

APPLYING FOR LEAVE TO REMAIN IN THE UK IF YOU HAVE LIVED HERE WITHOUT BREAKS FOR 20 YEARS:

As at 01.05.24:

What these notes cover:

- 1 *Introduction*
- 2 *Assessing if you are eligible - the requirements*
- 3 *How to prove 20 years of residence in the UK – evidence gathering*
- 4 *Making an application*

Annex 1 – How to make a Home Office & HMRC, SAR's

Annex 2 – Obtaining your GP records

Annex 3 – Obtaining your bank statements for open & closed accounts

Annex 4– Statements; Applicant & Third Party

Annex 5 – Example Timeline

Annex 6 – NHS Debt

Annex 6 - Resources

Introduction:

If you have been living in the UK many years, a 20-year application could be a helpful for you to understand. If you have not yet reached 20 years of residence, understanding what is needed to make this application will help you plan and ensure that when you reach 20 years you have available the evidence that is needed to support the application.

An application to the Home Office for leave to remain based on 20 years of residence, is a human rights application that argues that because of the private life established in the UK during the 20 years of long residence, the person making the application to the Home Office (“the Applicant”), should be granted leave to remain. Previously the rule was that you could make this application if you could show you had been in the UK continuously for 14 years. This changed in 2012 to 20 years, but you may still hear people wrongly refer to 14 years residence being long enough.

If the application is successful, the Home Office will grant 30 months (2.5 years) leave to remain on a ten-year route indefinite Leave to Remain (ILR) - sometimes called permanent residence. This gives the right to work and to travel in and out of the UK.

Years in the UK both with leave and without leave to remain, count towards the 20 years. The only residence that does not count is time spent in prison having been convicted of a criminal offence. However, time spent in immigration detention does count towards the 20 years.

The main thing to understand about a 20-year application is that **every year of residence must be documented with at least one piece of evidence of residence for that year.**

As we think about what kind of matters are relevant in human rights law. Private life includes -

- Work activities and relationships
- Accommodation history
- Social life and community activities
- Relations with other people – family, friends and broader external circle
- Life choices and home

These applications are complicated to make and ideally you would have a legal representative to help you. You can do a lot of the preparation yourself and this makes it more likely that you will be able to find a legal representative to take your case.

Assessing if you are Eligible to make a 20 Year Application – the Requirements:

The eligibility requirements under the 20-year rules are that:

1. You are **over 25 years of age** - If you are younger than 25 years old, there are other rules that apply.
2. You must have **lived in the UK continuously** for at least 20 years
3. You must not be refused under the **suitability requirements**

● What is Continuous Residence:

'Continuous residence' means you have been living in the UK without significant breaks. Continuous residence is broken by:

- Being away from the UK for longer than 6 months
- Being away from the UK for a total of 550 days (1.5 years) in the 20 years
- If you are deported from the UK following a criminal conviction during the 20-year period
- If you are removed from the UK in circumstances and did not return to the UK lawfully

Time spent in prison cannot be counted towards the 20 years spent in the UK, but it does not break the period of continuous residence. This means that you can use the time you spent in the UK before you were in prison and add it to time spent in the UK after release from prison.

● What are the Suitability Criteria – are you Excluded from Making an Application?

This means that the Home Office **might** refuse your application if the following apply to you:

- You have a **criminal conviction** which led to a sentence of more than 12 months
- The Home Office believes that you took part in a **Sham Marriage or Civil Partnership**

- The Home Office has evidence relating to your ‘**bad character**’, possibly regarding other immigration applications, for example deception was used – to explore this it will be necessary to do a Home Office SAR so it’s known what has been said to the Home Office
- You have unpaid **NHS debts** – see Annex
- An applicant who has made a protection or asylum claim which has been declared inadmissible under Part 11 of these rules before 28 June 2022, or under section 80B and 80C of the Nationality, Immigration and Asylum Act 2002, and which continues to be treated as inadmissible is excluded.

If any of the above apply to you, it does not mean that you cannot make a 20-year application or that it is certain to fail. You will however need to explain your situation and it is a good idea to provide additional evidence. This may help in pre-empting a refusal on suitability grounds and make any appeal of a refusal stronger. The Home Office will have to consider your application in terms of general human rights law looking at the private life you have established in the UK and whether there are very significant obstacles that you would face if returned to your country. Read more on the [Human Rights page of the Toolkit](#).

