



Domestic violence and immigration rules

October 2021

If a migrant is in the UK on a visa that requires them to be in a 'subsisting relationship' with their sponsor as a condition of the visa then it can be curtailed by the Home Office and they will be expected to leave the UK if they were to separate from their sponsor, unless they are eligible to apply for another form of leave to remain. There is an exception where the migrant can show that domestic violence was the reason for the breakdown of the relationship.

Migrants on the following visa routes are required to be in a subsisting relationship with their sponsor:

- Partner/spouse of a settled person/British national (usually called a spouse visa)
- 10 year partner route
- Dependent of a student (Student visa)
- Dependent of a work permit holder (Tier 2 visa; Highly Skilled Migrant visa; Representative of an Overseas Business; Ancestry visa; Global Talent visa)
- Dependent of a person holding a business visa (Innovator visa; Start-up visa; Tier 1 (Entrepreneur); Tier 1 (Investor))
- Refugee family reunion visa
- Partner of a person in the UK with limited leave under Appendix EU ('pre-settled status')

No Recourse to Public Funds (NRPF)

Of the visa routes listed above, the following visa routes carry the 'No recourse to Public Funds' (NRPF) restriction:

- Partner/spouse of a settled person/British national (usually called a spouse visa)
- Ten-year partner route
- Dependent of a student
- Dependent of a work permit holder
- Dependent of a person holding a business visa

Request for NRPF to be lifted

Migrants with a spouse visa and migrants on the ten-year partner route can apply for a '**Change in Conditions**' to request the NRPF restriction is lifted. They will have to show severe financial hardship and, if they are on the five-year route to settlement they will be moved onto the ten-year route, meaning it will

take twice as long for them to be eligible to apply for **Indefinite Leave to Remain**.

Dependents of students and dependents of work permit holders or people on business visas cannot apply for the NRPF restriction to be lifted.

What happens if a migrant separates from her sponsor?

If a migrant separates from her sponsor her visa can be curtailed by the Home Office and she will be expected to leave the UK unless she is eligible to apply for another form of leave to remain.

Domestic Violence

There is an exception where the migrant can show that domestic violence was the reason for the breakdown of the relationship. Migrants who are or were on the

At a glance

Migrants who are or were on certain visa routes are eligible to apply for Indefinite Leave to Remain if they have suffered domestic violence:

- partner/spouse of a settled person/British national (usually called a spouse visa);
- ten-year partner route;
- refugee family reunion visa;
- partner of a person in the UK with limited leave under Appendix EU (pre-settled status).

The applicant will need to submit evidence to the Home Office that she suffered domestic violence.

There is no prescriptive list of required evidence but it could include:- personal statement, medical records, police records, letters from refuge support workers, social work reports

Applications are made online on gov.uk on a form called a SET DV form. Before applying for ILR under Section DVILR. Many applicants apply for the Destitution Domestic Violence Concession (DDVC) notifying the Home Office of the separation and their requirement for access to public funds. This then means the applicant can access Universal Credit, as well as secure a place in a refuge of supported accommodation.



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following visa routes are eligible to apply for **Indefinite Leave to Remain** under Immigration Rules Section **DVILR** on the basis that they have suffered domestic violence:

- Partner/spouse of a settled person/British national (usually called a spouse visa)
- Ten-year partner route
- Refugee family reunion visa
- Partner of a person in the UK with limited leave under Appendix EU (pre-settled status)

The migrant is eligible to apply under this route even if her leave to remain has lapsed (i.e. she did not apply in time to extend it), as long as she was previously on one of these visa routes and did not move on to a different type of visa. This is because the Home Office recognise that the abusive partner may choose not to renew the migrant's visa as part of the pattern of abuse.

The rationale for granting ILR to victims of domestic violence on these visa routes is that the migrant had an expectation of settlement in the UK when she arrived here and she might otherwise stay in an abusive relationship in order to avoid losing her path to settlement.

The applicant will need to submit evidence to the Home Office that she suffered domestic violence. This evidence could include her statement, medical records, police records, letters from refuge support workers and social work reports. There is no prescriptive list of required evidence.

The domestic violence may be physical or emotional. It may have

been conducted by the sponsor or by his family members if the sponsor did not protect the migrant from the domestic violence. The government definition of domestic violence as "any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are, or have been, intimate partners or family members regardless of gender or sexuality" is used.

Applications for Indefinite Leave to Remain (ILR) because of DV

Applications are made online on gov.uk on a form called a **SET DV form**. The Home Office is currently fairly quick at making decisions. Most applications are granted within 1-2 months of supporting evidence being submitted.

