

# LIRA'S IMMIGRATION CORNER

## A Practical Guide Making a Spouse Application



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**D**ECIDING TO marry is arguably one of the biggest decisions we make in life. With some couples this goes hand in hand with deciding where they will pursue their family life together. A very common scenario is where one party already lives in the UK and his/her spouse resides in the Philippines. This article explores the practical and legal requirements couples should consider when pursuing an application for entry clearance visa to the UK as a husband or wife.

The following article is based on the premise that the sponsoring spouse (sponsor) lives in the UK and is British or has indefinite leave to remain (settlement). The applicant lives in the Philippines and now seeks to join his/her spouse in the UK.

The issues are:

1. What application do you submit?
2. What do you need to prove?
3. What are the documents needed?
4. What visa will you get and for how long?

### What application do you submit?

If you are abroad, you must apply for entry clearance as a partner. Applications are now made online and the application form is accessed at <https://www.gov.uk/uk-family-visa/partner-spouse>

### What do you need to prove and what are the documents needed?

You will need to show that you meet the suitability and eligibility requirements.

Broadly speaking, the suitability

requirements are concerned with conduct and good character. Conduct that may be detrimental to your application include past criminality, deportation, or deception in previous UK visa applications. In this event, it is important that you address the issues in your statement or representations. The Home Office will likely have this information already so ignoring it will not make it go away. Failure to disclose a material fact to the Home Office will lead to a refusal as they will contend that you sought to obtain a visa by deception. This brings with it a whole host of problems.

The eligibility requirements are various and deal with the more practical aspects. The following explores the more problematic aspects in applications.

### Relationship requirement

The relationship between you, the applicant and your partner must be genuine and subsisting and you must intend to live together permanently in the UK. A long separation may be regarded by the Home Office as an indication that

the relationship is not extant. Even in the absence of a long separation it is for you to prove that your relationship is genuine and continuing so it is very important to provide the Home Office with the right documents. Among others, you should provide:

1. Personal statements setting out the background to the relationship.
2. Letters in support from friends and family. Avoid template letters as it is always better to have "quality" rather than "quantity". Put simply, 20 letters from supporters saying exactly the same thing is less persuasive than say 2 letters from those who really know you and can properly attest to the genuineness of your relationship.
3. Extensive printouts of online communication translated in English.
4. Card and letters, with post-marked envelopes, exchanged between you and your partner.
5. Evidence of travel of the sponsor when visiting you in the Philippines.
6. Evidence of any of your previous travels to the UK to visit your sponsor spouse.
7. Evidence of your joint travels to third countries for holidays.
8. Evidence of financial support for/from you to/from your spouse (if applicable). This

can be in the form of remittances or bank to bank transfers.

9. Photographs evidencing time spent together. Do not overload the Home Office with photos of exactly the same event. Wedding photos should be limited to say 6 rather than 60. Note the event details on the photographs stating the date taken, who is in the photo and its relevance. For example, if it was taken during a birthday celebration then say so.

### Income requirement

This is another eligibility requirement that can often cause problems, and sometimes unnecessarily so.

Your sponsor must have an income of at least £18,600 (this is increased if a dependent child or children are also coming to the UK with the applicant) unless the sponsor is receiving certain types of benefits such as Disability Living Allowance.

The requirements with regard to income are very complex. You can rely on different sources of

income. More commonly this will be the sponsor's income from employment or self-employment.

Employees who do not have a fixed salary but are paid by the hour, must calculate their income on the basis of the average income they earned over the past six months (or over the past 12 months if they have had more than one employer).

In relation to self-employment, the sponsor must be able to show, amongst others, that he/she has submitted tax returns in relation to at least one full financial year (this runs from April to April each year).

The Home Office is very strict with regard to evidence which is required to prove income. The list of items required is extensive and can be found at: <https://www.gov.uk/guidance/immigration-rules/immigration-rules-appendix-fm-se-family-members-specified-evidence>, this is known as Appendix FM-SE of the Immigration Rules. The list is also available on our website at <https://www.douglassimon.com/>.

### Accommodation requirements

These requirements are often overlooked by applicants, resulting in an unexpected refusal. Suitable accommodation must be available in the UK for you and your sponsor. The available accommodation

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must meet the legal requirements on overcrowding. In relation to overcrowding, the Housing Act 1985 provides the following:

Rooms	Maximum Persons Permitted
1	2
2	3
3	5
4	7.5
5	10
* With additional 2 persons for each room in excess of 5	

In order to prove that suitable accommodation is available, your sponsor needs to provide the following documents:

*If renting:*

1. Letter from landlord confirming the sponsor's residence and that the landlord has no objection to you residing there.
2. Tenancy agreement.
3. Information as to the number

of rooms available.

4. Identity and number of all other persons living at the property.

*If homeowner:*

5. If accommodation owned, proof of ownership and mortgage statements if applicable
6. Confirmation of the number of rooms (bedrooms and other rooms) and details of any persons living at the property.

### English Language Requirement

You need to prove that you can speak English at least at an A1 level (Common European Framework of Reference for Languages). An A1 English Language certificate compliant with the Home Office requirements can only be issued by a test center approved by the Home Office. In the Philippines, the only Home Office approved providers are IELTS and Pearson with several locations in Manila,

Cebu and Baguio.

### Tuberculosis clearance certificate

You must also provide a valid Tuberculosis clearance certificate. In the Philippines, the only clinic approved by the Home Office to issue such certificate is located in Manila. The certificate is normally valid for 6 months. If you provide a medical certificate from anywhere else, your application will be refused.

### What visa will you get and for how long?

If you meet all of the above requirements, you will be issued with leave to enter and stay in the UK for 30 months. Once in the UK, and before your leave expires you may be able to apply for a 30-month extension if the relevant requirements continue to be met.

After holding continuous leave as a partner for 5 years (60 months) since first grant of leave, you will be able to apply for settlement. ■



Trivia Jeepney is known for its colourful decoration and often bassy sound system. After WWII, the Americans left their jeeps behind and the Filipinos started to transform and redesign it, and now known as "Hari ng Kalsada."

Photo by @jilson.tiu  
Tanay, Rizal

AD