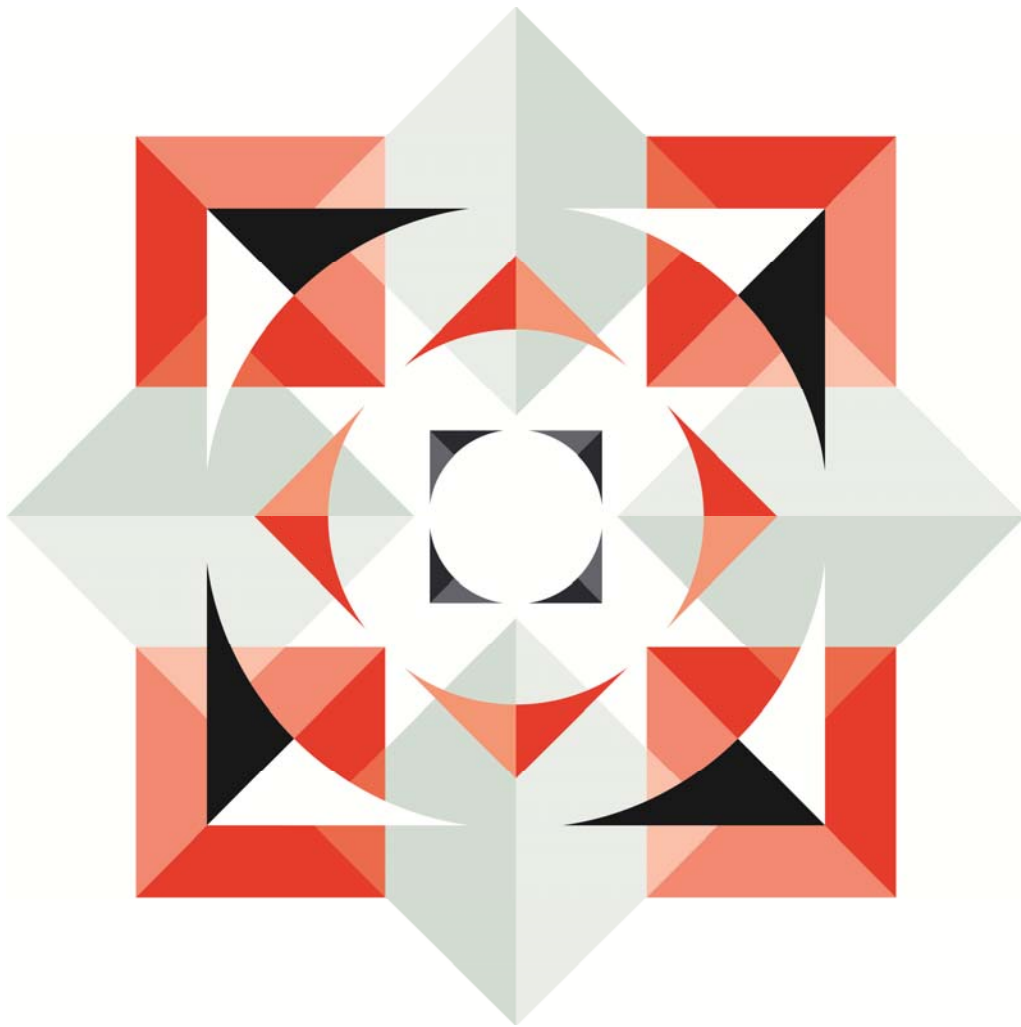
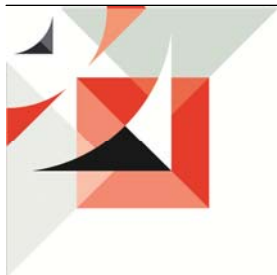


Visa applications for entrepreneurs and investors



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Introduction

The UK provides attractive visa options for individuals seeking to invest in the country. But the rules are strict. There are two separate categories - for 'entrepreneurs' and 'investors' - each with detailed eligibility and documentation requirements.

This Inbrief explains how migrants can qualify for these types of visa. It looks at the criteria applied by the Home Office in determining entrepreneur and investor applications and the supporting documents required. It goes on to outline the application process.

This Inbrief is intended as general guidance only. A member of Lewis Silkin's immigration team would be happy to advise on your own specific requirements and how to apply for your visa.

