



VICTIMS OF DOMESTIC VIOLENCE: REQUIREMENTS FOR SETTLEMENT APPLICATIONS

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BACKGROUND

Paragraph 289A of the Rules sets out the requirements for settlement (sometimes referred to as permanent residence or indefinite leave to remain) in the United Kingdom as the victim of domestic violence.

Anyone who has limited leave to enter or remain (also known as temporary permission) in the United Kingdom as the spouse, unmarried partner, registered civil partner or same-sex partner of a British citizen or person present and settled in this country and whose marriage or relationship breaks down during the probationary period as a result of domestic violence, may apply to be granted settlement in the United Kingdom.

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WHAT IS DOMESTIC VIOLENCE?

Domestic violence is any threatening behaviour, violence or abuse between adults who are or have been in a relationship, or between family members. It can affect anybody, regardless of their gender or sexuality.

The violence can be psychological, physical, sexual or emotional. It can include 'honour-based violence', female genital mutilation, and forced marriage.

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SUBMITTING A 'VALID' APPLICATION

For an application to be considered 'valid' it must meet the requirements of Paragraph 34 of the Immigration Rules. These requirements can be found here

<http://www.ukba.homeoffice.gov.uk/policyandlaw/immigrationlaw/immigrationrules/part1/>

To have submitted a valid application for settlement as a victim of domestic violence:

- You must have completed the **current** SET(DV) application form. The current version is always available on the UK Border Agency website (click [here](#)).
- You must have paid the specified fee (unless you are destitute).
- You must have provided photographs of yourself and any children under 18 who are applying with you as specified in the application form
- You must have completed all of the relevant sections of the SET(DV) application form. Section 8 – Personal History, and Section 11 – Declaration, **must** be completed in all cases. If you do not complete these sections your application will be rejected as invalid.
- You must have sent the application by prepaid post to the address given on the application form

If you fail to do any of these things, the application will be invalid and we will return it to you. This could result in the loss of appeal rights if your permitted stay has run out by the time you make a valid application.

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APPLICATION FEE

The current fee for an application on form SET(DV) is £820 if you are the only applicant. If any children under 18 are applying with you, there is an additional fee of £50 for each child.

The premium service at our Public Enquiry Offices is not available for applications of form SET(DV).

You do not need to pay the fee if you can show that you are destitute.

Anyone claiming to be destitute for the purposes of being exempt from the fee must provide evidence to show that, on the date of making the application, they have:

- No access to sufficient funds to pay the application fee; and they are
- Totally and necessarily reliant on a third party for the provision of essential living costs, such as basic accommodation and food.

If you are claiming to be destitute, you must provide evidence to prove this. Satisfactory evidence could, for example, be a signed letter from a local authority or agency supporting you. The letter must confirm that your circumstances have been assessed and that you have been deemed to be destitute and are therefore unable to pay the application fee. Also, if you are being housed in other temporary accommodation, for example living with family or friends, a detailed statement should be provided detailing your living and support arrangements. **Unless you provide satisfactory evidence, your claim to be destitute will not be accepted and your application will be rejected as invalid.**

If you are not claiming to be destitute, you must pay the application fee. If you do not, your application will be invalid and will be returned to you.

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REQUIREMENTS FOR SETTLEMENT

For an application to be successful it must meet the requirements of Paragraph 289A of the Immigration Rules. These requirements can be found here

<http://www.ukba.homeoffice.gov.uk/policyandlaw/immigrationlaw/immigrationrules/part8/>

The Immigration Directorate Instructions, the guidance given to caseworkers, can be found here

<http://www.bia.homeoffice.gov.uk/sitecontent/documents/policyandlaw/IDIs/idischapter8/>

In order to be granted settlement you must -

- ✓ have previously been admitted or granted as the spouse / registered civil partner / same-sex partner or unmarried partner of a person present and settled in the United Kingdom
- ✓ show your relationship was subsisting at the beginning of the time referred to above
- ✓ prove that you were the victim of domestic violence and it was this that caused the relationship to breakdown before the end of that period

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EVIDENCE NEEDED FOR THE APPLICATION

You should submit as much information and evidence as possible to support your application. The type of evidence required is listed below but it is important that you provide as much as you can to avoid any delay in considering your application.

Documents provided with the application **must be originals**. Copies of any kind are not acceptable unless there are valid reasons for not being able to provide the original document. In such circumstances, we may accept a copy certified by the body or authority that issued the original (for example, a copy of a savings book certified by the building society or bank), or by a notary. The reasons for not being able to provide the original document must be explained in a covering letter.

