



Home Office

# Reconsiderations

## Reconsiderations

### About this guidance

<p><a href="#">About this guidance</a> <a href="#">What is an acceptable reconsideration request</a> <a href="#">What is not an acceptable reconsideration request</a> <a href="#">Requirements for new reconsideration requests</a> <a href="#">Legacy reconsideration requests</a> <a href="#">Pre-sift for legacy reconsideration requests</a> <a href="#">Applicant's status after submitting a reconsideration request</a> <a href="#">Reconsideration request: initial checks</a> <a href="#">Considering a reconsideration</a> <a href="#">Reconsiderations: decisions</a> <a href="#">Reconsiderations and appeals</a> <a href="#">Reconsiderations: pre-action protocol cases and judicial review claims</a></p>	<p>This guidance tells caseworkers what to do when an applicant believes a relevant Home Office temporary or permanent migration decision is incorrect and asks for it to be reconsidered.</p> <p>This guidance deals with 3 categories of reconsideration request, reconsideration requests sent to the Home Office:</p> <ul style="list-style-type: none"><li>• before 13 November 2012</li><li>• on or after 13 November 2012</li><li>• on or after 6 April 2015</li></ul> <p>It tells you:</p> <ul style="list-style-type: none"><li>• which decisions can be reconsidered</li><li>• the process applicants must follow to request a reconsideration</li><li>• how to process the requests</li></ul> <p>It covers requests for:</p> <ul style="list-style-type: none"><li>• decisions on applications for limited or indefinite leave to remain made:<ul style="list-style-type: none"><li>○ by postal application</li><li>○ at a public enquiry office (PEO)</li></ul></li><li>• transfer of conditions (TOC)</li><li>• no time limit (NTL)</li><li>• Turkish European Community Association Agreement (ECAA)</li></ul> <p>For more information on which requests are covered by the legacy policy and how to process them, see link on left: Legacy reconsideration requests.</p> <p><b>What this guidance does not cover</b> This guidance does not apply to:</p>	<p><b>In this section</b> <a href="#">Changes to this guidance</a></p> <p><a href="#">Contact</a></p> <p><a href="#">Information owner</a></p> <p><b>Related links</b> IDI Chapter 8 – Family members transitional</p> <p>Administrative review guidance</p> <p><b>External links</b> <a href="#">Application for administrative review of a visa decision</a></p>
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- entry clearance in any category
- in the UK decisions which have a right of administrative review
- refusal of protection claims (this means decisions on asylum and humanitarian protection claims as well as on protection-based claims under article 3 of the European Convention on Human Rights)
- European Economic Area (EEA) nationals and their family members
- Bulgarian and Romanian nationals
- nationality decisions
- port decisions
- curtailment decisions
- enforcement decisions
- representations against removal made to a local immigration team
- cases in which limited leave to remain is granted where the applicant has applied for but does not qualify for indefinite leave to remain

There is no right of reconsideration under this policy against decisions under any of the above categories.

For information on what is a valid reconsideration request, see link on left: requirements for new reconsideration requests.

For more information on administrative reviews see related links:

- for overseas applications: [Application for administrative review of a visa decision](#)
- for in the UK applications: [Administrative review guidance](#)

There are special arrangements for the consideration (or reconsideration on or after 9 July 2012) of any article 8 family and/or private life claim that was raised in the original application. For more information see the related link.

Changes to this guidance - This page lists the changes to this guidance, with the most recent at the top.

	<p>Contacts - This page explains who to contact for more help or advice.</p> <p>Information owners - This page tells you about this version of the document and who owns it.</p>	
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### Changes to this guidance

<p><a href="#">About this guidance</a> <a href="#">What is an acceptable reconsideration request</a> <a href="#">What is not an acceptable reconsideration request</a> <a href="#">Requirements for new reconsideration requests</a> <a href="#">Legacy reconsideration requests</a> <a href="#">Pre-sift for legacy reconsideration requests</a> <a href="#">Applicant's status after submitting a reconsideration request</a> <a href="#">Reconsideration request: initial checks</a> <a href="#">Considering a reconsideration</a> <a href="#">Reconsiderations: decisions</a> <a href="#">Reconsiderations and appeals</a> <a href="#">Reconsiderations: pre-action protocol cases and judicial review claims</a></p>	<p>This page lists the changes to this 'Reconsiderations' guidance, with the most recent at the top.</p> <table border="1"><thead><tr><th data-bbox="510 371 846 411">Date of the change</th><th data-bbox="853 371 1547 411">Details of the change</th></tr></thead><tbody><tr><td data-bbox="510 416 846 786">10 June 2022</td><td data-bbox="853 416 1547 786">Added last bullet point on page 3:<ul style="list-style-type: none"><li>cases in which limited leave to remain is granted where the applicant has applied for but does not qualify for indefinite leave to remain</li></ul>We are aware that this has been republished without links being amended. This will be done in due course.</td></tr><tr><td data-bbox="510 791 846 935">30 July 2018</td><td data-bbox="853 791 1547 935">Change request Amendment to information regarding 3C.</td></tr><tr><td data-bbox="510 940 846 1121">9 April 2015</td><td data-bbox="853 940 1547 1121">Change request Changes made following 6 April Immigration Rules change</td></tr><tr><td data-bbox="510 1126 846 1270"></td><td data-bbox="853 1126 1547 1270">For previous changes you will need to access the archived guidance. See related link: Reconsiderations - archive</td></tr></tbody></table>	Date of the change	Details of the change	10 June 2022	Added last bullet point on page 3: <ul style="list-style-type: none"><li>cases in which limited leave to remain is granted where the applicant has applied for but does not qualify for indefinite leave to remain</li></ul> We are aware that this has been republished without links being amended. This will be done in due course.	30 July 2018	Change request Amendment to information regarding 3C.	9 April 2015	Change request Changes made following 6 April Immigration Rules change		For previous changes you will need to access the archived guidance. See related link: Reconsiderations - archive	<p><b>Related links</b></p> <p><b>In this section</b></p> <p><a href="#">Contact</a></p> <p><a href="#">Information owner</a></p> <p>Reconsiderations - archive</p> <p>Considering a reconsideration: article 8 family and private life</p>
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### What is an acceptable reconsideration request

<p><a href="#">About this guidance</a></p> <p><a href="#">What is an acceptable reconsideration request</a></p> <p><a href="#">What is not an acceptable reconsideration request</a></p> <p><a href="#">Requirements for new reconsideration requests</a></p> <p><a href="#">Legacy reconsideration requests</a></p> <p><a href="#">Pre-sift for legacy reconsideration requests</a></p> <p><a href="#">Applicant's status after submitting a reconsideration request</a></p> <p><a href="#">Reconsideration request: initial checks</a></p> <p><a href="#">Considering a reconsideration</a></p> <p><a href="#">Reconsiderations: decisions</a></p> <p><a href="#">Reconsiderations and appeals</a></p> <p><a href="#">Reconsiderations: pre-action protocol cases and judicial review claims</a></p>	<p>This page tells you what a reconsideration request is and how an applicant can request one.</p> <p><b>Definition of a reconsideration</b></p> <p>A reconsideration is a review by the Home Office of a decision made in the UK on an application for one of the following:</p> <ul style="list-style-type: none"><li>• further, limited or indefinite leave to remain</li><li>• transfer of conditions (TOC)</li><li>• no time limit (NTL)</li></ul> <p>It will usually be about a refusal decision but may also be about aspects of an approval, for example, the period of leave granted.</p> <p><b>Legal background</b></p> <p>The Home Office is not legally required to reconsider a decision made on an application for leave to remain.</p> <p>When an applicant has a right of appeal or administrative review, the correct method for them to challenge the decision is to lodge an appeal or administrative review. However, there are limited circumstances (set out below) where a reconsideration request may be submitted. Applicants refused without a right of appeal or administrative review can either:</p> <ul style="list-style-type: none"><li>• seek a judicial review of the decision, if they have grounds</li><li>• make a fresh application for limited or indefinite leave to remain, if they believe they can show they meet the requirements of the route under which they are applying</li><li>• in the case of refused TOC or NTL applications, submit a fresh application which addresses the reasons why the original application was refused</li></ul> <p><b>When is a reconsideration request acceptable?</b></p> <p>The Home Office will normally only reconsider applications, if:</p>	<p><b>Related links</b></p>
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- there is no right of appeal against the decision, unless the decision was made before 6 April 2015 and meets the requirements set out in this policy
- there is no right of administrative review against the decision
- the reconsideration request was made on or after 13 November 2012, it relates to a granted application with no right of administrative review, and the applicant believes the type of leave granted or the expiry date of the leave is incorrect
- the reconsideration request was made on or after 13 November 2012, relates to a refused application and the applicant is:
  - providing new evidence to prove the date of application
  - providing new evidence that documents submitted with the application are genuine
  - identifying relevant material which was not available to the caseworker but was received by the Home Office before the decision date.
- the reconsideration is a legacy request submitted before 13 November 2012 and there are still reasons to reconsider the decision