Points-Based System

Many migrants come to the UK under one of the five categories, or 'tiers', of the Points-Based System:

- > Tier 1 – high-value migrants
- > Tier 2 – sponsored workers
- > Tier 3 – low-skilled workers (not operational)
- > Tier 4 – students
- > Tier 5 – temporary workers

This Inbrief covers the Tier 1 categories for investors and entrepreneurs:

- > Tier 1 (Entrepreneur) – designed for applicants who want to invest in the UK by setting up or taking over, and being actively involved in the running of, one or more businesses in the country
- > Tier 1 (Investor) – designed for individuals who are able to make a substantial financial investment in the UK

The rules and requirements for each of these categories are explained in turn below.

Tier 1 (Entrepreneur) category

Applicants must have access to at least £200,000 of their own money, or from a third party, or access to at least £50,000 from an FCA-registered venture capitalist firm, a UK government-endorsed entrepreneurial seed funding competition, or one or more UK Government Departments. The investment funds can be made available to the applicant's business, rather than to them individually. The investment funds can also be shared by an entrepreneurial team of two people. The money must be held in a regulated financial institution, and be disposable in the UK.

Applicants are required to be able to speak, read, write and listen to English at level B1 or above of the Common European Framework of Reference for Languages. Applicants can show that they meet the required level of English by being a national of a majority English speaking country, by having a degree taught in English, or by passing an English language test at the

required level.

Applicants must also show that they have sufficient funds to maintain themselves in the UK. Overseas applicants must provide bank statements or a letter from the bank confirming that they have held at least £3,310 of personal funds for a consecutive 90-day period before the date of the application. Applicants within the UK must provide bank statements or a letter from the bank confirming that they have held at least £945 of personal funds for a consecutive 90-day period before the date of the application. Additional funds are required for any dependants an applicant wishes to include in their application.

When applying to extend their leave, applicants earn points for having invested £200,000, or £50,000 from the sources described above, in cash directly into one or more businesses in the UK. They also earn points for registering with HMRC as self-employed, or registering as a director of a business. The registration must occur within 6 months of entry to the UK, or the grant of entry clearance, or the grant of further leave to remain for in-country applicants. Extension applicants must also be engaged in business activity when they apply. Finally, extension applicants earn points for creating the equivalent of at least two new full-time jobs for people already settled in the UK.

The Home Office issues an initial grant of leave for 3 years, at which time the applicant can apply for an additional grant of leave for 2 more years. A Tier 1 (Entrepreneur) migrant may be eligible for indefinite leave to remain in the UK after 5 years. Again, certain conditions apply, for example the applicant must not be absent from the UK for more than 180 days per 12-month period during their stay.

Tier 1 (Entrepreneur) migrants accelerate to eligibility for indefinite leave to remain if they create at least 10 new full-time jobs for people already settled in the UK, or if they establish, take over, or invest in a business that has had an income from business activity of at least £5 million over 3 years.

A Tier 1 (Entrepreneur) migrant is not authorised for employment in the UK, other than working for the business or businesses that the migrant has established, joined or taken over.



Investment and documentation specifications

Applicants are required to provide a letter from each financial institution holding the investment money, confirming the amount of money available to the applicant, or to the two applicants of an entrepreneurial team.

Applicants may rely on third-party funding from family members, other investors or corporate bodies. In this case, a declaration is required from the third party confirming the availability of the funds to the applicant or applicants for investment in a business in the UK. A lawyer must provide a letter authenticating the signatures on the declaration.

Applicants must provide a business plan and information on the applicant's immigration history and activities in the UK can help convince the Home Office of the genuineness of the applicant's intention to pursue a business in the UK.

Extension applicants must provide accounts with an accountant's certificate of confirmation, or a director's loan agreement to show that the required investment has been made.

They must also provide evidence that they have established a UK business, as follows:

- > HM Revenue and Customs or Companies House confirmation of business premises in the UK
- > Bank statements
- > Documentation of being subject to UK taxation, which will vary depending on the circumstances of the business

Extension applicants must show that the required registration was made within the 6-month time frame. For example they can provide a welcome letter or Exception Certificate from HMRC, or a Current Appointment Report from Companies House.

To show that they are engaged in business at the time of their application, self-employed applicants must provide evidence that they are paying National Insurance contributions, while company directors can rely on the Current Appointment Report from Companies House.

