

This guidance is based on the Immigration Rules



# **General grounds for refusal**

## **Section 4 of 5: considering leave to remain**

This is based on the Immigration Rules

This guidance is based on the Immigration Rules

## General grounds for refusal

### Considering leave to remain: mandatory and discretionary refusals

<p><a href="#">Leave to remain: mandatory refusals</a></p> <p><a href="#">Leave to remain: paragraphs 322(1A), 322(2) and 322(2A) – deception</a></p> <p><a href="#">Leave to remain: Discretionary refusals</a></p> <p><a href="#">Considering leave to remain: visitors</a></p>	<p>This section contains guidance for caseworkers on what you must consider when you refuse an applicant on general grounds.</p> <p>It explains each part of paragraph 322 and identifies which are mandatory refusals and which are discretionary.</p> <p>This guidance is based on the <a href="#">Immigration Rules</a>.</p> <p><b>Mandatory or discretionary</b></p> <p>The Immigration Rules have 2 types of refusal on general grounds and it will depend on the reasons you are using to refuse as to how you consider the application. If it is a mandatory ground for refusal you must refuse the application, if it is a discretionary ground for refusal then you can consider whether the circumstances allow you to use your discretion.</p> <p><a href="#">Paragraph 322 of the rules</a> sets out these general grounds for refusal:</p> <ul style="list-style-type: none"><li>• mandatory refusals are in paragraphs 322(1) – 322(1E)</li><li>• discretionary refusals are in paragraphs 322(2) to 322(13)</li></ul> <p>For visitors <a href="#">part V3 of appendix V</a> sets out the general grounds for refusal. See '<a href="#">leave to remain: visitors</a>' for how the rules at part V3 match the rules in paragraph 320.</p> <p><b>Considering leave to remain for all categories of applications made to remain in the UK</b></p> <p>You must consider if:</p> <ul style="list-style-type: none"><li>• there are any general grounds for refusal</li><li>• you can refuse the application under the category the person applied for</li></ul>	
---	---	--

**What you need to check for**

You must check for evidence of:

- adverse behaviour (using deception including false representation, fraud, forgery, non-disclosure of material facts or failure to cooperate)
- non conducive, adverse character, conduct or associations, (criminal history, deportation order, travel ban, exclusion, non-conducive to public good, a threat to national security)
- adverse immigration history (breaching conditions, using deception in an application)
- NHS or litigation debt

For further guidance, see links on left.

For more information on the specific grounds above, see:

- grounds for refusal
- checks

**Where to check for the evidence**

There are various checks you can make for evidence of the above.

You must always check:

- information on the application form
- internal Home Office systems (for example CID, CRS and warehouse)
- Home Office security checks
- other security checks

Other information may help you consider an application. You should also complete, if appropriate:

- Department for Work and Pensions (DWP) checks
- HM Revenue & Customs (HMRC) checks

This guidance is based on the Immigration Rules

You must carefully consider your statutory duty to children, under section 55 of the Borders, Citizenship and Immigration Act 2009, before you apply the instructions in this guidance either to children or people with children.

For more information on section 55 see: Safeguard and promote child welfare.

If you only refuse on general grounds and an appeal is allowed, you cannot then re-consider them for the specific category and leave to remain will have to be given.

You must consider if there are any human rights grounds such as:

- the right to family life under article 8 of the European Convention on Human Rights (ECHR)
- any exceptional, compelling circumstances which would justify you granting the application

This guidance is based on the Immigration Rules

## General grounds for refusal

### Leave to remain: mandatory refusals

[Leave to remain: mandatory refusals](#)

[Leave to remain: paragraphs 322\(1A\), 322\(2\) and 322\(2A\) – deception](#)

[Leave to remain: Discretionary refusals](#)

[Considering leave to remain: visitors](#)

This section lists the mandatory general grounds for refusal of leave to remain under [paragraph 322 of the Immigration Rules](#). It also sets out when you must refer an application before you make your decision.