If you are unsure whether to accept the reconsideration request, you must refer the case to your senior manager for advice.

See links on left for information on:

- what is not an acceptable reconsideration request
- the requirements a request must meet
- legacy reconsideration requests

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### What is not an acceptable reconsideration request

<p><a href="#">About this guidance</a> <a href="#">What is an acceptable reconsideration request</a> <a href="#">What is not an acceptable reconsideration request</a> <a href="#">Requirements for new reconsideration requests</a> <a href="#">Legacy reconsideration requests</a> <a href="#">Pre-sift for legacy reconsideration requests</a> <a href="#">Applicant's status after submitting a reconsideration request</a> <a href="#">Reconsideration request: initial checks</a> <a href="#">Considering a reconsideration</a> <a href="#">Reconsiderations: decisions</a> <a href="#">Reconsiderations and appeals</a> <a href="#">Reconsiderations: pre-action protocol cases and judicial review claims</a></p>	<p>This page tells you which types of correspondence you must not accept as a reconsideration request.</p> <p><b>Verbal request</b> If the migrant wants to challenge a decision which can be reconsidered in line with this guidance you must advise them to put their request in writing and send it to the team who made the original decision.</p> <p><b>Pre-action protocol letters</b> If the applicant states their letter is either of the following:</p> <ul style="list-style-type: none"><li>• 'letter before claim'</li><li>• 'pre-action protocol (PAP) letter'</li></ul> <p>you must treat it as a PAP. For more information on the PAP process, see link on left: Reconsiderations – pre-action protocol cases and judicial review claims.</p> <p><b>Request for clarification of reasons for refusal</b> The caseworker who made the original decision (or another caseworker from the team, if they are unavailable) must:</p> <ul style="list-style-type: none"><li>• respond by letter, explaining and expanding, as appropriate, on the reasons for refusal</li><li>• update CID notes as appropriate</li></ul> <p><b>Complaint about the handling of the application</b> You must handle complaints in line with the standard complaints handling procedures. For more information, see related link: Complaints procedure.</p>	<p><b>External links</b> <a href="#">Complaints procedure</a></p>
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### Requirements for new reconsideration requests

<p><a href="#">About this guidance</a> <a href="#">What is an acceptable reconsideration request</a> <a href="#">What is not an acceptable reconsideration request</a> <a href="#">Requirements for new reconsideration requests</a> <a href="#">Legacy reconsideration requests</a> <a href="#">Pre-sift for legacy reconsideration requests</a> <a href="#">Applicant's status after submitting a reconsideration request</a> <a href="#">Reconsideration request: initial checks</a> <a href="#">Considering a reconsideration</a> <a href="#">Reconsiderations: decisions</a> <a href="#">Reconsiderations and appeals</a> <a href="#">Reconsiderations: pre-action protocol cases and judicial review claims</a></p>	<p>This page tells you the requirements for accepting a new reconsideration request.</p> <p>A request made to reconsider a decision sent to the Home Office on or after 13 November 2012 will only be considered if it relates to a:</p> <ul style="list-style-type: none"><li>• granted application</li><li>• refusal decision and the migrant provides evidence that impacts upon the decision outcome and it:<ul style="list-style-type: none"><li>○ proves the date of application</li><li>○ proves that documents provided with the original application were genuine</li><li>○ identifies evidence which was received by the Home Office before the decision date but was not available to the caseworker at the point of decision</li></ul></li></ul> <p>The reconsideration request must:</p> <ul style="list-style-type: none"><li>• be submitted in writing</li><li>• be sent to the Home Office by the original applicant or their legal representative</li><li>• explain why the decision is incorrect or inconsistent with existing policy, stating how it did one or more of the following:<ul style="list-style-type: none"><li>○ failed to take account of, or misinterpreted, relevant evidence submitted to the Home Office before the date of the decision</li><li>○ was not in line with relevant law, policy or guidance</li></ul></li></ul> <p>The applicant cannot submit:</p> <ul style="list-style-type: none"><li>• a reconsideration request if the decision has a right of appeal, unless the decision was made before 6 April 2015 and meets the requirements set out in this policy; this applies whether or not:<ul style="list-style-type: none"><li>○ the applicant appealed the decision</li><li>○ any such appeal was successful</li></ul></li><li>• a reconsideration request if the decision has a right of administrative review -his applies whether or not:</li></ul>	<p><b>Related link</b> Alvi judgement – how to handle cases</p> <p>Administrative review guidance</p>
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- the applicant made an administrative review application
- any such application was successful
- more than one request for a reconsideration of the same decision.
- new evidence to support the qualifying requirements for their application if it will not be considered as part of the reconsideration process; this evidence must be raised as part of a new application, unless it affects the decision and does one or more of the following:
  - prove the date of application
  - prove the documents provided with the original application were genuine
  - identify relevant material which was not available to the caseworker but was received by the Home Office before the decision date

For more information on administrative review, see related link.

**Time limit for making a reconsideration request**

The reconsideration request must be submitted within 14 working days of the deemed date of receiving the decision, for all decisions made on or after 6 April. Applications submitted after this deadline has expired must normally be rejected, unless both the following apply:

- there are exceptional reasons which prevented the applicant from making a request within the time limit
- the request was made as soon as reasonably practicable.

The applicant may need to provide evidence of the exceptional circumstances.

For decisions made before 6 April, the deadline is 3 months from the deemed date of receiving the decision.

The deemed date of receiving a decision sent by post to a UK address is 2 working days after the decision was posted, unless the migrant can prove they received the decision on a later date.

**When a reconsideration request lapses**

An applicant’s reconsideration request will lapse (this means it will receive no further consideration) if the applicant’s status has been resolved because they have:

- been granted leave in another category
- left the UK and their leave has expired or lapsed
- been removed or deported from the UK
- appealed the decision under reconsideration and exhausted all their appeal rights
- sought judicial review of the decision and permission was refused or the decision was subsequently upheld at the substantive hearing

You must reject any reconsideration request where the applicant's status has been resolved as above, whether this happened before or after making the request. The Home Office will not contact the applicant about the reconsideration if they have left the UK and this has caused the reconsideration request to lapse (as above). The only exception is that if the migrant has a recognised legal representative in the UK, then you must send the rejection letter to the representative.

**The effect of a fresh application**

For decisions made on or after 9 July 2013, if an applicant makes a reconsideration request and then submits a fresh application for limited or indefinite leave to remain, this will have the effect of withdrawing the reconsideration request.

If the migrant makes a reconsideration request about a decision made on or after 9 July 2013 after making a new application, you must reject the request.

