

## **Indefinite Leave to Remain in the UK**

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## Table of Contents

Introduction .....	5
Eligibility criteria .....	6
Continuous residence .....	7
How many points you need to be eligible .....	8
Knowledge of Language & Life in the UK .....	9
How to apply .....	10
Family members (dependants) .....	11
Home Office Application Fees .....	13

Under the current rules, applications for indefinite leave to remain will not be accepted in the Tier 1 (General) category from 6 April 2018. Applicants who are currently in the UK and who wish to apply for indefinite leave to remain must submit an application on or before 5 April 2018.

Applicants who wish to apply for indefinite leave to remain in the future must ensure that they do not have excessive absences from the UK throughout the five years and can meet the specific Tier 1 (General) ILR requirements.

**To be eligible to apply for settlement one must:**

- be physically present in the UK and hold valid leave under the Tier 1 (General) category
- have been continuously resident in the UK for no less than 5 years
- have passed the Life in the UK Test
- satisfy the English language requirement
- meet the same points threshold based on the criteria in place at the time of initial Tier 1 (General) application.

In addition the applicant must:

- be in the UK legally
- have not breached any conditions of his/her leave
- have no unspent convictions
- have not been in receipt of public funds e.g. Jobseeker's Allowance, Income Support, Housing Benefit and Council Tax Benefit

## **Continuous residence**

To meet the continuous residence requirement for indefinite leave to remain, applicants must demonstrate that they have not been absent from the UK for more than 180 days in any 12 month period during their 5 year qualifying period. Applicants are required to provide a list of any travel outside of the UK during this 5 year period, and letters from their employers confirming the purpose of this travel (whether it be for business purposes or for personal reasons consistent with annual paid leave).

The 5 years can include time in the UK on another visa if it was one of the following:

- Tier 1 (General)
- Tier 2
- Highly Skilled Migrant Programme
- Work Permit
- Innovator
- Self-Employed Lawyer
- Writer, Composer or Artist

The 5 years can include time in the UK on a Tier 2 (Intra-Company Transfer) visa if one of the following apply:

- the continuous residence includes a period of leave granted under the Tier 2 (Intra-Company Transfer) rules in place before 6 April 2010
- the continuous residence includes time where you had a work permit granted because you were the subject of an Intra-Company Transfer

Applications for settlement can be submitted no earlier than 28 days before the date at which the applicant has reached the five-year qualifying period.

## **How many points one needs to be eligible**

To qualify for indefinite leave to remain, applicants must meet the same points criteria that was in place at the time of their first Tier 1 (General) application. Note that applicants will continue to be awarded the same points for age (i.e. they will not be penalised for growing older) and points for qualifications will automatically be awarded if the applicant is relying on the same qualification submitted with their previous Tier 1 application.

Applicants will need to provide evidence of earnings to meet the remaining points requirements. This will require providing evidence of earnings generated in a continuous 12 month period within the 15 months immediately prior to the date of application.

## **Knowledge of Language & Life in the UK**

Applicants for ILR must satisfy the Knowledge of Language and Life in the UK (KoLL) requirement.

All applicants are required to:

- pass the Life in the UK test; and
- demonstrate that they can communicate in English to a level equivalent to B1 CEFR or higher. Nationals of majority English-speaking countries automatically satisfy the English language requirement. Other applicants must provide evidence of holding an academic qualification equivalent to a UK bachelor degree that was taught in English, or an approved English language test.

## **How to apply**

Complete SET (O) application form.

Check the application form to find out what supporting documents you need to send with your application.

Post your application to the address on the form or apply in person at a premium service centre.

After you submit your application you'll be asked to provide your fingerprints and a digital photo (called 'biometric information').

## **Family members (dependants)**

Your partner and children under 18 can apply on the same form as you if they're eligible.

### Eligibility for partners

Your partner may qualify if all of the following apply:

- they have permission to be in the UK as your partner
- they have been living in the UK with you for at least 2 years if they applied before 9 July 2012 or 5 years if they applied on or after 9 July 2012
- your relationship is genuine and subsisting
- you intend to carry on living together
- you are not in receipt of public funds

They must also meet the Life and Language in the UK requirements (see above).

