.</p>
<p>Genuine and subsisting relationship</p>	<p>It is not accepted that your relationship with your partner is genuine and subsisting. [Insert reasons, with reference to Guidance on determining a genuine relationship FM 2.0 Genuine and Subsisting Relationship Guidance].</p> <p>You therefore fail to meet the requirement of paragraph E-ECP.2.6. / E-LTRP.1.7. (delete as appropriate) of Appendix FM to the Immigration Rules.</p>
<p>Valid marriage or civil partnership</p>	<p>You have not provided specified evidence as required by paragraph 26 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>OR</p> <p>The evidence you have provided as to the validity of your marriage/civil partnership is not accepted because [provide reasons].</p> <p>You therefore fail to meet the requirement of paragraph E-ECP.2.7. / E-LTRP.1.8. (delete as appropriate) of Appendix FM to the Immigration Rules.</p>
<p>Previous relationship has not broken down</p>	<p>On [insert date of previous marriage/civil partnership] you were married to/entered into a civil partnership with (delete as appropriate) [insert name of person].</p>

Refusal Reason	Suggested Wording
<p>permanently and/or polygamy</p>	<p>You claim to presently be married/in a civil partnership with (delete as appropriate) [insert name of current partner].</p> <p>You have not provided the evidence specified in paragraph 26 of Appendix FM-SE to the Immigration Rules that your previous marriage/civil partnership (delete as appropriate) with [insert name of person] 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 E-ECP.2.9. / E-LTRP.1.9. (delete as appropriate) of Appendix FM to the Immigration Rules.</p>
<p>Intention to live together permanently in the UK</p>	<p>It is not accepted that you and your partner intend to live together/have lived together permanently in the UK (delete as appropriate) because [insert reason why this is not accepted].</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>
<p>Fiancé(e) or proposed civil partner seeking entry for marriage or civil partnership (entry clearance only)</p>	<p>I am not satisfied that you are seeking entry to the UK to enable your marriage/civil partnership (delete as appropriate) to take place [insert reasons]. You therefore fail to meet the requirement of paragraph E-ECP.2.8. of Appendix FM to the Immigration Rules.</p>
<p>Marriage/civil partnership has not taken place (in country extension only)</p>	<p>You were granted entry clearance to the UK as a fiancé(e) / proposed civil partner (delete as appropriate) on [insert date]. Your marriage/civil partnership (delete as appropriate) has not taken place during the 6 month period of that entry clearance.</p> <p>You have stated that [insert explanation provided by applicant]. This explanation is not considered to be good reason why the marriage/civil partnership (delete as appropriate) did not take place because [insert reasons].</p> <p>And/Or</p> <p>You have not provided evidence that the marriage/civil partnership (delete as appropriate) 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>
<p>Immigration status requirement</p>	<p>You are currently in the UK as [insert nature of immigration status]. In order to qualify for leave to remain as a partner, you must not be in the UK as [insert immigration status failure]. You therefore fail to</p>

Refusal Reason	Suggested Wording																		
(in country only)	meet the requirement of paragraph E-LTRP.2.1. of Appendix FM to the Immigration Rules.																		
Applicant is an overstayer (in country only)	It is noted that your previous leave as [insert previous leave] ended on [insert date] . You have been in the UK without valid leave for more than 28 days. 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>Projected Income Calculation</p> <table border="1" data-bbox="448 1664 1479 1892"> <thead> <tr> <th data-bbox="448 1664 703 1702">Income source</th> <th data-bbox="703 1664 986 1702">Interval received</th> <th data-bbox="986 1664 1479 1702">Equivalent weekly amount</th> </tr> </thead> <tbody> <tr> <td data-bbox="448 1702 703 1740"></td> <td data-bbox="703 1702 986 1740"></td> <td data-bbox="986 1702 1479 1740"></td> </tr> <tr> <td data-bbox="448 1740 703 1778"></td> <td data-bbox="703 1740 986 1778"></td> <td data-bbox="986 1740 1479 1778"></td> </tr> <tr> <td data-bbox="448 1778 703 1816"></td> <td data-bbox="703 1778 986 1816"></td> <td data-bbox="986 1778 1479 1816"></td> </tr> <tr> <td data-bbox="448 1816 703 1854"></td> <td data-bbox="703 1816 986 1854"></td> <td data-bbox="986 1816 1479 1854"></td> </tr> <tr> <td data-bbox="448 1854 703 1892"></td> <td data-bbox="703 1854 986 1892"></td> <td data-bbox="986 1854 1479 1892"></td> </tr> </tbody> </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>	Income source	Interval received	Equivalent weekly amount															
Income source	Interval received	Equivalent weekly amount																	