Refusal paragraph	When you must refuse leave	Refer before you refuse?
322(1)	The applicant is seeking leave to enter or remain for a purpose not covered by the rules.	No
322(1A)	The applicant has made false representations or submitted false documents in their current application or in order to obtain documents from the Secretary of State or a third party required in support of the application.	Yes, refer to senior case worker. You must also check the harm matrix before consideration.
322 (1B)	The applicant is, at the time of application, subject to a deportation order.	
322 (1C)	The applicant is seeking indefinite leave to remain and: <ul style="list-style-type: none"> <li>• they have been convicted of an offence for which they have been sentenced to imprisonment for at least 4 years</li> <li>• they have been convicted of an offence for which they have been sentenced to imprisonment for at least 12 months but less than 4 years, unless a period of 15 years has passed since the end of the sentence</li> <li>• they have been convicted of an offence for which they have been sentenced to imprisonment for less than 12 months,</li> </ul>	

#### In this section

[Permission for a purpose not covered by the rules: leave to remain](#)

#### Related links

		<p>unless a period of 7 years has passed since the end of the sentence</p> <ul style="list-style-type: none"> <li>• they have, within the 24 months preceding the date of the application, been convicted of or admitted an offence for which they have received a non-custodial sentence or other out of court disposal that is recorded on their criminal record</li> </ul>		
	322(1E)	<p>The applicant is seeking leave to remain or indefinite leave to remain and :</p> <ul style="list-style-type: none"> <li>• the Secretary of State has made a decision under Article 1F of the Refugee Convention to exclude the person from the Refugee Convention or under paragraph 339D of these Rules to exclude them from humanitarian protection</li> <li>• the Secretary of State has previously made a decision that they are a person to whom Article 33(2) of the Refugee Convention applies because there are reasonable grounds for regarding them as a danger to the security of the United Kingdom</li> <li>• the Secretary of State considers that they are a person to whom the above would apply except that:             <ul style="list-style-type: none"> <li>○ the person has not made a protection claim</li> <li>○ the person made a protection claim</li> </ul> </li> </ul>		

This guidance is based on the Immigration Rules

		<p>which has already been finally determined without reference to Article 1F of the Refugee Convention or paragraph 339D of these Rules</p> <ul style="list-style-type: none"><li>• the Secretary of State has previously made a decision that they are a person to whom Article 33(2) of the Refugee Convention currently applies because, having been convicted by a final judgment of a particularly serious crime, they constitute a danger to the community of the United Kingdom</li></ul>			
--	--	--	--	--	--

This guidance is based on the Immigration Rules

## General grounds for refusal

### Permission for a purpose not covered by the rules: leave to remain

<p><a href="#">Leave to remain: mandatory refusals</a></p> <p><a href="#">Leave to remain: paragraphs 322(1A), 322(2) and 322(2A) – deception</a></p> <p><a href="#">Leave to remain: Discretionary refusals</a></p> <p><a href="#">Considering leave to remain: visitors</a></p>	<p>This page contains guidance for caseworkers on what to consider when an applicant applies to change their permission to stay in the UK for a purpose which is not covered by the Immigration Rules.</p> <p>This relates to <a href="#">general grounds for refusal under paragraph 322(1) of the rules</a>.</p> <p>When you consider an application for leave, you must take into account whether they want to stay for a reason covered by the Immigration Rules. If this is not the case, you must refuse leave to remain under paragraph 322(1).</p> <p>You must be careful when you refuse leave under paragraph 322(1): the fact that a person does not meet the Immigration Rules does not mean that there are no rules which apply. You must only use paragraph 322(1) to refuse an applicant who has specifically applied for leave outside the rules.</p> <p>For more information on refusing leave to remain and refusal wording, see:</p> <ul style="list-style-type: none"><li>• Refusing leave to remain</li><li>• Refusal wording</li></ul> <p>For information on appeal rights see: Rights of appeal.</p>	<p><b>Related links</b></p> <p>14.0 Leave outside the rules</p>
---	---	---



This guidance is based on the Immigration Rules

## General grounds for refusal

### Leave to remain: paragraphs 322(1A), 322(2) and 322(2A): deception

<p><a href="#">Leave to remain: mandatory refusals</a></p> <p><a href="#">Leave to remain: paragraphs 322(1A), 322(2) and 322(2A) – deception</a></p> <p><a href="#">Leave to remain: Discretionary refusals</a></p> <p><a href="#">Considering leave to remain: visitors</a></p>	<p>This section contains guidance for caseworkers on what to consider when an applicant applying for leave to remain has used deception in either a current or previous application.</p> <p>This relates to <a href="#">general grounds for refusal under paragraphs 322(1A), 322(2) and 322(2A) of the rules</a>. For visitors, this relates to refusal under <a href="#">paragraph V 3.6 or V 3.7 of Appendix V</a>.</p> <hr/> <p><b>Official sensitive: start of section</b></p> <p>The information on this page has been removed as it is restricted for internal Home Office use.</p> <p>The information on this page has been removed as it is restricted for internal Home Office use.</p> <p>The information on this page has been removed as it is restricted for internal Home Office use.</p> <p>The information on this page has been removed as it is restricted for internal Home Office use.</p> <p>The information on this page has been removed as it is restricted for internal Home Office use.</p> <p>The information on this page has been removed as it is restricted for internal Home Office use.</p>	<p><b>In this section</b></p> <p><a href="#">False representations: paragraphs 322(1A), 322(2) and 322(2A)</a></p> <p><a href="#">False documents: paragraphs 322(1A), 322(2) and 322(2A)</a></p> <p><a href="#">Material facts not disclosed: paragraphs 322(1A), 322(2) and 322(2A)</a></p> <p><a href="#">Recording grounds for refusal on CID: paragraphs 322(1A), 322(2) and 322(2A)</a></p> <p><a href="#">Subject to a deportation order: paragraph 322(1B)</a></p> <p><a href="#">Indefinite leave to remain criminal convictions paragraph 322(1C)</a></p> <p><a href="#">Exclusions from the Refugee Convention</a></p>
---	---	---