It is important that you tell your representative if any of the suitability matters apply to you so that they can be addressed in your application. The Home Office will make security checks before deciding the application and these matters may come out. It is much better that you disclose them in your application in an honest and upfront way which will help your case.

How to Prove 20 Years of Residence:

Home Office decision caseworker who will decide your application will expect to see evidence, usually documents, that covers **every 12-month period of the 20 years**. The Home Office prefers to see official documentation; bank statements, work contracts, payslips, tenancy agreements etc. But if you cannot provide at least one piece of official evidence that covers every year of the 20 years, this is not essential, but you will need more pieces of non-official documentation for each year.

It can be difficult to prove evidence of 20 years’ continuous residence if you have spent time without leave to remain. You may not have had bank accounts, a work contract or a tenancy agreement etc which can make it hard to provide a record. The Home Office does understand this which is why they also accept non-official documentation to prove residence.

The starting point will be to go over all the events and everything that happened in your time in the UK with a very fine tooth comb, thinking through and going over

every year that you spent in the UK to try to remember and piece together what you did in that time, where you spent time and who with, where you lived, and whether any documents exist or can be obtained to show that you were in the UK at that point, or in the absence of documents whether there are any people who knew you at that time and who are able to provide witness evidence. Writing it out for each year can be helpful in planning the application.

Evidence falls loosely into two categories: **documentary evidence** and **witness evidence**.

TOP TIPS:

- *The more pieces of documentation that you can provide for each year the better*
- *Think imaginatively - like a detective. It is very hard to live in the UK 20 years and leave no traces at all*
- *Think of those 20 years as a jigsaw puzzle - how can you link them all together*

COMMON OFFICIAL DOCUMENTATION:

- Passports- All current and expires, maybe renewed in the UK, ID cards or visas you used to enter the UK
- Driving Licence – if you have had one in the UK
- Home Office-All Home Office applications, appeals etc
- Courts- Court documents for fines etc
- Social Services – if Social Services involvement
- Work – Employment contracts, payslips, P45's, P60's
- College - Certificates, enrolments, payment of fees
- Bank - Bank statements for open and closed accounts
- Credit Card- Credit Card statements, letters
- Loans- Finance agreements and statements
- Medical- GP records, hospital letters, dentist, A & E, clinics
- Housing- Tenancy agreements, Rent Books
- Utility Bills - Electricity, Gas, Water, telephone
- Council Tax- local taxes and voter registrations
- TV Licence- shows name and address, cable / satellite TV contracts
- Wifi- Wifi / broadband contracts
- Mobile- Mobile phone contracts

- **Full Records You Can Apply For:**
- HMRC- Tax and National Insurance (NI) records
- Bank- Full set of statements for all your open and closed accounts, from the date of opening to closing of the account
- GP- From date of registration with NHS using your NHS number, full electronic records showing the dates of all visits to the GP
- Covid Certificates -
- Hospital- All records attached to your hospital number
- Home Office - Subject Access Request (SAR)
- Social Services – SAR

COMMON UN-OFFICIAL DOCUMENTATION:

- **Church, Mosque, Faith groups:** They can provide letters confirming the date you started attending, how regularly you attend on average, and when they last saw you.
- **Community involvement:** Participation in community organizations, or volunteering activities can be used to show your residence, such as membership rolls, attendance lists, or photos.
- **Charities:** If you were supported by any charities or volunteered with them, obtain letters confirming this with the dates that they had contact with you.
- **Witness Statements:** From family and friends who can confirm; the date they met you, how they met you, how you have stayed in touch, how regularly they see you on average, and when they last saw you. Statement can be supported by photographs across the years confirming that how long you have known each other and how regularly you have been in touch, including birthday and Christmas cards etc. If these people provide you with food, cash or accommodation they should say how long this have been for, when it started, and what they provide and how regularly.
- **Photos:** from as far back of your time in the UK to the present, showing how you have changed, ideally including recognisable UK backgrounds; monuments, street names, buses etc, so it is clear that you are in the UK and ideally digitally time and date stamped.
- **Digital Footprint:** If you have used online services or social media while in the UK, chat histories, timestamps and location data can be used to show your location
- **Miscellaneous:** Receipts for goods or services that you have paid for

TOP TIPS:

Letters in support need to be detailed and precise:

- ◆ *The year of first contact and the circumstances of that first contact*
- ◆ *That you have remained in contact regularly, providing an average time frame e.g., you attend Church every Sunday, you always come to your friend's Christmas party, or you see each other on average once each month*
- ◆ *That there have been no breaks in contact of more than one year*

WORKING / LIVING IN A DIFFERENT NAME: You can rely on time spent living and working in a different name/s but you need to show that all ID's relate to you. Usually this can be done via photographs, ID cards, and third-party statements.