For more information on what can and cannot be treated as a reconsideration, see links on left:

- What is an acceptable reconsideration request
- What is not an acceptable reconsideration request

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### Legacy reconsideration requests

<p><a href="#">About this guidance</a> <a href="#">What is an acceptable reconsideration request</a> <a href="#">What is not an acceptable reconsideration request</a> <a href="#">Requirements for new reconsideration requests</a> <a href="#">Legacy reconsideration requests</a> <a href="#">Pre-sift for legacy reconsideration requests</a> <a href="#">Applicant's status after submitting a reconsideration request</a> <a href="#">Reconsideration request: initial checks</a> <a href="#">Considering a reconsideration</a> <a href="#">Reconsiderations: decisions</a> <a href="#">Reconsiderations and appeals</a> <a href="#">Reconsiderations: pre-action protocol cases and judicial review claims</a></p>	<p>This page tells you how to process legacy reconsideration requests.</p> <p>A legacy reconsideration request is one sent to the Home Office before 13 November 2012.</p> <p><b>Application of the legacy guidance</b> It applies to the following reconsideration requests:</p> <ul style="list-style-type: none"><li>• temporary and permanent migration general casework decisions for leave to remain made:<ul style="list-style-type: none"><li>○ by postal application</li><li>○ at a public enquiry office (PEO)</li></ul></li><li>• transfer of conditions (TOC)</li><li>• no time limit (NTL) applications</li></ul> <p><b>Requirements for legacy reconsideration requests</b> The Home Office will reconsider these decisions once if they meet all the following requirements:</p> <ul style="list-style-type: none"><li>• the request was sent before 13 November 2012</li><li>• the Home Office has not yet issued a substantive response to the reconsideration request addressing the issues raised</li><li>• applicant's immigration application or status has not yet been resolved in one of the following ways, they:<ul style="list-style-type: none"><li>○ have since been granted leave to remain in the same or another category</li><li>○ have left the UK and their leave has expired or lapsed</li><li>○ been removed or deported from the UK</li><li>○ appealed and exhausted all their appeal rights</li><li>○ sought judicial review of the decision and permission was refused or the decision was subsequently upheld at the substantive hearing</li></ul></li></ul> <p><b>Decisions not covered by the legacy guidance</b> The legacy guidance does not apply to:</p>	<p><b>Related link</b> <a href="#">Pre-sift for legacy reconsideration requests</a></p>
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- reconsideration requests sent on or after 13 November 2012.
- curtailment decisions
- refusal of asylum applications (including decisions on protection-based claims under article 3 of the European Convention on Human Rights)
- port or enforcement decisions
- nationality decisions
- decisions on applications made outside the UK

For more information on how to pre-sift legacy reconsideration requests, see link on left:  
[Pre-sift for legacy reconsideration requests.](#)

For more information on what is not a reconsideration request, see link on left.

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### Pre-sift for legacy reconsideration requests

<p><a href="#">About this guidance</a></p> <p><a href="#">What is an acceptable reconsideration request</a></p> <p><a href="#">What is not an acceptable reconsideration request</a></p> <p><a href="#">Requirements for new reconsideration requests</a></p> <p><a href="#">Legacy reconsideration requests</a></p> <p><a href="#">Pre-sift for legacy reconsideration requests</a></p> <p><a href="#">Applicant's status after submitting a reconsideration request</a></p> <p><a href="#">Reconsideration request: initial checks</a></p> <p><a href="#">Considering a reconsideration</a></p> <p><a href="#">Reconsiderations: decisions</a></p> <p><a href="#">Reconsiderations and appeals</a></p> <p><a href="#">Reconsiderations: pre-action protocol cases and judicial review claims</a></p>	<p>This page tells you how to pre-sift legacy reconsideration requests.</p> <p><b>Pre-sift process</b></p> <p>Review the applicant's immigration history on CID, by checking the:</p> <ul style="list-style-type: none"><li>• application screens</li><li>• case notes</li><li>• person notes</li><li>• appeals screen</li><li>• removals screen</li></ul> <p><b>Rejecting the legacy request</b></p> <p>You must reject the reconsideration request if CID shows the applicant has:</p> <ul style="list-style-type: none"><li>• appealed and exhausted all their appeal rights</li><li>• sought judicial review of the decision and permission was refused or the decision was subsequently upheld at the substantive hearing</li><li>• received one reconsideration decision and this is a second legacy request, unless the Home Office acknowledged the second request in writing before 13 November 2012 and therefore the applicant may have a legitimate expectation that the decision will be reconsidered again</li><li>• left the UK and their leave has expired or lapsed</li><li>• been removed or deported from the UK</li><li>• requested the reconsideration of a decision not covered by the legacy policy</li></ul> <p>If you reject the reconsideration request, you must:</p> <ul style="list-style-type: none"><li>• send the applicant or their legal representative an ICD.4562 'legacy reconsideration request sift rejection' letter, using DocGen to produce the letter:<ul style="list-style-type: none"><li>○ do not return any documents on file unless the applicant has been granted leave and there is a confirmed address recorded on CID</li></ul></li></ul>	<p><b>Related links</b></p> <p><a href="#">Considering a reconsideration: evidence and information</a></p> <p>Retention of valuable documents</p>
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- in all other cases keep the documents on file
- if the migrant has abandoned their reconsideration request by leaving the UK and their leave has expired or lapsed, you do not need to produce a decision letter or notify the migrant of the rejection; the only exception is if the migrant has a recognised legal representative in the UK, in which case you must send the rejection letter to the representative
- record the outcome on CID
- allocate case ownership to the relevant team so they can begin progressive enforcement action, if the migrant is still in the UK

For more information on keeping documents, see related link: [Retention of valuable documents](#)

### **Accepting the legacy request**

If you have not rejected the request, place the case in the workflow queue for reconsideration. For information on how to reconsider an application, see link on left: [Considering a reconsideration](#).

For more information on what can and cannot be treated as a reconsideration and the requirements for reconsiderations, see links on left:

- [What is an acceptable reconsideration request](#)
- [What is not an acceptable reconsideration request](#)

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### Applicant's status after submitting a reconsideration request

<p><a href="#">About this guidance</a> <a href="#">What is an acceptable reconsideration request</a> <a href="#">What is not an acceptable reconsideration request</a> <a href="#">Requirements for new reconsideration requests</a> <a href="#">Legacy reconsideration requests</a> <a href="#">Pre-sift for legacy reconsideration requests</a> <a href="#">Applicant's status after submitting a reconsideration request</a> <a href="#">Reconsideration request: initial checks</a> <a href="#">Considering a reconsideration</a> <a href="#">Reconsiderations: decisions</a> <a href="#">Reconsiderations and appeals</a> <a href="#">Reconsiderations: pre-action protocol cases and judicial review claims</a></p>	<p>This page tells you what happens to an applicant's immigration status if they make a reconsideration request.</p> <p>If an applicant makes a reconsideration request, it does not:</p> <ul style="list-style-type: none"><li>• give them 3C or 3D leave:<ul style="list-style-type: none"><li>○ a reconsideration request is not an application for variation of leave or an appeal so it does not extend the applicant's leave under section 3C or 3D of the Immigration Act 1971 whilst you are reconsidering the decision (although they may otherwise have leave under section 3C if there is an appeal pending in respect of the decision)</li><li>○ the decision made on a reconsideration does not itself trigger a right of appeal although may be susceptible to judicial review</li></ul></li><li>• necessarily stop the Home Office from taking any removal action while the reconsideration request is outstanding; section 78 of the Nationality, Immigration and Asylum Act 2002 prevents removal when an appeal is pending but a reconsideration request is not a pending appeal, so a migrant in this position is liable to removal</li></ul> <p>For more information on the above legislation, see part 5 of related link: Nationality, Immigration and Asylum Act 2002. For more information on the above legislation, see related and external links.</p> <ul style="list-style-type: none"><li>• Section 3C of the Immigration Act 1971</li><li>• Nationality, Immigration and Asylum Act 2002.</li></ul> <p>For more information on reconsiderations and appeals, see link on left.</p>	<p><b>Related links</b> 3C and 3D leave</p> <p><b>External links</b> <a href="#">Section 3C of the 1971 Immigration Act</a> <a href="#">Nationality, Immigration and Asylum Act 2002</a></p>
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### Reconsideration request: initial checks