	<p>The information on this page has been removed as it is restricted for internal Home Office use.</p> <p><b>Official sensitive: end of section</b></p> <hr/> <p>When an applicant has, either in their current or previous application, made a false representation, submitted false documents or information or not disclosed material facts, you:</p> <ul style="list-style-type: none"><li>• must refuse their application under paragraph 322(1A), when deception has been used in a current application</li><li>• should normally refuse their application under paragraph 322(2), when deception was used in a previous application</li><li>• should normally refuse their application under paragraph 322(2A), when deception was used in a current or previous application or to get a document from the Secretary of State that shows the applicant has a right to reside in the UK</li></ul> <p>You should refuse leave to remain for these reasons, where there is satisfactory evidence to show that the applicant or a third party has deliberately provided representations or documents which they know to be false to obtain leave or to get a document from the Secretary of State or a third party needed to support the application.</p> <p>You should refuse leave to remain even if the use of deception was unsuccessful. The successful and unsuccessful use of deception are treated equally seriously in the Immigration Rules.</p> <p>Before you refuse leave to remain under paragraph 322(1A), 322(2) or 322(2A), you must first refer your decision to your senior caseworker.</p> <p><b>Standard of evidence</b></p> <p>To refuse under paragraph 322(1A), 322(2) or 322(2A), you must have evidence to prove that the applicant has lied or submitted a false document. The burden of proof is 'balance of</p>	<p><a href="#">and from humanitarian protection: paragraph 322(1E)</a></p> <p><b>Related links</b></p> <p>EEA, Swiss nationals, EC association agreements</p> <p><b>External links</b></p> <p><a href="#">Immigration Rules: General grounds for refusal - Paragraph 322</a></p>
--	--	--

probabilities', which means it is more likely than not that the applicant has made false representations or given false documents to get leave.

It is not appropriate to refuse a current application under paragraph 322(1A) simply because you do not think that the applicant is telling the truth.

To refuse under paragraph 322(2), you must show that:

- the applicant deceived the entry clearance officer, Home Office officer or caseworker when they made a previous application, and that
- the deception was used to get, or attempt to get, leave to enter or remain or to get a document from the Secretary of State or a third party needed to support the application

To refuse under paragraph 322(2A), you must show:

- the applicant deceived the entry clearance officer, Home Office officer or caseworker when they made a previous application
- that deception was used to get, or an attempt to get, a document from the Secretary of State to show the applicant has a right to reside in the UK

Applications for a right to reside are made under Immigration (European Economic Area) (EEA) regulations 2016 by EEA nationals or by their family members.

It is not enough to show that an applicant's circumstances or intentions are different now to how they were before. You will have to show that a person's circumstances or intentions have always been as they are now and deception was used in order to hide those circumstances or intentions.

For more information on rights of residence, see: EEA, Swiss nationals, EC association agreements.