Making an application to the Home Office:

Legal Aid & ECF: Ideally you would be represented by an experienced immigration advisor to help you prepare and submit your application. If you cannot afford to pay for an advisor, Legal Aid may be available if you can show that you are financially eligible. An Exceptional Case Funding (ECF) application would first need to be made to demonstrate to the Legal Aid Agency that you qualify financially for legal aid and that you need a lawyer to help you with the application. HMSC can help with ECF applications and trying to find you a legal aid lawyer.

The requirements for the application to the Home Office are:

1. Apply using the correct form – **FLR (FP)**;
2. Make a valid application via the **online application** process
3. Pay the **Home Office fee** and the **NHS Immigration Health Surcharge**
4. provided a valid national **passport** or other document which satisfactorily establishes your identity and nationality;

The application can be made no earlier than 28 days before reaching 20 years.

Passport: If it is not possible to submit a current passport with the application, this should be explained in the Applicant's statement in support of the application and evidence of attempts made provided. If no passport is available, a copy of a previous passport could be used, or a combination of a birth certificate and a photo ID such as a drivers' licence. *If you can obtain a passport to support your application this is best.*

The Application Fee: There is a fee for the application. To find out how much you will need to pay for yourself and any dependants, read the [latest Home Office guidance](#) on UK immigration and nationality fees. You will also need to pay

the immigration health surcharge as part of this application, unless you fall into one of the exempt categories. To find out more about the immigration health surcharge, see [here](#). The current Home Office fee is £1048 and the IHS £2587.50 - total £3635.50.

Fee Waivers: If you are destitute or if you cannot afford to pay the application fee and health surcharge, you can apply for a fee waiver. You can also apply for a partial fee waiver for some of the fees. It is important to remember that if you plan to apply for a fee waiver, the Home Office will require the most recent 6 months bank statements. They will require an explanation for every deposit into all of your accounts. They will also do a bank account search so will find any account held in your name in the UK.

If your application is successful: If you are successful in your application, you will be granted **2.5 years' leave to remain**. You must apply to renew your leave to remain before it runs out. If the renewal is successful, you will be granted another period of 2.5 years' leave to remain. After ten years – that is, 4 rounds of renewal of 2.5 years' leave to remain – you will be able to apply for [Indefinite Leave to Remain](#) (also known as 'settlement or permanent residence').

Your leave will usually have a **No Recourse to Public Funds (NRPF)** condition attached to your leave to remain, which means you will not have access to public funds such as welfare benefits or homelessness support while you have these time-limited periods of leave to remain. You would need to demonstrate exceptional circumstances in order to have this 'no recourse to public funds' restriction lifted. Read more about applying to have your NRPF condition lifted [here](#).

If your application is refused: If your application is refused, you may have the right to appeal the decision to an Immigration Judge in the Immigration Tribunal.

ANNEX 1 - Making a SAR:

A Subject Access Request (SAR) is a request you can make to the organizations holding data about you, including the Home Office, HMRC, DWP and Police, to see a copy of the information they have on you. It's your right under data protection law to ask for this information, and the organization must provide it.

How to Apply for a Home Office SAR:

- Go to the following web-site:
https://visasimmigration.service.gov.uk/product/saru?_ga=2.212712148.1392198258.1617283441-171807286.1614097720