<p><a href="#">About this guidance</a>  <a href="#">What is an acceptable reconsideration request</a>  <a href="#">What is not an acceptable reconsideration request</a>  <a href="#">Requirements for new reconsideration requests</a>  <a href="#">Legacy reconsideration requests</a>  <a href="#">Pre-sift for legacy reconsideration requests</a>  <a href="#">Applicant's status after submitting a reconsideration request</a>  <a href="#">Reconsideration request: initial checks</a>  <a href="#">Considering a reconsideration</a>  <a href="#">Reconsiderations: decisions</a>  <a href="#">Reconsiderations and appeals</a>  <a href="#">Reconsiderations: pre-action protocol cases and judicial review claims</a></p>	<p>This page tells you what to check when you receive a reconsideration request from the applicant.</p> <p>If you receive a new or legacy reconsideration request about a decision covered by this guidance, you must check:</p> <table border="1" data-bbox="477 486 1787 1453"> <thead> <tr> <th data-bbox="477 486 1077 523">Check</th> <th data-bbox="1077 486 1787 523">Action</th> </tr> </thead> <tbody> <tr> <td data-bbox="477 523 1077 710">Check CID to confirm the applicant did not have a right of appeal against the decision, if the decision was made on or after 6 April 2015</td> <td data-bbox="1077 523 1787 710">Reject the reconsideration request if the applicant had a right of appeal review against the decision, whether or not they exercised that right.</td> </tr> <tr> <td data-bbox="477 710 1077 896">Check CID to confirm the applicant did not have a right of administrative review against the decision.</td> <td data-bbox="1077 710 1787 896">Reject the reconsideration request if the applicant had a right of administrative review against the decision, whether or not they exercised that right.</td> </tr> <tr> <td data-bbox="477 896 1077 1453">CID to confirm this is the applicant's first reconsideration request.</td> <td data-bbox="1077 896 1787 1453"> <ul style="list-style-type: none"> <li>Reject the reconsideration request if the decision has already been reconsidered and send an appropriate letter to the applicant. This does not apply to legacy requests if the Home Office has already undertaken to reconsider the decision again.</li> <li>If the request is about a decision made on or after 9 July 2013, you must make sure the migrant has not made a subsequent application for limited or indefinite leave to remain.</li> </ul> </td> </tr> </tbody> </table>	Check	Action	Check CID to confirm the applicant did not have a right of appeal against the decision, if the decision was made on or after 6 April 2015	Reject the reconsideration request if the applicant had a right of appeal review against the decision, whether or not they exercised that right.	Check CID to confirm the applicant did not have a right of administrative review against the decision.	Reject the reconsideration request if the applicant had a right of administrative review against the decision, whether or not they exercised that right.	CID to confirm this is the applicant's first reconsideration request.	<ul style="list-style-type: none"> <li>Reject the reconsideration request if the decision has already been reconsidered and send an appropriate letter to the applicant. This does not apply to legacy requests if the Home Office has already undertaken to reconsider the decision again.</li> <li>If the request is about a decision made on or after 9 July 2013, you must make sure the migrant has not made a subsequent application for limited or indefinite leave to remain.</li> </ul>	<p><b>Related links</b>  <a href="#">Considering a reconsideration: evidence and information</a></p>
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	<p>The applicant's request is not a 'letter before claim' or 'pre-action protocol'.</p>	<p>Refer these requests to your senior caseworker or manager. For more information on what to do if the request is a pre-action protocol, see link on left: Reconsiderations: pre-action protocol cases and judicial review claims.</p>	
	<p>The applicant has made their request in writing and stated the grounds for their reconsideration request.</p>	<p>If the request is not made in writing you must ask them to put the request in writing.</p>	
	<p>The applicant made their request within 14 calendar days of receiving the decision, if it relates to a decision made on or after 6 April 2015. For decisions made before 6 April 2015, the deadline is 3 months from the date of receiving the decision.</p>	<p>You must reject the request if it was made out of time, unless there are exceptional reasons why it could not have been made in time.</p>	
	<p>If the applicant changes their representative, or appoints one for the first time, before you accept the change of representative, you must check:</p> <ul style="list-style-type: none"> <li>• they have given us written authorisation for the representative to act on their behalf, and any new representative the applicant nominates is either: <ul style="list-style-type: none"> <li>○ regulated by the Office of the Immigration Service Commission (OISC)</li> <li>○ a solicitor or barrister</li> </ul> </li> </ul>	<p>To accept the change of representative you must update CID with the new contact details.</p> <p>To reject representative changes because they are not appropriately regulated you must write to the applicant and their proposed representative informing them you cannot correspond with the new representative about the case.</p> <p>Rejecting the change of representative is not a reason for rejecting the reconsideration request.</p>	

You must not accept reconsideration or legacy reconsideration requests that do not meet the criteria set out in the 'Requirements for reconsideration requests' section of this guidance.

If you are unsure whether to accept the reconsideration request, you must refer the case to your senior manager for advice.

For more information on reconsideration requests, see links on left:

- Requirements for new reconsideration requests
- Legacy reconsideration requests
- Pre-sift for legacy reconsideration requests

For more information on new evidence, see related link: Considering a reconsideration: evidence and information.

#### **Rejecting a reconsideration request**

If your initial checks confirm you cannot accept the reconsideration request, you must:

- produce and complete the standard ICD.4563 'reconsideration request rejection' letter, using DocGen, and send it to the applicant, or their representative if they have one, explaining you cannot reconsider the application, stating the reason(s) for rejection
- update CID to record:
  - that the reconsideration request was received
  - it was rejected
  - the reason(s) for rejection

Do not add a decision 'Outcome to be Reconsidered by UKBA' in the CID outcome field if you are rejecting the reconsideration request.

For more information on what can and cannot be treated as a reconsideration, see links on left:

- What is an acceptable reconsideration request

- |  |   |  |
|--|---|--|
|  | <ul style="list-style-type: none"><li>• What is not an acceptable reconsideration request</li></ul> |  |
|--|---|--|

## Reconsiderations

### Considering a reconsideration

[About this guidance](#)  
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[Reconsiderations and appeals](#)  
[Reconsiderations: pre-action protocol cases and judicial review claims](#)

This section tells you what to consider and what is relevant information when reconsidering a decision, after you receive a valid written reconsideration request.

#### Who processes the reconsideration

Type of case	Who considers the case
New	The team who originally granted the applicant leave.  If the team no longer exists it must be done by the team who cover work in that area.
Legacy	The team who were set up to process legacy reconsideration requests.

The reconsideration must be reviewed by a caseworker of at least the same grade as the one who made the original decision but not by the same caseworker.

You must refer any complex or difficult cases to a more senior manager for advice.

#### Processing the reconsideration

When you reconsider a decision, you must focus on considering the points the applicant has raised in the reconsideration request and satisfy yourself that, having taken those into account, the original decision was correct.