## General grounds for refusal

### False representations: paragraphs 322(1A), 322(2) and 322(2A)

<p><a href="#">Leave to remain - mandatory refusals</a></p> <p><a href="#">Leave to remain: paragraphs 322(1A), 322(2) and 322(2A) – deception</a></p> <p><a href="#">Leave to remain: Discretionary refusals</a></p> <p><a href="#">Considering leave to remain: visitors</a></p>	<p>This page explains what to consider when an applicant applying for leave to remain has made false representations.</p> <p>This relates to <a href="#">general grounds for refusal under paragraphs 322(1A), 322(2) and 322(2A) of the rules</a>. For visitors, this relates to refusal under <a href="#">paragraph V 3.6 or V 3.7 of Appendix V</a>.</p> <p>A false representation which may lead to refusal under paragraph 322(1A), 322(2) or 322(2A) will be considered to have been made, where an applicant or third party deliberately and dishonestly makes a false statement in relation to an application. This could be in writing, on the application form or supporting documents, or verbally in claims made at interview. If you are refusing an application for this reason, you must refuse it under:</p> <ul style="list-style-type: none"><li>• paragraph 322(1A) (when the false representation has been made in relation to a current application)</li><li>• paragraph 322(2) (when the false representation was made in relation to a previous application for leave)</li><li>• paragraph 322(2A) (when the false representation was made in relation to a current or previous application to get a document from the Secretary of State to show the applicant has a right to reside in the UK)</li></ul> <p>The requirement for a false representation to be deliberately and dishonestly made is derived from the ruling in the case of <a href="#">A (Nigeria) v SSHD</a>, where the judge found that the interpretation of ‘false’ requires dishonesty or deception to be used in an application although not necessarily by the applicant themselves.</p> <p>When a representation is confirmed as false and is made in relation to a current application, you must refuse the application under paragraph 322(1A). This applies even if the false representation is not relevant to the application or your decision</p> <p>When a representation is confirmed as false and was submitted in relation to a previous application, you should refuse the application under paragraph 322(2).</p>	<p><b>In this section</b></p> <p><a href="#">False documents: paragraphs 322(1A), 322(2) and 322(2A)</a></p> <p><a href="#">Material facts not disclosed: paragraphs 322(1A), 322(2) and 322(2A)</a></p> <p><a href="#">Recording grounds for refusal on CID: paragraphs 322(1A), 322(2) and (2A)</a></p> <p><a href="#">Subject to a deportation order: paragraph 322(1B)</a></p> <p><a href="#">Indefinite leave to remain criminal convictions paragraph 322(1C)</a></p> <p><a href="#">Exclusions from the Refugee Convention and from humanitarian protection: paragraph 322(1E)</a></p>
--	--	---

	<p>You must refuse an application under paragraph 322(2A) when a representation is confirmed as false and was submitted in relation to a current or previous application to get a document from the Secretary of State to show the applicant has a right to reside in the UK.</p> <p>When you refuse under either 322(1A), 322(2) or 322(2A), your evidence must clearly show that the applicant's or third party's representations are false, for example because they conflict with other evidence such as representations made in previous applications. You must not refuse an application just because you suspect that false representations have been made or because of minor errors in the application. For example, you should not refuse the application when an applicant has accidentally given an incorrect postcode or misspelt a name on their application form.</p> <p>Where an applicant states on their application form that they do not have any criminal convictions but Home Office checks confirm they do, you must refuse the application unless you are satisfied that there is an innocent explanation. This is because they have deliberately made false representations so that they can obtain leave. It is normally reasonable to expect an applicant to remember a significant event such as a previous conviction and to understand the question asked on the application form about convictions. The application form specifically asks the applicant to confirm any criminal convictions and provides details of how to check this where they are unsure. For example:</p> <ul style="list-style-type: none"><li>• the applicant answers 'no' to the criminal conviction question on their application form</li><li>• caseworking checks confirm that they have been convicted of a criminal offence</li><li>• the application must normally be refused, as there is enough reason to believe that they have answered falsely as the result of a deliberate choice rather than innocently</li></ul> <p>Refusals on this basis must make specific reference to the fact that they answered 'no' to the question on criminal convictions and confirmed that the answers given were true by signing the declaration on the application form. In the refusal letter you must add:</p> <p>'that you were aware that it is an offence under the Immigration Act 1971, as amended by the Immigration and Asylum Act 1999 and the Nationality, Immigration and Asylum Act 2002, to make, to a person acting in execution of any of these acts, a statement or</p>	<p><b>Related links</b></p> <p>Rights of appeal</p> <p><b>External links</b></p> <p><a href="#">Immigration Rules: General grounds for refusal - Paragraph 322</a></p>
--	--	--

This guidance is based on the Immigration Rules

representation which you know to be false or do not believe to be true, or to obtain leave to remain in the United Kingdom by means which include deception’.

For more information on refusing leave to remain and refusal wording, see related links:

- Refusing leave to remain
- Refusal wording

For information on appeal rights see related link: Rights of appeal.