Refusal Reason	Suggested Wording															
	<p>$A - B \geq C$</p> <p>A minus B is greater than or equal to C.</p> <p>Where: A is the projected income (after deduction of income tax and national insurance contributions); B is what needs to be spent on accommodation; and C is the Income Support equivalent for a British family of that size. Using the figures provided in your application, as listed above, the 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>Income support equivalent calculation</p> <table border="1"> <thead> <tr> <th>Element</th> <th>Interval</th> <th>Amount</th> </tr> </thead> <tbody> <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> </tbody> </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 (and any dependants) (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														
Applicant has not met adequate accommodation	<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>OR</p> <p>The evidence you have provided does not demonstrate that adequate accommodation without recourse to public funds will be available.</p> <p>[Insert reasons]</p> <p>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>															
Applicant has not met English language	<p>You are not exempt from the English language requirement under paragraph E-ECP.4.2. / E-LTRP.4.2. (delete as appropriate).</p>															

Refusal Reason	Suggested Wording
<p>requirement</p>	<p>In addition (choose one or more of the following options):</p> <ul style="list-style-type: none"> ○ 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; ○ you have not passed an English language test in speaking and listening at a minimum of level A1 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; ○ 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. ○ 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]. <p>You therefore fail to meet the requirements of paragraphs E-ECP.4.1. and E-ECP.4.2. / E-LTRP.4.1. 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.</p>
<p>KoLL (ILR only)</p>	<p>For suggested refusal paragraphs see guidance: Knowledge of Language and Life Guidance (external).</p>
<p>Current partner is not the same as at the last grant of leave (in country only)</p>	<p>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.</p> <p>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.</p>
<p>Parent route</p>	
<p>Definition of "parent"</p>	<p>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 Interpretation Section of the Immigration Rules.</p> <p>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.</p>
<p>Not related as claimed</p>	<p>You have applied for leave to enter/remain (delete as appropriate) on the basis of your relationship with [insert name] who is a child.</p>

Refusal Reason	Suggested Wording
	<p>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 Interpretation Section of the Immigration Rules.</p> <p>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.</p>
<p>Parent does not have sole parental responsibility/ direct access to the child</p> <p>(entry clearance only)</p>	<p>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.</p>
<p>Parent does not have sole parental responsibility/ direct access /the child does not normally live with them</p> <p>(in country only)</p>	<p>In order to meet the requirements of paragraph E-LTRPT.2.4.(a) an 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 have sole responsibility for your child/your child normally lives with you/you have direct access in person to your child (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>Other parent or carer not a British citizen or settled</p> <p>(applications on basis of access rights only)</p>	<p>In order to meet the requirements of paragraph E-ECPT.2.3/E-LTRPT.2.3 (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 [insert reasons why it is not accepted that they are British or settled]. You therefore fail to meet the requirements of paragraph E-ECPT.2.3./E-LTRPT.2.3. (delete as appropriate) of the Immigration Rules.</p>
<p>Child’s other parent or carer is the partner of the applicant</p>	<p>In order to meet the requirements of paragraph E-ECPT.2.3.(b)/E-LTRPT.2.3.(b) (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 [insert reason why we believe the child’s other parent or carer is the applicant’s partner]. You therefore fail to meet the requirements of paragraph E-ECPT.2.3.(b)/E-LTRPT.2.3.(b) (delete as appropriate) of the Immigration Rules.</p>

Refusal Reason	Suggested Wording
<p>Applicant is eligible to apply as a partner (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 E-ECPT.2.3.(b)/E-LTRPT.2.3.(b) (delete as appropriate) an applicant must not be eligible to apply for leave to enter/remain (delete as appropriate) as a partner under Appendix FM.</p> <p>However, from the information provided it appears that [insert reason why we believe the applicant is eligible to apply for leave as a partner under Appendix FM]. You therefore fail to meet the requirements of paragraph E-ECPT.2.3.(b)/E-LTRPT.2.4.(b) (delete as appropriate) of the Immigration Rules.</p>
<p>No proof of direct access to the child</p>	<p>In order to meet the requirements of paragraph E-ECPT.2.4(a)/E-LTRPT.2.4.(a) (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 [list the evidence that has been provided]. 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 issued 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 E-ECPT.2.4.(a)/E-LTRPT.2.4.(a) (delete as appropriate) of the Immigration Rules.</p>
<p>Applicant does not take, or intend to take an active role in the child's upbringing</p>	<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 the Immigration Rules.</p>
<p>Child not under 18</p>	<p>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 the Immigration Rules.</p>
<p>Immigration status of child</p>	<p>Your child: (choose one or more of the following options)</p> <ul style="list-style-type: none"> • is not living in the UK • is not a British citizen • is not settled in the UK <p>You therefore fail to meet the requirements of paragraph E-ECPT.2.2./E-LTRPT.2.2. (delete as appropriate) of Appendix FM of</p>