#### Reconsidering granted applications

You only need to check the following aspects of the applicant's grant of leave that they have challenged are correct:

- period of leave was granted
- condition code was used
- applicant's details were on the grant of leave

#### In this section

[Considering a reconsideration: evidence and information](#)

#### Related links

[Reconsiderations: changing the reason\(s\) for refusal](#)

Curtailment of leave

#### External links

[Section 55 of the Borders Citizenship and Immigration Act 2009](#)

### **Checking the details of the request for legacy cases**

You must check:

- the decision was lawful, and:
  - made in line with the Immigration Rules and any other relevant legislation, and consistent with any applicable policies, guidance and instructions that applied on the date the decision was made (in exceptional circumstances, where transitional provisions are in place following an Immigration Rules change, the rule in force at the date the application was made may apply and you must check this)
  - consistent with the Home Office's duties under Section 55 of the Borders Citizenship and Immigration Act 2009 to make the best interests of any child affected by the decision a primary consideration
- all correctly submitted information and documentary evidence was taken into account and correctly assessed before the decision was made
- the decision was served on the correct letter or notice, and the applicant was notified correctly of any applicable appeal rights
- the decision was served correctly to the applicant's last known address or to their representative

### **Considering the request**

You must:

- only reconsider the specific aspects of the decision the applicant or representative challenges in their reconsideration request, unless it becomes clear the original decision contained errors the applicant or representative has not identified
- not consider any new evidence or information provided, unless it impacts upon the decision and/or any subsequent appeal rights and:
  - proves the date of application, or
  - proves that documents provided with the original application were genuine, where this was material (relevant) to the decision made
  - identifies relevant material which was not available to the caseworker but was received by the Home Office before the decision date.
- consider if the original decision was correct at the time it was made, not if any events that have occurred since the application was decided would make a fresh application likely to succeed

- tell the applicant they must make a new charged application, if they want to raise new facts or evidence in support of a grant of leave. For more information on new evidence, see related link: [Considering a reconsideration: evidence and information](#).

If the request for reconsideration relates to the refusal of an application for leave on the basis of article 8 family and private life, you must also refer to the section of this guidance about reconsidering article 8 case, see related link.

### **Errors in the original decision**

If it becomes clear during the reconsideration that the original casework or decision contained errors which the applicant or representative has not identified, you must reconsider those aspects of the case. You must rectify any errors you find with the original consideration or decision.

For more information, see related link: [Reconsiderations - changing the reason\(s\) for refusal](#).

### **Reconsidering a decision: curtailment leave**

You must consider curtailment if the migrant still has leave to remain and there is evidence that they may meet the curtailment criteria set out in the Immigration Rules. For example, the migrant may have committed a criminal offence since the leave was granted.

For more information on curtailment of leave, see related link.

You must discuss any possible or proposed curtailment decision with a senior caseworker or manager first unless it is a points-based system (PBS) case and curtailment is mandatory.

You must discuss the case with a senior caseworker or manager if you have doubts about:

- whether a reconsideration request is valid
- the correct outcome of a reconsideration request

### **The importance of your reconsideration**

	<p>By reconsidering the original decision at this stage, if the applicant goes on to challenge the decision with a letter before claim or judicial review the caseworker can use your reconsideration decision letter to assist in defending the decision.</p> <p>For more information on judicial reviews, see link on left: Reconsiderations: pre-action protocol cases and judicial review claims.</p>	
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## Reconsiderations

### Considering a reconsideration: evidence and information

<p><a href="#">About this guidance</a> <a href="#">What is an acceptable reconsideration request</a> <a href="#">What is not an acceptable reconsideration request</a> <a href="#">Requirements for new reconsideration requests</a> <a href="#">Legacy reconsideration requests</a> <a href="#">Pre-sift for legacy reconsideration requests</a> <a href="#">Applicant's status after submitting a reconsideration request</a> <a href="#">Reconsideration request: initial checks</a> <a href="#">Considering a reconsideration</a> <a href="#">Reconsiderations: decisions</a> <a href="#">Reconsiderations and appeals</a> <a href="#">Reconsiderations: pre-action protocol cases and judicial review claims</a></p>	<p>This page tells you what evidence and information you can take into account when reconsidering a decision.</p> <p>When you reconsider a decision you must only consider the evidence and information supplied either:</p> <ul style="list-style-type: none"><li>• with the original application</li><li>• before the date of the decision</li></ul> <p>unless it meets both the following requirements:</p> <ul style="list-style-type: none"><li>• proves the date of application, that documents provided with the original application were genuine, or that relevant documents were received by the Home Office before the decision date and were not considered</li><li>• impacts upon the decision outcome and/or any subsequent appeal rights</li></ul> <p>You must explain in the reconsideration decision letter that if the applicant wants the Home Office to consider new information outside these criteria, they must submit a new valid application under the relevant Immigration Rules:</p> <ul style="list-style-type: none"><li>• on the correct form</li><li>• with the specified fee, if applicable</li></ul> <p>This applies to all immigration applications, including non-protection related requests to be granted leave under article 3 and/or article 8 of the European Convention on Human Rights.</p> <p><b>Examples of new information</b></p> <p>You must not accept new information that was missing from the original application for example:</p>	<p><b>In this section</b></p> <p><a href="#">Considering a reconsideration: article 8 family and private life</a></p>
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- supporting documents about qualifying criteria for the route, such as qualifications or bank statements
- revised application details, such as an attempt to add grounds to the application
- new facts such as a claimed new family relationship which are presented within the text of the reconsideration request letter

You must check that none of the information provided with the request is new even if the applicant or their representative states there is no new or further evidence provided.

**Reconsideration request about the date of application**

You must take into account information provided with a reconsideration request if it is about the date an application was submitted. For example, if the Home Office decided an original application was submitted out of time and the applicant has provided evidence, such as a post office receipt that proves the application was sent before their leave expired.

If the application you are reconsidering was made out of time because a previous application was rejected, and the applicant or representative claims the rejection was incorrect, contact the team who rejected the application for a contribution if required. You can out find which team rejected the application on CID.

If the applicant or their representative is only challenging the rejection of an application and not the decision on any following application, this is dealt with by the team who rejected the application and is outside the scope of this policy.

**Reconsideration request about whether evidence was genuine**

You must take into account information submitted with a reconsideration request if the information is about whether original supporting evidence was genuine.

This applies if the original application was refused on the basis that one or more supporting documents were not genuine. If necessary, conduct further verification checks before making a final decision on the application.

**Reconsideration request about evidence received before the decision date**

You must only consider additional evidence with the reconsideration request which meets all the following requirements:

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|  | <ul style="list-style-type: none"><li>• the evidence was originally received by the Home Office before the decision date on the original application</li><li>• it was not linked to the case in time for the caseworker to consider it</li><li>• it is relevant to the decision outcome</li></ul> <p>You must not accept evidence that was received by the Home Office after the date of decision.</p> |  |
|--|--|--|

## Reconsiderations

### Considering a reconsideration: article 8 family and private life

<p><a href="#">About this guidance</a> <a href="#">What is an acceptable reconsideration request</a> <a href="#">What is not an acceptable reconsideration request</a> <a href="#">Requirements for new reconsideration requests</a> <a href="#">Legacy reconsideration requests</a> <a href="#">Pre-sift for legacy reconsideration requests</a> <a href="#">Applicant's status after submitting a reconsideration request</a> <a href="#">Reconsideration request: initial checks</a> <a href="#">Considering a reconsideration</a> <a href="#">Reconsiderations: decisions</a> <a href="#">Reconsiderations and appeals</a> <a href="#">Reconsiderations: pre-action protocol cases and judicial review claims</a></p>	<p>This page tells you how to reconsider applications based on article 8 family and/or private life issues.</p> <p><b>Requests made on or after 13 November 2012</b></p> <p>You must handle a reconsideration request about an application for leave on the basis of article 8 family and private life in line with the 'Requirements for new reconsideration requests' section of this guidance, if the request was made on or after 13 November 2012. For more information, see link on left.</p> <p>If the request does not meet the sift requirements set out in this policy, you must reject it. If the request meets the sift requirements, you must accept the request and reconsider it. For further information, see links on left:</p> <ul style="list-style-type: none"><li>• What is an acceptable reconsideration request</li><li>• Requirements for new reconsideration requests</li></ul> <p>You must reconsider the article 8 claim in line with the Immigration Rules in Appendix FM (family life) and/or paragraph 276ADE (private life). Since 9 July 2012 the Home Office has considered article 8 claims against the five and 10 year routes for partners, parents and private life. You must consider any reconsideration under the relevant routes.</p> <p>You must reconsider article 8 claims from applicants who applied under the five year partner or parent routes against the five year partner and parent routes. If they do not meet the requirements, you must also consider them against the 10 year partner, parent or private life routes (as appropriate). If an applicant does not meet the requirements of the rules, you must go on to consider if there are exceptional circumstances in their case.</p> <p>You must only consider applicants who applied under the 10 year partner, parent or private life routes against the 10 year route. If an applicant does not meet the requirements of the rules you must go on to consider if there are exceptional circumstances in their case.</p>	<p><b>Related links</b></p> <p>IDI chapter 8: Family members transitional</p> <p>1.0a - Partners - 5-year route</p> <p>1.0b Family and private life - 10-year route</p> <p>Public funds</p> <p><b>External links</b> <a href="#">Immigration Rules</a></p> <p><a href="#">Application for change of conditions of leave to allow access to public funds if your circumstances change</a></p> <p><a href="#">Appendix FM</a></p> <p><a href="#">Immigration Rules paragraph 276ADE</a></p> <p><a href="#">Immigration Rules part 8</a></p> <p>Archive immigration rules</p>
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For more information on consideration of exceptional circumstances, see related link:1.0b Family and private life - 10-year route (see section 9 – Exceptional circumstances).