This guidance is based on the Immigration Rules

## General grounds for refusal

### False documents: paragraphs 322(1A), 322(2) and 322(2A)

<p><a href="#">Leave to remain: mandatory refusals</a></p> <p><a href="#">Leave to remain: paragraphs 322(1A), 322(2) and 322(2A) – deception</a></p> <p><a href="#">Leave to remain: Discretionary refusals</a></p> <p><a href="#">Considering leave to remain: visitors</a></p>	<p>For information on document verification and refusal on the ground that a false document has been submitted, see the Document verification guidance.</p>	<p><b>In this section</b></p> <p><a href="#">False representations: paragraphs 322(1A), 322(2) and 322(2A)</a></p> <p><a href="#">Material facts not disclosed: paragraphs 322(1A), 322(2) and 322(2A)</a></p> <p><a href="#">Recording grounds for refusal on CID: paragraphs 322(1A), 322(2) and 322(2A)</a></p> <p><a href="#">Subject to a deportation order: paragraph 322(1B)</a></p> <p><a href="#">Indefinite leave to remain criminal convictions paragraph 322(1C)</a></p> <p><a href="#">Exclusions from the Refugee Convention and from humanitarian protection: paragraph 322(1E)</a></p> <p><b>Related links</b></p>
---	---	--

This guidance is based on the Immigration Rules

		<p>Rights of appeal</p> <p><b>External links</b></p> <p><a href="#">Immigration Rules: General grounds for refusal - Paragraph 322</a></p>
--	--	--



## General grounds for refusal

### Material facts not disclosed: paragraphs 322(1A), 322(2) and 322(2A)

<p><a href="#">Leave to remain: mandatory refusals</a></p> <p><a href="#">Leave to remain: paragraphs 322(1A), 322(2) and 322(2A) – deception</a></p> <p><a href="#">Leave to remain: Discretionary refusals</a></p> <p><a href="#">Considering leave to remain: visitors</a></p>	<p>This page explains what to consider when an applicant has failed to disclose material facts.</p> <p>This relates to <a href="#">general grounds for refusal under paragraphs 322(1A), 322(2) and 322(2A) of the rules</a>.</p> <p>When an applicant has not disclosed material (relevant) facts in relation to a current application, or to get a document from the Secretary of State or a third party needed to support the application, you must refuse their application under paragraph 322(1A). For visitors, refuse under <a href="#">paragraph V 3.6 of Appendix V</a>.</p> <p>When a material fact was not disclosed in a previous application, you must refuse the application under paragraph 322(2). For visitors, refuse under <a href="#">paragraph V 3.7 of Appendix V</a> with reference to paragraph V3.9(d).</p> <p>You must refuse the application under paragraph 322(2A) when the applicant has not disclosed a material fact in a current or previous application to get a document from the Secretary of State to show the applicant has a right to reside in the UK.</p> <p>A material fact is one which is relevant to the decision to grant leave to enter or remain.</p> <p>You must not refuse an application when the information the applicant has withheld is not relevant to the decision or when failure to reveal information is an innocent mistake. For example:</p> <ul style="list-style-type: none"><li>• an applicant has applied for indefinite leave to remain as a spouse</li><li>• your casework checks show that the applicant receives Child Benefit but they have not declared this on their application form</li><li>• the applicant is claiming Child Benefit legally under an exception to their conditions of leave which state 'no recourse to public funds'</li><li>• you cannot refuse the applicant under paragraph 322(1A) because, if they had disclosed the information, it would be inappropriate to refuse their application</li></ul>	<p><b>In this section</b></p> <p><a href="#">False representations: paragraphs 322(1A), 322(2) and 322(2A)</a></p> <p><a href="#">False documents: paragraphs 322(1A), 322(2) and 322(2A)</a></p> <p><a href="#">Recording grounds for refusal on CID: paragraphs 322(1A), 322(2) and 322(2A)</a></p> <p><a href="#">Subject to a deportation order: paragraph 322(1B)</a></p> <p><a href="#">Indefinite leave to remain criminal convictions paragraph 322(1C)</a></p> <p><a href="#">Exclusions from the Refugee Convention and from humanitarian protection: paragraph 322(1E)</a></p> <p><b>Related links</b></p>
---	---	---

	<p>If the applicant in the above example had been claiming Child Benefit illegally and had failed to disclose it, you could refuse their application under paragraph 322(1A) because the undisclosed information would be relevant to your decision.</p> <hr/> <p><b>Official sensitive: start of section</b></p> <p>The information on this page has been removed as it is restricted for internal Home Office use.</p> <p>The information on this page has been removed as it is restricted for internal Home Office use.</p> <p>The information on this page has been removed as it is restricted for internal Home Office use.</p> <p><b>Official sensitive: end of section</b></p> <hr/> <p>For more information on refusing leave to remain and refusal wording, see:</p> <ul style="list-style-type: none"><li>• Refusing leave to remain</li><li>• Refusal wording</li></ul> <p>For information on appeal rights see related link: Rights of appeal.</p>	<p>Rights of appeal</p> <p><b>External links</b></p> <p><a href="#">Immigration Rules: General grounds for refusal - Paragraph 322</a></p>
--	--	--