Regarding the creation of the equivalent of two

full-time jobs for settled workers, applicants must provide evidence that each relevant employee is a settled worker, for example a copy of their UK passport cover and identity pages. Further documents are required to show the number of hours worked by an employee.

Tier 1 (Investor) category

A Tier 1 (Investor) must have at least £2 million held in a regulated financial institution and disposable in the UK.

They must invest the full £2 million in UK bonds, share capital or loan capital in active, trading UK companies. They must have invested the funds within 3 months of entry to the UK or the grant of leave to remain for in-country applicants. Some kinds of companies, for example property investment companies, are not acceptable recipients of the required investment.

There is no requirement for Investors to speak English or evidence their ability to maintain themselves financially in the UK.

The Home Office issues an initial grant of leave for 3 years, at which time the applicant can apply for a grant of leave for 2 more years. A Tier 1 (Investor) migrant may be eligible for indefinite leave to remain in the UK after 5 years. Certain conditions apply.

Accelerated routes to indefinite leave to remain are available: Applicants who invest at least £5 million are eligible for indefinite leave to remain after 3 years; applicants who invest at least £10 million are eligible for indefinite leave to remain after 2 years.

Tier 1 (Investor) migrants are allowed to undertake employment during their stay in the UK. However, they cannot work as professional sports people.

Investment and documentation specifications

The required funds may be overseas. Funds that are already invested in the UK can count toward the required £2 million if they were invested within the last 12 months.

An applicant can rely on funds jointly owned with or solely owned by a spouse, civil partner, unmarried partner or same-sex partner. However, the applicant must have the documented, unrestricted right to dispose of

and/or transfer the funds.

The funds must have been held for at least 3 months before submission of the application.

If the funds have not been held in a portfolio or bank account for 3 months, the applicant must provide evidence of the source of funds, for example an irrevocable memorandum of gift, a deed of sale of assets, business financial accounts, a will, the terms of a divorce settlement, or a letter from an organisation issuing a financial award of winnings. A letter from a legal advisor, confirming the validity of the alternative documentation, is also required.

The Home Office may curtail the applicant's leave if the required level of investment is not maintained during his/her stay in the UK.

The application process

Most stages of the application process are the same for the Tier 1 (Entrepreneur) and Tier 1 (Investor) migrant categories. The below description of application processes applies to both categories, unless otherwise indicated.

Applying from overseas

People applying from overseas undergo a 3-stage application process. First, they must complete an online visa application form. They also pay the application fee online. Second, they attend an appointment to submit biometric data consisting of a digital photograph and fingerprints. Third, they submit their hardcopy documents, including the relevant documentation discussed above, as well as their passport(s) and photos. Visa processing times and the methods by which documents are returned to applicants differ depending on the country of application.

The applications of any dependants the Tier 1 migrant wishes to bring with them to the UK can be submitted at the same time or after the main application. Each dependant must complete an application form and submit supporting documentation, including passport(s), photos, and evidence of their relationship with the Tier 1 migrant, for example an original birth or marriage certificate. Dependants must also submit biometric data.

Applying from within the UK

When applying from within the UK, an applicant completes a hardcopy application form, which he submits with the relevant documents discussed above, as well as passport (s) and photos. The application is submitted by post.

Once the Home Office receives the application, it sends the applicant a letter inviting him to submit biometric data. The applicant then attends an appointment to submit biometric data at a specified post office.

The Home Office then processes the application. This can take several weeks. The Home Office issues a biometric ID card if the application is successful, and returns the applicant's documents by Royal Mail Recorded Delivery.

Alternatively, applicants can use the Home Office's super premium service to submit their applications. The super premium service consists of a Government mail courier collecting the application form and documentation and the Home Office officers visiting the applicant to collect biometric data. The Home Office will make a decision on the application within 24 hours of submission of the biometric data. The super premium service incurs a fee of £7,000 in addition to the application fee.

Dependants' in-country applications should be submitted at the same time or after the main application. Each dependant must complete an application form and submit supporting documentation, including passport(s), photos, and evidence of their relationship with the Tier 1 migrant, for example an original birth or marriage certificate. Again, dependants must also submit biometric data.

For further information on this subject please contact:

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This publication provides general guidance only: expert advice should be sought in relation to particular circumstances. Please let us know by email (info@lewissilkin.com) if you would prefer not to receive this type of information or wish to alter the contact details we hold for you.

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