**Reconsideration of 'no recourse to public funds' condition code**

Applicants granted leave under the 10 year partner, parent or private life routes may also request a reconsideration of the condition code 'no recourse to public funds' attached to that leave.

This would apply if an applicant provided information and evidence which relates to the financial circumstances with their application for leave to remain to support a claim that they are destitute or that there are compelling reasons which relate to the welfare of a child of a parent in receipt of a very low income, but the applicant thinks a casework error has been made in assessing this against the policy on when to allow recourse to public funds.

In this circumstance you must consider any additional information which relates to the financial circumstances the applicant has submitted, as well as considering the information submitted with the original application. This allows us to take a full and appropriate decision on whether or not they should be granted recourse to public funds, on the basis of up-to-date evidence.

For information on what counts as public funds for immigration purposes, see related link: Public funds

**Published form for seeking an amendment to conditions of leave**

There is a separate process for applicants who did not submit evidence of their financial position with their application, or whose circumstances have changed since the decision was made. Where an applicant is granted leave to remain under the 10-year partner, parent or private life routes with no recourse to public funds, they may request an amendment to the conditions attached to their leave if one of the following applies:

- they failed to provide sufficient information or evidence about their financial circumstances with their application, but they believe they meet the terms of the published policy and provide additional information or evidence
- when the applicant applied for leave to remain, they were not destitute and there were no compelling reasons relating to the welfare of their child, but their financial

circumstances have since changed so that they want to request a change in their conditions of leave

Guidance and a form for this process are published and can be accessed by applicants on the GOV.UK website. There is no charge for this process.

For an example of the form, see related link: Application for change of conditions of leave to allow access to public funds if your circumstances change.

### **Legacy human rights based reconsiderations**

Legacy human rights reconsideration requests are those submitted before 13 November 2012, where all the following apply:

- the request is about an application for leave that raised an article 8 claim
- the decision refused the article 8 claim
- the reconsideration request remains outstanding

To decide how to consider the legacy request, you must check what type of application was originally made, using the guidance below.

It is important to be aware that the approach to dealing with article 8 cases changed on 9 July 2012, when the new family and private life rules came into force. From this date onwards, any consideration of article 8 must be in line with Appendix FM and paragraph 276ADE, rather than considering case law. For more information on how to consider article 8, see related links:

- IDI chapter 8: Family members transitional (covers legacy cases)
- 1.0a - Partners - 5-year route (covers post 9 July 2012 cases)
- 1.0b Family and private life - 10-year route (covers post 9 July 2012 cases).

### **Article 8 within the rules**

If the legacy application was made under the part 8 family or part 7 long residence Immigration Rules before 9 July 2012, you must reconsider the application against the rules in force at the date of the application as these were the rules against which the original application was considered.

You must check the decision was correctly made in line with the requirements of the rules at that time. You must only consider the evidence available to the caseworker and the circumstances of the applicant at the time of the original decision.

If the applicant did not meet the requirements of the rules, and the original caseworker went on to consider article 8 outside the rules, you must reconsider the article 8 claim outside the rules.

Because the new family and private life rules came into force on 9 July 2012 your reconsideration of the article 8 claim must not consider case law. Instead, you must consider if the applicant meets the provisions of the current family and private life Immigration Rules, set out in Appendix FM and paragraph 276ADE.

If an applicant does not meet the requirements of the rules, you must then go on to consider if there are exceptional circumstances in their case.

If the legacy application is a decision that was made after 9 July 2012 under Appendix FM or paragraph 276ADE of the Immigration Rules, you must reconsider the article 8 claim by checking those rules were applied correctly.

**Article 8 outside the rules**

If the legacy application was for article 8 consideration outside the rules, your reconsideration must address article 8. Since the introduction of the family rules on 9 July 2012 your reconsideration of the article 8 claim must not consider case law. Instead, you must consider whether or not the applicant meets the provisions of the current family and private life Immigration Rules, set out in Appendix FM and paragraph 276ADE.

For article 8 cases both inside and outside the rules you must only consider the evidence available to the caseworker, and circumstances of the applicant, at the time of the original decision.

If an applicant fails to meet the requirements of the rules, you must go on to consider if there are exceptional circumstances in their case. For more information on exceptional

circumstances, see section 9 – Exceptional circumstances of related link:1.0b Family and private life - 10-year route.

**Change of circumstances**

If the applicant’s family or private life circumstances have changed since the date of their reconsideration request, for example if they have new family members, you must not consider these new issues as part of the reconsideration.

If the applicant wants to have their article 8 case assessed again, they must submit a new valid application under the relevant Immigration Rules.

**Asylum cases**

Where an applicant has an outstanding legacy reconsideration request, they subsequently applied for asylum and their asylum application was refused:

- if the applicant had asked for reconsideration of an article 8 claim outside the rules, the subsequent asylum consideration will have already addressed this, so there is no need to proceed with the reconsideration and you must reject the request.
- if the applicant made an application under the family or long residence rules applicable at that time, the asylum consideration will not have looked at those old Immigration Rules, so you must proceed with the reconsideration

## Reconsiderations

### Reconsiderations: decisions

<p><a href="#">About this guidance</a> <a href="#">What is an acceptable reconsideration request</a> <a href="#">What is not an acceptable reconsideration request</a> <a href="#">Requirements for new reconsideration requests</a> <a href="#">Legacy reconsideration requests</a> <a href="#">Pre-sift for legacy reconsideration requests</a> <a href="#">Applicant's status after submitting a reconsideration request</a> <a href="#">Reconsideration request: initial checks</a> <a href="#">Considering a reconsideration</a> <a href="#">Reconsiderations: decisions</a> <a href="#">Reconsiderations and appeals</a> <a href="#">Reconsiderations: pre-action protocol cases and judicial review claims</a></p>	<p>This section tells you what to do once you have reconsidered a decision.</p> <p><b>Recording details of the decision</b></p> <p>It is important to enter all the following details of the reconsideration on CID:</p> <ul style="list-style-type: none"><li>• for valid reconsideration requests only, you must add the new outcome 'Outcome to be Reconsidered by UKBA' in the CID outcome field</li><li>• the decision</li><li>• points raised by the applicant, or representative, and the Home Office response to those points on the 'case notes' screen</li></ul> <p>This makes sure there is a clear audit trail so:</p> <ul style="list-style-type: none"><li>• the applicant does not obtain more than one reconsideration</li><li>• any future legal challenge can be robustly defended</li></ul> <p><b>Handling of case papers</b></p> <p>You must keep the following information on file or as an electronic copy:</p> <ul style="list-style-type: none"><li>• the reconsideration request letter</li><li>• any relevant case papers such as covering letters</li></ul> <p>You must not return any valuable documents to the applicant if their leave has expired or they are liable to be removed. These documents must be retained and handled in line with the retention of valuable documents policy (see related link).</p> <p>You must keep the documents to assist the immigration, compliance and engagement (ICE) in enforcement activity. For more information, see related link: Retention of valuable documents.</p> <p>You must send any documents you keep for linking to the Home Office file, if one exists. If there is no Home Office file:</p>	<p><b>In this section</b></p> <p><a href="#">Reconsideration: change the decision</a></p> <p><a href="#">Reconsideration: changing the reason(s) for refusal</a></p> <p><a href="#">Reconsideration: maintain the decision</a></p> <p><b>Related links</b></p> <p>Retention of valuable documents</p>
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- send the documents for linking to the CRS file if you do not need a Home Office file
- ask for a Home Office file to be created if required, for example if you are keeping any valuable documents