### Eligibility for children

Your child may be eligible for indefinite leave to remain if they:

- were previously given permission to stay in the UK as your child
- continue to be dependent on you or your partner
- are not married or in a civil partnership
- will live with you and be supported by you without recourse to public funds

You and your child's other parent must both be in the UK legally, or currently applying to enter, remain or settle, for the child to be allowed to settle.

If one of the child's parents are not in the UK, the child can only apply to settle in one of the following situations:

- you are the child's sole surviving parent
- you have sole responsibility for the child's upbringing
- there are serious or compelling family or other considerations

If your child is 16 or older when you apply you'll need to provide proof of where they currently live. This requires providing two of the following documents:

- bank statement
- credit card bill
- driving licence
- NHS registration document
- a letter from their current school, college or university, on headed paper and issued by an authorised official of that organisation

The documents you send cannot be more than a month old on the date you make your application.

You need to give details of any payments your child makes for rent or upkeep per month.

If your child does not live with you and your partner, you must provide an explanation. If it is because they are studying, you must send confirmation from the university or college on headed paper and issued by an authorised official.

You will also need to show that you continue to support your child financially while they are away by providing bank statements for you and your child covering the 3 months before the date you apply.

If your child is over 18 by the time you apply, they must also meet the Life and Language in the UK requirements (see above).

Children aged 18 years or older must apply using a separate SET (O) form.

## Home Office Application Fees

<b>Who's applying</b>	<b>Apply by post</b>	<b>Apply in person (premium service)</b>
You	£1,093	£1,493
All dependants	£1,093 per person	£1,493 per person

The fees above are correct at the time of writing (Jan 2015) but may be subject to change.

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**Boyarkin & Partners**

Boyarkin & Partners is an international law firm with offices in Moscow, Russia, and Monte Carlo, Monaco.

We offer our clients the best available solutions to their legal problems based on our international professional experience, knowledge of the law and strong work ethics. We have experience in international mergers and acquisitions, shareholder matters, corporate law and corporate governance, derivative instruments and structured products, international dispute resolutions, international taxation, international financial sanctions and general Russian law matters.

We handle some of the most complex, demanding and sensitive cases and strive to achieve original and innovative solutions for our clients. We limit the number and type of matters we undertake. We focus on matters that require the attention, extensive experience and sophistication of our professionals.

We know that top level legal support is an integral part of business success. Solid legal advice delivered on time helps our clients avoid future complications, reduces expenses, ensures predictable and sustainable business development and secures reliable relations with partners.

Hence we are more than simply lawyers for our clients. We build long term relationships with our clients and are their trusted advisors.

*This guide has been prepared with the help of Patrick Lewis, a barrister specialising in immigration.*

## **PATRICK LEWIS - PERSONAL PROFILE**



Patrick Lewis is a practitioner specialising in advice, representation and advocacy in all areas of immigration, asylum, nationality, deportation, detention, EU free movement and human rights law. While he is regularly instructed in appeals in the Court of Appeal and the High Court he has maintained his practice at the Tribunal Level.

This gives his clients the advantage of an experience gained from having appeared in this Jurisdiction for over 21 years, making him one of the most experienced barristers practising in this field.

Patrick has been practising in the field of immigration law since 1992, and while he also undertook pupillage in family and criminal law, his decision to practice exclusively in immigration and human rights law has meant that he can specialise in every aspect of this increasingly complex area. The range of appeals in which he has successfully represented includes challenges to every type of immigration decision made by either Entry Clearance Officers abroad or the Secretary of State in the UK. He fully appreciates the fundamental importance of such appeals to those affected by adverse decisions.

Patrick acts for individuals and commercial undertakings in relation to matters arising for economic migrants under the points-based system (Tiers 1, 2 and 5) and other routes. Among other things, he provides advice to individuals and to banks and financial entities in relation to the Tier 1 (Investor) route, and to individual and sponsors under the other routes. He has advised in a number of applications for leave to enter or remain in the UK as a Tier 1 (Entrepreneur). His practice also involves advising in applications or representing in appeals by individuals and companies who wish to establish or maintain a business in the UK under the EC Association Agreements.

Patrick has been identified as one of the “Leaders at the Bar” in Chambers Guide to the Legal Profession for the last six years. His level of experience is such that he has been recognised as an expert on UK Immigration Law in proceedings in the High Court Principal Registry of the Family Division and foreign jurisdictions.

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