This guidance is based on the Immigration Rules

## General grounds for refusal

### Recording grounds for refusal on CID: paragraphs 322(1A), 322(2) and 322(2A)

<p><a href="#">Leave to remain: mandatory refusals</a></p> <p><a href="#">Leave to remain: paragraphs 322(1A), 322(2) and 322(2A) – deception</a></p> <p><a href="#">Leave to remain: Discretionary refusals</a></p> <p><a href="#">Considering leave to remain: visitors</a></p>	<p>This page explains that an applicant applying for leave to remain who is refused under paragraph 322(1A), 322(2) or 322(2A) may be banned from getting future entry clearance or leave to enter because of paragraph 320(7B).</p> <p>This relates to <a href="#">general grounds for refusal under paragraphs 322(1A), 322(2) and 322(2A) of the rules</a>. For visitors, refuse under <a href="#">paragraph V 3.6 of Appendix V</a>.</p> <p>When you refuse leave to remain, you must refer specifically to your grounds for refusal on CID and explain the reasons for your decision and the evidence that was relevant to the decision. This is because entry clearance and Home Office officers must be aware of an applicant's immigration history. Any applicant who has broken the Immigration Rules by using deception will be banned from re-entering the UK unless they apply for re-entry in an exempt category. For more information on exempt categories see: Previous breach of the rules - when paragraph 320(7B) does not apply.</p> <p>When you refuse a case for deception you must complete the conditions code field in the outcome tab on CID with one of the following options:</p> <ul style="list-style-type: none"><li>• ban triggered – yes</li><li>• ban triggered – no</li></ul> <p>For more information on refusing leave to remain and refusal wording, see:</p> <ul style="list-style-type: none"><li>• Refusing leave to remain</li><li>• Refusal wording</li></ul> <p>For information on appeal rights see related link: Rights of appeal.</p>	<p><b>In this section</b></p> <p><a href="#">False representations: paragraphs 322(1A), 322(2) and 322(2A)</a></p> <p><a href="#">False documents: paragraphs 322(1A), 322(2) and 322(2A)</a></p> <p><a href="#">Material facts not disclosed: paragraphs 322(1A), 322(2) and 322(2A)</a></p> <p><a href="#">Subject to a deportation order: paragraph 322(1B)</a></p> <p><a href="#">Indefinite leave to remain criminal convictions paragraph 322(1C)</a></p> <p><a href="#">Exclusions from the Refugee Convention and from humanitarian protection: paragraph 322(1E)</a></p> <p><b>Related links</b></p>
---	--	---

This guidance is based on the Immigration Rules

		Rights of appeal <b>External links</b> <a href="#">Immigration Rules: General grounds for refusal - Paragraph 322</a>
--	--	---

This guidance is based on the Immigration Rules

## General grounds for refusal

### Subject to a deportation order: paragraph 322(1B)

<p><a href="#">Leave to remain: mandatory refusals</a></p> <p><a href="#">Leave to remain: paragraphs 322(1A), 322(2) and 322(2A) – deception</a></p> <p><a href="#">Leave to remain: Discretionary refusals</a></p> <p><a href="#">Considering leave to remain: visitors</a></p>	<p>This page tells you the action to take when an applicant is subject to a deportation order when they apply for leave to remain</p> <p>Under <a href="#">paragraph 322 (1B)</a> any application submitted on or after 13 December 2012 from a person subject to a deportation order must be refused.</p> <p>You must check CID for details of any deportation orders and contact any relevant parties listed before refusing the application.</p> <p>If an applicant is not subject to a deportation order at the time of their application but has since become the subject of deportation action, you must not refuse under this paragraph but contact the relevant department dealing with the deportation order.</p> <p>If an applicant has not been considered for deportation, either because they were convicted and sentenced outside of the UK or because it was a missed referral, you must refer the case to criminal casework (CC).</p> <p>For more information on the deportation criteria see: <a href="#">Departing Non-EEA Foreign Nationals</a>.</p>	<p><b>In this section</b></p> <p><a href="#">False representations: paragraphs 322(1A) and 322(2)</a></p> <p><a href="#">False documents: paragraphs 322(1A) and 322(2)</a></p> <p><a href="#">Material facts not disclosed: paragraphs 322(1A) and 322(2)</a></p> <p><a href="#">Recording grounds for refusal on CID: paragraphs 322(1A) and (2)</a></p> <p><a href="#">Indefinite leave to remain criminal convictions paragraph 322(1C)</a></p> <p><a href="#">Exclusions from the Refugee Convention and from humanitarian protection: paragraph 322(1E)</a></p> <p><b>Related links</b> <a href="#">Refusing leave to</a></p>
---	---	---