**The reconsideration decision letter**

You must inform the migrant, or their legal representative (if they have one) of the outcome of the reconsideration in writing, using the correct letter templates. For more information on what letters to produce, see related links:

- Reconsiderations: change the decision
- Reconsiderations: maintain the decision

You must be aware that the content of your letter responding to a reconsideration request may form part of any following judicial review that challenges the decision. It is important that your letter is:

- clear
- concise
- responds to all points the applicant or their representative raise in the reconsideration request

For more information on judicial reviews, see link on left: Reconsiderations – pre-action protocol cases and judicial review claims.

## Reconsiderations

### Reconsiderations: change the decision

<p><a href="#">About this guidance</a> <a href="#">What is an acceptable reconsideration request</a> <a href="#">What is not an acceptable reconsideration request</a> <a href="#">Requirements for new reconsideration requests</a> <a href="#">Legacy reconsideration requests</a> <a href="#">Pre-sift for legacy reconsideration requests</a> <a href="#">Applicant's status after submitting a reconsideration request</a> <a href="#">Reconsideration request: initial checks</a> <a href="#">Considering a reconsideration</a> <a href="#">Reconsiderations: decisions</a> <a href="#">Reconsiderations and appeals</a> <a href="#">Reconsiderations: pre-action protocol cases and judicial review claims</a></p>	<p>This page tells you what to do when you have reconsidered the original decision and have decided to change it.</p> <p><b>Reverse the original decision</b></p> <p>If you reverse (withdraw) the decision because it was incorrect, you must grant leave as appropriate to the application being reconsidered, unless it must now be refused on general grounds.</p> <p>The start date of the leave granted is the date on which you reverse the incorrect previous decision and make a new decision. For more information on section 3C leave, see related link.</p> <p>For more information on the general grounds for refusal, see related link.</p> <p>You must issue the appropriate approval letters and an ICD.4565 'Reconsideration request – notification of outcome' covering letter, using DocGen to produce and complete the letters.</p> <p>From 1 December 2012, all applicants granted leave to remain must give their biometric information, even if they were not required to when they applied.</p> <p>If an applicant qualifies for leave to remain but they were not required to give their biometric information at the time of application, you must send them a biometric invitation letter and application form before completing your action on the case (providing their cumulative period of leave is more than six months).</p> <p>For guidance on the process, see related link: Biometric information: introduction.</p> <p>If you reverse the original decision when there is a pending appeal, you must read the reconsiderations and appeals section of this guidance. For more information, see related link.</p>	<p><b>In this section</b></p> <p><a href="#">Reconsideration: changing the reason(s) for refusal</a></p> <p><a href="#">Reconsideration: maintain the decision</a></p> <p><b>Related links</b></p> <p><a href="#">Reconsiderations and appeals</a></p> <p>Biometric information: introduction</p> <p>General grounds for refusal</p> <p>Curtailment of leave</p> <p>3C and 3D leave</p> <p><b>External links</b></p> <p><a href="#">Section 3C of the Immigration Act 1971 (As Amended)</a></p>
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	<p><b>Rectifying errors on approved decisions</b></p> <p>If the reconsideration request relates to aspects of an approved application, such as the period of leave granted or condition code, you must rectify any errors you identify.</p> <p>You must consider whether curtailment is appropriate if there are relevant new facts or evidence since leave has been granted. For example, curtailment may be appropriate if the migrant has since been convicted of a criminal offence or has breached the conditions of their leave.</p> <p>For more information on curtailment of leave, see related link.</p> <p>If necessary you must issue a new biometric residence permit stating the correct conditions of leave.</p> <p>You must issue updated approval letters and an ICD.4565 'Reconsideration request – notification of outcome' covering letter, using DocGen to produce and complete the letters.</p>	
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## Reconsiderations

### Reconsiderations: changing the reason(s) for refusal

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This page tells you what to do when you have reconsidered the original decision and have decided to change the reason(s) for refusal.

#### Changing the reason(s) for refusal

If you reconsider a refusal decision and decide the original decision was mainly but not wholly correct you must maintain the original refusal of the application. For example, it may be that the:

- application should also have been refused for other reasons
- decision notice contained the correct refusal reasons but was worded incorrectly
- decision was correct but was issued on the wrong decision notice template

In this case you must issue a supplementary letter to address the error(s) but maintain the original refusal date.

If you reconsider the case and decide it should have been refused for different reasons, you must:

- withdraw the original decision
- issue a new decision notice (including fresh appeal rights if the original application was in-time) and an ICD.4565 'Reconsideration request – notification of outcome' covering letter, using DocGen to produce and complete the letters

If you withdraw the original decision and issue a new refusal notice, this will reinstate any 3C leave the migrant benefitted from following submission of the original application. For more information on section 3C leave, see related link.

#### Decisions with a pending appeal

If the applicant has lodged an appeal against the original decision that you have withdrawn, contact the applicant to request they withdraw the appeal as you will issue a new decision on the application.

#### In this section

[Reconsideration: change the decision](#)

[Reconsideration: maintain the decision](#)

#### Related links

[Reconsiderations and appeals](#)

3C and 3D leave

#### External links

[Section 3C of the Immigration Act 1971 \(As Amended\)](#)

	<p>You must notify the tribunal service that you have withdrawn the decision so they can cancel the appeal. For more information on how to do this, see link on left: <a href="#">Reconsiderations and appeals.</a></p> <p>If the applicant has a right of appeal against the new decision, they will have the usual 10 working days from the date of notification of the new decision to lodge an appeal.</p>	
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## Reconsiderations

### Reconsiderations: maintain the decision

<p><a href="#">About this guidance</a> <a href="#">What is an acceptable reconsideration request</a> <a href="#">What is not an acceptable reconsideration request</a> <a href="#">Requirements for new reconsideration requests</a> <a href="#">Legacy reconsideration requests</a> <a href="#">Pre-sift for legacy reconsideration requests</a> <a href="#">Applicant's status after submitting a reconsideration request</a> <a href="#">Reconsideration request: initial checks</a> <a href="#">Considering a reconsideration</a> <a href="#">Reconsiderations: decisions</a> <a href="#">Reconsiderations and appeals</a> <a href="#">Reconsiderations: pre-action protocol cases and judicial review claims</a></p>	<p>This page tells you what to do when you have reconsidered the original decision and decide it was correct.</p> <p><b>Maintaining the original decision</b> If you maintain the original decision you must tell the applicant or representative of the outcome in writing, using the ICD.4564 'Reconsideration request – maintain decision' letter template on DocGen to produce and complete the letters.</p> <p><b>Decision letter</b> You do not need to produce a new decision notice if you maintain the original decision. This is not a new decision and does not generate a new right of appeal.</p> <p>Any reconsideration request about a decision made on or after 6 April 2015 which has a right of appeal will be rejected. For valid reconsideration requests about decisions made before that date, depending on the circumstances of the case, you may also need to inform the Immigration and Appeals Chamber (IAC) of the outcome. The IAC general helpline telephone number is 0300 123 1711. Below are the different circumstances and the action you need to take.</p> <p><b>The applicant has full right of appeal but has not lodged an appeal</b> You do not need to notify the tribunal service. You must take care to make sure you keep a full audit trail and record of all the correspondence. This is because any future response to an appeal lodged after the date of the reconsideration may need to refer to the record or the decision letter.</p> <p><b>The applicant has limited right of appeal but has not lodged an appeal</b> If the reconsideration request has been made wholly or partly on the basis of one or more of the limited grounds on which the applicant could appeal, for example, race relations, human rights or asylum grounds, and you maintain a refusal, you must:</p> <ul style="list-style-type: none"><li>• re-serve the decision with a right of appeal on limited grounds raised by the applicant</li></ul>	<p><b>In this section</b> <a href="#">Reconsideration: change the decision</a> <a href="#">Reconsideration: changing the reason(s) for refusal</a></p> <p><b>Related links</b> Removals casework</p> <p><b>External links</b> <a href="#">Immigration (Notices) Regulations 2003</a></p>
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- enclose the appropriate appeal forms, under regulation 5 of the Immigration (Notices) Regulations 2003