Suggested supporting documents

Below are some examples of documentary evidence you can use to support your application. This list however is not exhaustive:

- A letter or other document showing that a Multi-Agency Risk Assessment Conference (MARAC) has been convened on your behalf
- A Non-Molestation Order or other protection order against the person(s) who committed the violence.
 - This must be a **final** order, not an interim or ex-parte order

- A medical report from a hospital doctor or GMC registered family practitioner (GP) who has examined you confirming that your injuries are consistent with being a victim of domestic violence.
 - The report must include the doctor's GMC Registration Number and must provide the date you first registered, the dates of your visits in which domestic violence was reported, and an extract from the record of these details.
- An undertaking given to a court that the person(s) who committed the violence will not approach you.
- A police report confirming that, because of a domestic violence incident, they attended the address at which the incident(s) took place.
 - A copy of the incident log must be provided. It must show the address(es) at which the incident(s) took place.
- A letter from a social services department confirming its involvement in connection with domestic violence committed against you.
- A letter of support or a report from a domestic violence support organisation/refuge.
- Other documentary evidence showing that you have been the victim of domestic violence.

Other supporting documents

If you are unable to provide any of the evidence listed above, you may provide evidence from other sources but you must also explain the reasons why you are unable to provide any of the evidence listed above.

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QUESTIONS AND ANSWERS

1. Who is allowed to apply for settlement as a victim of domestic violence?

Only someone who was previously admitted to, or granted limited leave in the UK as the spouse/civil partner/same-sex partner/unmarried partner of a British citizen or a person settled in the UK is able to qualify for settlement as the victim of domestic violence.

2. Why is it only open to those here as the spouse, civil partner, unmarried or same sex partner?

The “domestic violence rule” was introduced with the intention of ensuring that someone with a direct route to settlement in the UK as the spouse or partner of a British Citizen or settled person, would not have to remain in an abusive relationship to secure it.

The rule was not introduced as a means to grant settlement to all foreign nationals who have suffered domestic violence whilst in the UK, nor should it be seen as a measure to compensate those foreign nationals affected by domestic violence.

3. When should I submit my application?

Your application should be submitted as soon as is practicably possible after your marriage has broken down as a result of domestic violence. You do not need to wait until the expiry of your current leave. It is in your best interests to apply as early as possible so that we can deal with recent/up to date evidence.

4. Can I apply even if my leave has expired?

Settlement can be granted to someone who submits their application “out of time”, i.e. after the date on which their current leave to remain expires. However, any decision to refuse an out of time application will not carry a right of appeal (under Section 82 of the Nationality, Immigration and Asylum Act 2002).

5. What if I cannot afford to pay the fee for my application?

Those who are deemed to be destitute do not need to pay the application fee. See the information on destitution in the section [Application Fee](#) above.

If you are unable to provide satisfactory evidence that you are destitute, and therefore entitled to a fee waiver, your application will not be valid and will be returned to you.

6. Can I apply outside of the UK?

No. A person can only apply for settlement as the victim of domestic violence whilst they are present in the UK.

7. What evidence do I need to produce?

You need to produce documentary evidence to satisfy us that you are a victim of domestic violence. You should provide evidence from independent objective

sources. There is no prescriptive list of evidence which should be provided. Where available, documents should be provided from the list [above](#) and should be original copies. It is important that where you cannot provide documents, that you provide a full written explanation as to why.

Where it is clear that other parties were involved in the evidence that you submit, we will require independent verification of these incidents (e.g. from the police, G.P.) Therefore any reference to other parties should be accompanied by an official report so that the application can be assessed quickly. Similarly, you should also indicate where an incident cannot be verified by another party.

8. What if I am unable to produce any of the suggested documents?

You should try to produce as much documentary evidence to support your application as possible. Where you are unable to produce any of the suggested documents, you must provide a written explanation giving reasons why you are unable to do so.

9. Where should I submit my application?

The SET(DV) application must be submitted by prepaid post to the address given on the application form.

10. Can I apply in a public enquiry office?

No. The premium service at our Public Enquiry Offices is not available for SET(DV) applications.

11. What support is there available for victims of domestic violence?

More information on domestic violence can be found on the Home Office website at: www.homeoffice.gov.uk/domesticviolence

Phone lines for help and advice on domestic violence include:

- The 24 hour Freephone National Domestic Violence helpline: 0808 2000 247, run in partnership with Women's Aid and Refuge.
- Northern Ireland Women's Aid 24 Hour Domestic Violence Helpline: 028 9033 1818
- Scottish Domestic Abuse Helpline: 0800 027 1234
- Wales Domestic Abuse Helpline: 0808 80 10 800
- Men's Advice Line: 0808 801 0327