- On next page, hit “Detailed records”
- Chose “Home Office Files” and “Detention records”
- Explain why you need this information. Here is an example:
“I am writing to make a subject access request for disclosure under the Data Protection Act 1998 of all data that the UK Border Agency holds about me, in accordance with Section 7(3) of the Data Protection Act 1998. This includes all their records, whether held digitally or otherwise, copies of all correspondence sent to and received from them or any legal representatives (including any records of attachments to the same), and a copy of any correspondence received in the course of appeals.”
- Add your email address and set a password.
- Who does this email belong to? Answer: The applicant
- Do you have a legal representative for this application? Answer: No
- Are you completing for someone else? Answer: No
- Save and continue
- Add your name and surname
- Can we use this email address to contact you? Answer: Yes
- “Add phone number”: Click “I cannot be contacted by telephone” and **DO NOT ADD A TELEPHONE NUMBER. This is to ensure that the Home Office only notifies you in writing.**
- Add your address.
- Add nationality, date and country of birth
- Have you ever used, or provided with other dates of birth: complete as relevant
- Further identification questions: ignore (do not answer these questions)
- Vulnerabilities: put no unless relevant
- Your reference number: Add HO number if you have it. Otherwise choose the ones that you have
- Tick the 3 boxes: documents required.
 - A copy of photo identification: If you do not have any photo ID, take a photo of yourself and upload it. Also upload a copy of your BRP if you have one
 - Written confirmation that the photo is a true likeness
 - Letter to give permission for your records to be sent to you, or your representative
- Validate your email address by clicking the link sent to your email address by the Home Office. This is the address that you need to send the proof of address and ID to.

You now have 14 days to send all relevant documentation to the Home Office at this email address. Try to do it immediately

If you haven’t received the SAR one month after your request:

- send an email chasing up the SAR application to subjectaccessrequest@homeoffice.gov.uk.
- Indicate your SAR Reference Number in the submission confirmation email which you received after you submitted your SAR request.

How to Apply HMRC SAR:

You can ask for information about your tax credits, Tax-Free Childcare, 30 hours free childcare, Income Tax, Self-Assessment, Child Benefit, VAT, customs and other records,

your employment record, including tax year, employer, earnings, National Insurance record and tax paid.

Visit HMRC website for more information: <https://www.gov.uk/guidance/hmrc-subject-access-request>

To get your tax and NI payment records, you need to have a national insurance (NI) number. If you have one, follow these steps:

- Go to the following web-site:
https://www.tax.service.gov.uk/shortforms/form/DPU_SAR_NI?_ga=2.193278189.1950788510.1714217778-214058639.1711463218
- Add your title (Mr, Ms, etc.), your surname, name, national insurance number, address and post code
- Start date: the year in which you registered with the HMSC – usually the year your NI was issued
- End date: this year
- Add your email address and today's date in the last column

ANNEX 2 - GP Records:

To obtain your electronic GP records – GP's may charge a small administrative fee for this. You can request this in person or by email to the practice inbox attaching proof of your address and ID.

ANNEX 3 - Obtaining Bank Statements:

Sometimes it is possible to obtain a letter from a bank saying that you held an account with them that was opened on this date and closed on that date and that for each year the account was open there was at least one transaction. More likely is that you will need to obtain full sets of bank statements from when the account was opened until it closed. This is how you obtain your bank statements for all open and closed accounts. Banks may charge a small administrative fee for this.

Online: these can usually be downloaded for each month

Older Paper Records: you will need to go to the bank and request them. It may take some time

ANNEX 4 - Statements:

Statements are ideally typed if this is possible but can also be handwritten.

They should be written in simple sentences with as much precision, clarity and detail as possible. Think for each thing you are describing - **when, where, who, why**. When did it happen, where did it happen, who was present, and why is it relevant.

Applicant Statement:

- Provide as much detail as possible, dates, full addresses, descriptions – thinking, **when, where, who, why**
- Try to link your statement to the evidence that you will be submitting to support the application
- It should cover:
 - Date of arrival, document you arrived on, visa arrived on, plans at that time
 - Your immigration history in the UK
 - Your address history in full detail with dates and full addresses
 - Explanation of periods of sofa surfing / homelessness
 - Your work history; role, employer, address, dates, how paid etc
 - Explanation of work in another name and how you can show this links to you
 - Your NHS and GP history
 - History of all hospital treatment and non-GP medical treatment
 - Registration for NI and TX
 - Bank account history
 - Relationships and dependants in the U
 - Family in UK
 - Friends in UK
 - Churches / Mosques / other faith groups

Thinks as imaginatively as possible !