Refusal Reason	Suggested Wording
Maintenance and accommodation	<p>the Immigration Rules.</p> <p>(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 the Immigration Rules.</p>
English language requirement	<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"> ○ 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; ○ you have not passed an English language test in speaking and listening at a minimum of level A1 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; ○ 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. ○ 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]. <p>You therefore fail to meet the requirements of paragraphs E-ECPT.4.1. and E-ECPT.4.2. / E-LTRPT.5.1. 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.</p>
Applicant does not meet the immigration status requirement (in-country only)	<p>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-ELTRPT.3.1./E-LTRPT.3.2. (delete as appropriate) of Appendix FM of the Immigration Rules.</p>
Applicant has remained in breach of the immigration laws (in-country only)	<p>You have remained in the UK in breach of the immigration laws for a period of ... (insert number of days or period which should be over 28 days). You do not meet the immigration status requirement under paragraph E-LTRPT.3.2.(b) of Appendix FM of the Immigration Rules.</p>

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>No exceptional circumstances raised – Entry clearance</p>	<p>It has also been considered whether your application raises any exceptional circumstances which, consistent with the right to respect for private and family life contained in Article 8 of the European Convention on Human Rights, might warrant a grant of entry clearance to the United Kingdom outside the requirements of the Immigration Rules.</p> <p>You have not raised any such exceptional circumstances, so it has been decided that your application does not fall for a grant of entry clearance outside the rules.</p>
<p>Possible exceptional circumstances raised – where there are NO children – Entry clearance</p>	<p>It has also been considered whether the particular circumstances set out in your application constitute exceptional circumstances which, consistent with the right to respect for private and family life contained in Article 8 of the European Convention on Human Rights, might warrant a grant of entry clearance to the United Kingdom outside the requirements of the Immigration Rules.</p> <p>In support of your claim you state [insert details of circumstances raised].</p> <p>This has been carefully considered [set out reasons why the circumstances are not considered exceptional].</p> <p>It has therefore been decided that there are no exceptional circumstances in your case. Consequently your application does not fall for a grant of entry clearance outside the rules.</p>
<p>Possible exceptional circumstances raised – where THERE ARE children – Entry clearance</p>	<p>It has also been considered whether the particular circumstances set out in your application constitute exceptional circumstances which, consistent with the right to respect for private and family life contained in Article 8 of the European Convention on Human Rights, might warrant a grant of entry clearance to the United Kingdom outside the requirements of the Immigration Rules.</p> <p>We have also taken into account the need to safeguard and promote the welfare of children in the United Kingdom in accordance with the Secretary of State’s duty under section 55 of the Borders, Citizenship and Immigration Act 2009.</p> <p>In support of your application you have raised the fact that you have [insert number of children] child who is/children who are (delete as appropriate) aged [list children’s ages] and has/have (delete as appropriate) been living in the United Kingdom for [list number of</p>

Refusal Reason	Suggested Wording
	<p>years for each child] years/all of his life/all of her life/all of their lives (delete as appropriate). You have also raised [list any relevant issues in relation to the children and their best interests].</p> <p>This has been carefully considered. [Set out the reasons why the circumstances are not considered exceptional].</p> <p>It has therefore been decided that there are no exceptional circumstances in your case. Consequently your application does not fall for a grant of entry clearance outside the rules.</p>
<p>Possible exceptional circumstances – In country</p>	<p>A paragraph referring to exceptional circumstances must be included in all refusal notices.</p> <p>For suggested refusal paragraphs see guidance: Family Life (as a Partner or Parent) and Private Life - 10-Year Routes</p>

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
Fails on basis of deportation order	At the date of application you are/were the subject of a deportation order issued on [insert date of deportation order] . 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.
Presence is not conducive to the public good	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.
Fails on basis of criminality	See Criminality and General Grounds for Guidance for refusal wording under S-ILR 1.4 to S-ILR 1.6: General Grounds for Refusal – internal guidance General Grounds for Refusal – external guidance
Fails on basis of conduct, character and associations or other reasons	Your exclusion from the UK is conducive to the public good because [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] . 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.
Fails on basis of non-compliance	You have failed to [attend an interview/provide information/ provide physical data/undergo a medical examination, or provide a medical report] . You have stated that [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] . 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
<p>Fails on the basis of false representations</p>	<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>
<p>Refused on basis of failure to disclose material facts</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 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>
<p>Refused on basis of debts owing to NHS</p>	<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 £1,000 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]. [Insert 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 [insert reasons]. You therefore fail to meet the requirement for indefinite leave to remain as a partner because paragraph S-ILR.2.3 of Appendix FM to the Immigration Rules applies.</p>
<p>Fails on the basis of lack of maintenance and accommodation undertaking</p>	<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 meet the requirement for indefinite leave to remain as a partner because paragraph S-ILR.2.4 of Appendix FM</p>

Refusal Reason	Suggested Wording
	to the Immigration Rules applies.
<p>Last grant of leave</p>	<p>Your last valid leave to remain in the United Kingdom was as [insert nature of last leave and date granted]. 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>Or</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>
<p>Death of partner</p>	<p>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.</p>
<p>Genuine and subsisting relationship / Intention to live together permanently in the UK</p>	<p>It is not accepted that your relationship with your partner at the time of their death was genuine and subsisting [insert reasons] 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.</p>

18. Contact for Further Information

This guidance is owned by the Family Policy Team.

Any queries should be directed to: FamilyOpsPolicy@homeoffice.gsi.gov.uk