This guidance is based on the Immigration Rules

		remain Refusal wording Rights of appeal <b>External links</b> <a href="#">Immigration Rules: General grounds for refusal - Paragraph 322</a>
--	--	--

This guidance is based on the Immigration Rules

## General grounds for refusal

### Indefinite leave to remain criminal convictions: paragraph 322(1C)

<p><a href="#">Leave to remain: mandatory refusals</a></p> <p><a href="#">Leave to remain: paragraphs 322(1A), 322(2) and 322(2A) – deception</a></p> <p><a href="#">Leave to remain: Discretionary refusals</a></p> <p><a href="#">Considering leave to remain: visitors</a></p>	<p>This page explains how to consider an application for indefinite leave to remain if the applicant is convicted of a criminal offence.</p> <p>You must refuse an applicant who is applying for indefinite leave to remain on or after 13 December 2012, if they:</p> <ul style="list-style-type: none"><li>• have been convicted of an offence and sentenced to imprisonment for at least 4 years</li><li>• were convicted of an offence and sentenced to imprisonment for at least 12 months but less than 4 years, and 15 years has not passed since the end of the sentence</li><li>• were convicted of an offence and sentenced to imprisonment for less than 12 months, and 7 years has not passed since the end of the sentence</li><li>• have, within the 24 months preceding the date of the application, been convicted of or admitted to an offence and received a non-custodial sentence or other out of court disposal recorded on their criminal record</li></ul> <p>For information on how to consider applications where the applicant falls into one of the above groups, see: Sentence based thresholds.</p> <p>Where an applicant for indefinite leave to remain has a relevant conviction as set out above, you must refuse the application under paragraph 322 (1C).</p>	<p><b>In this section</b></p> <p><a href="#">False representations: paragraphs 322(1A) and 322(2)</a></p> <p><a href="#">Recording grounds for refusal on CID: paragraphs 322(1A) and (2)</a></p> <p><a href="#">Subject to a deportation order: paragraph 322(1B)</a></p> <p><a href="#">Exclusions from the Refugee Convention and from humanitarian protection: paragraph 322(1E)</a></p> <p><b>Related links</b></p> <p>Refusing leave to remain</p> <p>Refusal wording</p> <p>Rights of appeal</p> <p><b>External links</b></p> <p><a href="#">Immigration Rules:</a></p>
---	--	--

This guidance is based on the Immigration Rules

		<a href="#">General grounds for refusal - Paragraph 322</a>
--	--	---



This guidance is based on the Immigration Rules

## General grounds for refusal

### Exclusions from the Refugee Convention and from humanitarian protection: paragraph 322(1E)

<p><a href="#">Leave to remain: mandatory refusals</a></p> <p><a href="#">Leave to remain: paragraphs 322(1A), 322(2) and 322(2A) – deception</a></p> <p><a href="#">Leave to remain: Discretionary refusals</a></p> <p><a href="#">Considering leave to remain: visitors</a></p>	<p>This page explains how to consider an application for limited or indefinite leave to remain where the applicant's conduct falls within Article 1F of the Refugee Convention or paragraph 339D of the Immigration Rules or the applicant is an individual to whom Article 33(2) of the Refugee Convention applies.</p> <p>You must refuse an applicant who is applying for limited or indefinite leave to remain under any Part of the Immigration Rules, including Appendix Armed Forces (AF) or Appendix Family Members (FM) if:</p> <ul style="list-style-type: none"><li>• the Secretary of State has made a decision under Article 1F of the Refugee Convention to exclude the person from the Refugee Convention or under paragraph 339D of the Immigration Rules to exclude them from humanitarian protection</li><li>• the Secretary of State has previously made a decision that they are a person to whom Article 33(2) of the Refugee Convention applies because there are reasonable grounds for regarding them as a danger to the security of the United Kingdom</li><li>• the Secretary of State considers that they are a person to whom the above would apply except that:<ul style="list-style-type: none"><li>○ the person has not made a protection claim</li><li>○ the person made a protection claim which has already been finally determined without reference to Article 1F of the Refugee Convention or paragraph 339D of the Immigration Rules</li></ul></li><li>• the Secretary of State has previously made a decision that they are a person to whom Article 33(2) of the Refugee Convention currently applies because, having been convicted by a final judgment of a particularly serious crime, they constitute a danger to the community of the United Kingdom</li></ul> <p>If any of the above applies the application must be refused under paragraph 322 (1E). This applies to all applications considered on or after 24 November 2016.</p>	<p><b>In this section</b></p> <p><a href="#">False representations: paragraphs 322(1A) and 322(2)</a></p> <p><a href="#">False documents: paragraphs 322(1A) and 322(2)</a></p> <p><a href="#">Material facts not disclosed: paragraphs 322(1A) and 322(2)</a></p> <p><a href="#">Recording grounds for refusal on CID: paragraphs 322(1A) and (2)</a></p> <p><a href="#">Subject to a deportation order: paragraph 322(1B)</a></p> <p><b>Related links</b></p> <p>Refusing leave to remain</p> <p><a href="#">Paragraph 339D of the Immigration Rules</a></p> <p>Guidance on exclusion</p>
---	--	---