Third Party Statements:

Third party statements may be from; family, friends, Church / Mosque leaders, organisers at charities you're involved with, basically anyone who knows you and is willing to provide their full name, proof of address and ID. Such statements **should be as detailed as possible**, but to be helpful must at a minimum include the following elements:

- Immigration status of the witness: If he/she has a British passport. If not, what is their immigration status in the UK / what kind of leave to remain do they have
- Address of the witness: Add a proof of their address
- Full contact details for the witness and that they agree to the Home Office contacting them

- Personal history of the witness with the applicant
 - How, where and when did the witness and the applicant meet.
 - Confirm that the witness sees the applicant frequently.
 - Describe how often they see each other, whether occasionally but at least once a year such as at events like birthday parties, Christmas, charity events, Church etc. Or that they see each other regularly – on average, once a week, once a month etc and at what kind of event
 - If they haven't seen each other for a while, please explain this as well. If there have been gaps of more than one year in contact explain this and why it was.

- Support the statement with any evidence to support the account such as photos, cards, letters, What's App Chat histories etc

Third Party Witness Statement Template:

1. I am [name of the witness]. I have been living in the UK since [date]. I am British and my passport number is [passport number] / My immigration status is [i.e. indefinite leave to remain]. My residence card number is [residence card number]. A copy of document is annexed to this statement.

2. My address is [address of the witness]. I have lived at this address since [the year]. I annex a utility bill that confirms my name and residence at this address.

3. I am making this statement to confirm how long I have known [name of the Applicant, include the Applicant's full name as on their ID documents here] and that I have had face to face contact with the Applicant regularly since we first met.

4. I first met the applicant in [year] [and place] when we [worked at the same workplace, went to same church, were neighbours, were sharing the same flat, etc **Provide as much detail as possible of the circumstances that you first met**].

5. After I first met [the applicant's name], we have regularly seen each other, for instance at [events if applicable, such as "Sunday at Church" or "in community centre for "Cuma pray" or "working days at the store" etc.] I confirm that since we first we have seen each other in person at least once every year and there have been not gaps in this contact. [If there have been breaks in contact then explain this and why, and when you re-established contact]

6. Annexed to this statement are the following which confirms my account [mention attached photographs, cards, letters etc].

- 7.

8. Please contact me on the telephone or email address below if you require any further information. I confirm that I am willing to attend in person to give oral evidence if this is required.

[Your name]

[Date]

[Your contact details – email and telephone]

Annexed;

- **Proof of address**
- **Copy Passport, BRP or driving licence**
- **Evidence in support – eg., photos, cards, letters**

ANNEX 5 - Timeline:

20 Year Application Timeline

Year	Date	Document Proving UK Residence
	<i>Example 2004</i>	<ul style="list-style-type: none"> • Croydon College acceptance letter (dated 15 Sep) • GP Registration & attendance dated (June 2004)
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ANNEX 6 – NHS DEBT:

People who have lived in the UK many years without leave to remain are reasonably likely to have incurred NHS debt. If you have not received a letter from an NHS trust about this then if you do a Home Office SAR it can be checked to see if NHS debt has been flagged.

An NHS debt flag in your Home Office records means that a health authority has notified the Home Office that you have failed to pay charges in accordance with the relevant NHS regulations to a total value of **at least £500**. This only applies if the charge was **incurred after 6 April 2016**. For charges incurred between **1 November 2011 and 5 April 2016**, **an application should only be refused if the debt is £1,000 or more**.

If you have NHS debt that was incurred after 01/11/11 and over the applicable limits, then steps should be taken to agree a repayment plan or write off with the Health Authority so that this can be explained in your application.

Ideally you would try to clear the debt with the relevant health authority prior to making your 20-year application or at a minimum agree a repayment plan with them. Often the health authority will agree to write off the debt. At a minimum it needs to be explained in the personal statement supporting the 20-year application.

ANNEX 7 - Resources:

The Right to Remain Tool Kit is a good resource to look at for more information. This is a useful overview of 20-year applications providing guidance on the things to think about as you are preparing the application

<https://righttoremain.org.uk/toolkit/long-residence/#:~:text=The%20immigration%20rules%20now%20require,a%20valid%20application%20for%20leave>

Home Office Guidance

<https://www.gov.uk/government/publications/private-life-caseworker-guidance/private-life-caseworker-guidance-accessible--2#adult-private-life-applications>

<https://www.gov.uk/guidance/immigration-rules/immigration-rules-appendix-private-life>