This is to make sure the requirements of the Immigration (Notices) Regulations 2003 are met. For more information, see related link.

**The applicant has limited right of appeal with an appeal pending**

You only need to link the Home Office reconsideration decision letter to the appeal bundle for the immigration judge to consider if it concerns the one or more of the limited grounds on which the applicant made the appeal, for example, race relations, human rights or asylum grounds.

If the request for reconsideration is wholly or partly based on one of the limited grounds of appeal, then you must re-serve the decision.

**Maintaining the decision but for different reasons**

If the result of your reconsideration is that you maintain the refusal but for different reasons from those against which the previous appeal has been lodged, and the appeal is still pending, then you must serve a fresh notice of appeal in accordance with regulation 5(7) of the Notices Regulations. If appropriate, make and serve a removal decision at the same time.

For more information on the Immigration (Notices) Regulations 2003, see related link.

For more information on removals casework, see related link.

**The applicant has full right of appeal with appeal pending**

You must link the additional factors and the Home Office reconsideration decision letter to the appeal bundle for the immigration judge to consider. You do this by using internal mail, but if the hearing is due within the next seven days you must fax the documents to the presenting officer unit.

**The applicant has remaining leave (other than leave under section 3C)**

	<p>When you write the reconsideration decision letter maintaining a decision, you must tell the applicant they can submit a new application with the required fee before their leave expires, if they believe they meet the requirements to be granted leave.</p> <p><b>The applicant has no remaining leave</b></p> <p>When you send the reconsideration decision letter to the applicant, you must also tell them to make arrangements to leave the UK subject to any in the UK appeal rights. If appropriate, make and serve a removal decision at the same time. You must follow standard operational processes for migrants who no longer have leave to remain in the UK, by allocating the case to the relevant case ownership unit for enforcement action.</p>	
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## Reconsiderations

### Reconsiderations and appeals

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**If you reverse the original decision when there is a pending appeal**

If you grant leave in a case with a pending appeal, this will stop the appeal, unless it is brought on race discrimination grounds.

You must:

- inform the tribunal service immediately
- contact the relevant court by letter, or fax if it is within 7 days of the hearing, and
- notify the relevant presenting officers unit

The appeals screen on CID will identify the relevant court or presenting officer unit for all cases already listed for a hearing.

If the court where the appeal will be heard is not identified on the CID appeals screen, you must call the IAC's general helpline on 0300 123 1711 to find out where the appeal is located.

For more information on informing the tribunal, see rule 17(2) in the related link: Asylum and Immigration Tribunal (Procedures) Rules 2005.

**Request to reconsider a decision in advance of a pending appeal**

The reconsideration process and the appeals process are entirely separate and independent of one another:

- the appeals process is governed by legislation
- the reconsiderations process is not a legal requirement but a service the Home Office provides, as a matter of policy, for some types of cases

You must reconsider the decision without taking into account any new information or evidence submitted to the IAC, unless it is evidence that is otherwise permitted for the purposes stated in this policy.

You must reject a reconsideration request if all the following apply:

- it was made before the appeal was heard
- it was still outstanding after the appeal had been heard
- the IAC upheld the original decision
- the migrant has exhausted their appeal rights

You can make reference to the appeal decision in the rejection decision. You must not delay reconsidering a case to wait for the IAC decision.

**If the IAC overturns the decision following an appeal and makes a direction to grant leave**

You must grant the applicant leave as directed by the immigration judge unless it has been agreed to challenge the judge’s decision to overturn the refusal.

If the judge’s decision is not being challenged, you do not need to consider any outstanding reconsideration request about the refusal because the appeal has reversed the refusal.

If it has been agreed to challenge the judge’s decision, you must:

- wait until the challenge to the judge’s decision is lodged before processing the reconsideration:
  - this is to make sure the applicant is aware they will not be immediately granted leave as a result of the immigration judge’s decision, before they receive the reconsideration decision
- contact the specialist appeals team, through your higher executive officer (HEO), before reconsidering the case:
  - this is to make sure there is no conflict between the reconsideration action and the challenge to the appeal decision

**If the IAC directs that a decision be reconsidered following an appeal**

An immigration judge may return a refusal to the Home Office with a direction to reconsider the decision following an allowed appeal.

You must proceed to reconsider the refusal as directed by the immigration judge unless it has been agreed to challenge the judge’s decision. In this case, you must wait until the challenge to the judge’s decision has been lodged before processing the reconsideration.

	<p>You do not need to ask the applicant to make a further written request in these circumstances.</p> <p>You must update CID with the details of the appeal outcome and the reconsideration.</p>	
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## Reconsiderations

### Reconsiderations: pre-action protocol cases and judicial review claims

<p><a href="#">About this guidance</a> <a href="#">What is an acceptable reconsideration request</a> <a href="#">What is not an acceptable reconsideration request</a> <a href="#">Requirements for new reconsideration requests</a> <a href="#">Legacy reconsideration requests</a> <a href="#">Pre-sift for legacy reconsideration requests</a> <a href="#">Applicant's status after submitting a reconsideration request</a> <a href="#">Reconsideration request: initial checks</a> <a href="#">Considering a reconsideration</a> <a href="#">Reconsiderations: decisions</a> <a href="#">Reconsiderations and appeals</a> <a href="#">Reconsiderations: pre-action protocol cases and judicial review claims</a></p>	<p>This page tells you how reconsideration decisions affect pre-action protocol cases and judicial review (JR) cases.</p> <p>When you reconsider a decision you must thoroughly consider all the points raised by the applicant or representative.</p> <p>For more information on maintaining or changing the decision, see related links:</p> <ul style="list-style-type: none"><li>• Reconsideration: maintain the decision</li><li>• Reconsideration: changing the reason(s) for refusal</li></ul> <p><b>If the applicant then seeks to challenge the decision at JR</b></p> <p>If the applicant sends a 'letter before claim', also known as the pre-action protocol (PAP) letter after receiving the reconsideration decision, the detailed reconsideration decision letter will help the caseworker respond quickly to the PAP. The PAP letter may challenge the original decision, the reconsideration decision, or both.</p> <p>If the applicant then submits a JR application or proceeds straight to JR without a PAP, it may strengthen the Home Office's position when there is evidence a thorough reconsideration was conducted.</p> <p>For more information about judicial reviews, see related link: IDI chapter 27: Judicial review.</p>	<p><b>Related links</b></p> <p><a href="#">Reconsideration: changing the reason(s) for refusal</a></p> <p><a href="#">Reconsideration: maintain the decision</a></p> <p><b>See also</b></p> <p>IDI chapter 27: Judicial review</p>
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### Contact

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This page tells you about this version of the 'Reconsiderations' guidance and who owns it.

Version	11.0
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Policy owner	Administrative policy

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