Destitution Domestic Violence Concession

Before applying for **ILR** under Section **DVILR**, many applicants apply for the **Destitution Domestic Violence Concession (DDVC)**. A short form is completed that notifies the Home Office that the migrant has separated from her sponsor due to domestic violence and requires access to public funds. The form is lodged by email. No evidence of domestic violence is required.

The Home Office generally process these forms in 1-2 weeks. The applicant is granted three months' **'Leave to Remain outside the Immigration Rules'** with access to public funds. This means the applicant can then apply for

Universal Credit. This is important to allow the applicant to secure a place in refuge or in supported accommodation.

As long as the SET DV form is lodged online before the DDVC expires, the applicant's leave to remain and access to benefits will be extended until the Home Office decide whether or not to grant ILR. This is due to Section 3C of the Immigration Act 1971.

This concession does not form part of the Immigration Rules. It is a policy concession set out in guidance most recently issued on 5 February 2018. The guidance restricts eligibility for the DDVC to spouses, civil partners, unmarried partners of British citizens and settled persons, so excluding holders of family reunion visas and people with pre-settled status. In practice, the Home Office grant the DDVC to holders of family reunion visas. We don't yet know whether the DDVC will be granted to people with pre-settled status.

Asylum

Where a couple both claim asylum they may each have their own asylum claim or one partner can opt to be the dependent on the other partner, who will then be the main applicant. In these circumstances, if the couple split up while the asylum claim is pending, the dependent partner will need to make her own asylum claim as an individual.



Central England Law Centre Briefing

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Gaps in support

Work permit holders:

Dependents of work permit holders and of people on business visas are not eligible to apply for the DDV concession nor for ILR on the basis of domestic violence. These migrants had an expectation of settlement in the UK when they arrived, because these visa routes lead to eligibility for ILR after 5 years. There is therefore the same expectation of settlement in the UK as for migrants who enter as the spouse of a British citizen. Migrants in this position who leave abusive relationships have no route to apply to remain in the UK under Section DVILR and have no recourse to public funds, so they struggle to find refuge spaces.

Dependents of students:

Dependents of students have no route to apply for leave to remain on the basis of domestic violence and no recourse to public funds if they flee an abusive relationship.

Fiancées:

People who enter the UK on a fiancée visa and who are not subsequently granted leave to remain as a spouse are not eligible to make an application under Section DVILR. If their relationship ends they are expected to leave the UK unless they can apply for leave to remain on another basis.

Other family members:

Wider family members – the current domestic violence rules only apply to partners. Minor children can apply as dependents of their

migrant parent if that parent was the victim of domestic violence. However, if the child is the victim of the abuse and becomes estranged from the sponsor parent as a result, there is currently no visa route that allows them to apply to remain in the UK in their own right. For instance, a refugee in the UK could sponsor his children to come to the UK under family reunion. If he is abusive to his child and the child leaves home, the child will be left with no form of leave to remain, no right to work and no recourse to public funds when her visa expires.

No leave to remain:

Migrants with no leave to remain who never held a visa that would make them eligible under Section DVILR (for instance over-stayers or refused asylum seekers) are not eligible for any public funds and have no immigration application open to them as a result of suffering domestic violence.

DDV concession:

Home Office policy guidance – Destitute domestic violence (DDV) concession Version 1.0, 5 February 2018 – sets out the rules for the DDV concession. The DDV concession does not exist in the Immigration Rules. The guidance states that only applicants who have previously been granted leave to enter or remain as the spouse, civil partner or unmarried partner of a British citizen or settled person are eligible to be granted the DDV concession. This therefore excludes partners of refugees who have entered the UK on family reunion visas and partners of EEA nationals who hold

pre-settled status from applying for the DDV concession. In practice, holders of family reunion visas are granted the DDV concession. The policy guidance needs to be updated so that it reflects the eligibility criteria for the SET DV route.

Parents of British children:

Migrants who are the parents of British children or of children who have lived in the UK for seven continuous years can apply to remain in the UK with their children under Paragraph EX.1 of the Immigration Rules ('the 10 year parent route'). If the migrant has no means of support (for instance, a lone parent with young children) she can request that leave to remain is granted with access to public funds (so no NRPF restriction). However, while waiting for a decision she will not be entitled to any public funds, so will be dependent on asking the local authority to provide support under Section 17 of the Children Act 1989. It usually takes the Home Office at least six months to process applications for leave to remain under the parent route.