



Fee waivers for human rights applications

1. What is a fee waiver?

When you apply for leave to remain (LTR), you need to pay two fees to the Home Office: the Home Office fee¹ and the Immigration Health Surcharge (IHS).

Most LTR applications cost £1033, and the IHS costs £624 per year. That means people applying for 30 months of leave have to pay £2593 per person. That's a huge amount of money to have to save every 30 months.

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

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

2. Who can apply for a fee waiver?

Fee waivers are available for human rights applications. This means you can apply for a fee waiver if you can't afford the IHS or the application fee for leave to remain:

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

You can apply even if you have No Recourse to Public Funds – a fee waiver is not a public fund.

¹ Fees are usually updated on 6 April each year, sometimes more often. They can be found here: <https://www.gov.uk/government/publications/visa-regulations-revised-table>

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

If you are applying based on your medical needs, you don't need to apply for a fee waiver. This is because there are no fees for applications based on Article 3 ECHR (to do with medical needs).

3. Will it affect my status?

No. It is important to remember that your leave to remain application, and the conditions of your leave, will NOT be negatively impacted if you apply for a fee waiver.

4. When do I apply for a fee waiver?

If you already have leave to remain: you must apply for a fee waiver no more than 28 days before your current leave to remain expires. Once you make a fee waiver application, all of your existing rights and entitlements will continue as if you had made a leave to remain application. This extended leave is known as Section 3C leave, under Section 3C of the Immigration Act 1971. This means that as long as you applied for a fee waiver 28 days or less before your leave expires, you don't need to worry if you haven't had a response from the Home Office by the time your existing leave expires.²

If you do not currently have leave to remain: you must apply for a fee waiver before you apply for leave to remain.

Once you receive a decision on your fee waiver application (whether it is granted or refused), you must then apply for leave to remain within 10 working days. If you do not apply within 10 working days of the decision on your fee waiver application, any existing leave you have will come to an end. If you were granted a fee waiver, the code for redeeming the fee waiver will no longer be valid.

² The Immigration Rules provide:

34G For the purposes of these rules, the date on which an application (or a variation of application in accordance with paragraph 34E) is made is:

...

(4) where the online application includes a request for a fee waiver, the date on which the online request for a fee waiver is submitted, as long as the completed application for leave to remain is submitted within 10 days of the receipt of the decision on the fee waiver application."

5. How do I apply for a fee waiver?

You can apply online, using [this form](#). It is free to apply. If you have dependants applying with you, you will need to include their details on the same form.

Before you start the application, read through this [sample application form](#), to get an idea of what questions you'll be asked.

After you submit the online application, you have ten working days to provide supporting documents (see below).

The Home Office aims to make a decision "promptly". You should normally expect to wait around 4 weeks for a decision.

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

6. What do I need to prove?

Can you afford to pay the fee? If you can't, that is all you really need to show.

The Home Office [guidance](#) has lots of wording about destitution and exceptional circumstances – but you do not have to prove either of these things. You only need to show that you cannot afford the fee.

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

7. What will the Home Office consider?

The Home Office guidance says that people applying for fee waivers have to show that they do not "have sufficient funds at their disposal, after meeting their essential needs, to pay the fee."

They will consider whether you have made any "non-essential or excessive purchases [...] holidays, gambling or other non-essential purchases". Remember: what is essential is subjective, so if you have any such expenses, make sure you explain why they were needed.

The Home Office will also consider your savings. However, the fact that you have savings does not mean that you cannot get a fee waiver. You should explain why it is important that you have some savings (e.g. for the welfare of a child, in case you lose your job, in case of emergency etc).

In making a decision, the Home Office must consider the best interests and welfare of children in the UK who would be affected by the decision.

A table clearly setting out your income and expenses, in a covering letter, can really help to show the Home Office that you cannot afford the fee. Make sure you explain any large or regular income or expenses on your bank statements. For irregular income or expenses, you can provide an average based on the last six months. The table might look something like the below:

<u>Income</u>	<u>£/month</u>	<u>Expenses</u>	<u>£/month</u>
Wages	xx	Rent	xx
Benefits	xx	Gas, Water, etc	xx
<u>Total</u>	<u>xx</u>	Food	xx
		Clothing	xx
		Etc	xx
		<u>Total</u>	<u>xx</u>

8. What evidence do I need to provide?

Evidence is key to a successful fee waiver application.

When you submit your fee waiver application online, a “Documents checklist” will be generated, telling you which documents you need to provide. You will need to provide these within ten working days. Generally, this includes:

- A copy of your passport photo page
- A copy of your BRP
- 6 months of bank statements for all accounts you hold
- An explanation of the income and outgoings from your account, to cover any regular or large transactions
- 6 months of payslips, and any other income you have
- A letter from your employer confirming your employment
- Letter from DWP/your Universal Credit journal, if you are receiving benefits
- Your tenancy agreement/mortgage bills
- 6 months of bills, including utility bills and council tax
- Letters from individuals who have loaned you money
- Evidence of any health issues you or your dependents have
Evidence of your childcare responsibilities, e.g. if this means you must work part-time

A cover letter or statement explaining why you cannot pay the fee is not mandatory, but it is useful. In a cover letter you can explain your income,

expenses and any other factors which make it difficult for you to afford the fees. You can also give detail about anything it isn't possible to explain on the online application form. You can submit your cover letter along with your supporting documents.

9. What if my fee waiver application is refused?

There is no right of appeal against a fee waiver decision, so you must make sure you make a strong application backed with lots of evidence. If you are refused, you do have a few options:

- You can challenge the refusal through judicial review – this is usually not practical for people who are renewing their leave to remain. This is because judicial reviews can take a long time, but your leave will expire if you don't apply for further leave within 10 days of the fee waiver decision
- You can apply again with better evidence – again, this is not a suitable option for people who are renewing their leave to remain
- You can find a way to pay the fee and make your leave to remain application within 10 working days
- In some cases, the Home Office may request additional evidence before making a decision – be sure to provide this within ten working days of the request