This guidance is based on the Immigration Rules

		<p>from the Refugee Convention</p> <p>Guidance on exclusion from humanitarian protection</p> <p><b>External links</b></p> <p><a href="#">Immigration Rules: General grounds for refusal - Paragraph 322</a></p> <p><a href="#">UNHCR Handbook</a></p>
--	--	---

This guidance is based on the Immigration Rules

## General grounds for refusal

### Leave to remain: discretionary refusals

<p><a href="#">Failure to comply with conditions of stay: leave to remain</a></p> <p><a href="#">Failure to maintain and accommodate without using public funds: leave to remain</a></p> <p><a href="#">Not desirable to let a person remain in the UK: leave to remain</a></p> <p><a href="#">Criminality: leave to remain</a></p> <p><a href="#">No written sponsor undertaking: leave to remain</a></p> <p><a href="#">Declaration or undertaking not honoured</a></p> <p><a href="#">No ability to return</a></p> <p><a href="#">Failure to give information in reasonable time</a></p> <p><a href="#">Failure to attend for</a></p>	<p>This page lists the discretionary general grounds for refusal of leave to remain under <a href="#">paragraph 322 of the Immigration Rules</a>. It also sets out when you must refer an application before you make your decision.</p> <table border="1"> <thead> <tr> <th data-bbox="448 427 734 579">Refusal paragraph</th> <th data-bbox="734 427 1413 579">When you should normally refuse leave</th> <th data-bbox="1413 427 1713 579">Refer to senior caseworker before you refuse?</th> </tr> </thead> <tbody> <tr> <td data-bbox="448 579 734 802">322(2)</td> <td data-bbox="734 579 1413 802">The applicant has made false representations or submitted false documents in a previous application or in order to obtain documents from the Secretary of State or a third party required in support of the application for leave to enter or a previous variation of leave.</td> <td data-bbox="1413 579 1713 802">No, but you must check the harm matrix before consideration.</td> </tr> <tr> <td data-bbox="448 802 734 1026">322(2A)</td> <td data-bbox="734 802 1413 1026">The applicant has made false representations or submitted false documents in a current or previous application to obtain a document from the Secretary of State that indicates the person has a right to reside in the United Kingdom.</td> <td data-bbox="1413 802 1713 1026">No, but you must check the harm matrix before consideration.</td> </tr> <tr> <td data-bbox="448 1026 734 1102">322(3)</td> <td data-bbox="734 1026 1413 1102">The applicant has broken the conditions of their stay.</td> <td data-bbox="1413 1026 1713 1102">No</td> </tr> <tr> <td data-bbox="448 1102 734 1214">322(4)</td> <td data-bbox="734 1102 1413 1214">The applicant has not maintained and accommodated themselves, and any dependents, without need to use public funds.</td> <td data-bbox="1413 1102 1713 1214">No</td> </tr> <tr> <td data-bbox="448 1214 734 1398">322(5)</td> <td data-bbox="734 1214 1413 1398">It is undesirable to let an applicant stay because of their character, behaviour or associations (including convictions which do not fall within paragraph 322(1C)), or because they are a threat to national security.</td> <td data-bbox="1413 1214 1713 1398">Yes</td> </tr> </tbody> </table>	Refusal paragraph	When you should normally refuse leave	Refer to senior caseworker before you refuse?	322(2)	The applicant has made false representations or submitted false documents in a previous application or in order to obtain documents from the Secretary of State or a third party required in support of the application for leave to enter or a previous variation of leave.	No, but you must check the harm matrix before consideration.	322(2A)	The applicant has made false representations or submitted false documents in a current or previous application to obtain a document from the Secretary of State that indicates the person has a right to reside in the United Kingdom.	No, but you must check the harm matrix before consideration.	322(3)	The applicant has broken the conditions of their stay.	No	322(4)	The applicant has not maintained and accommodated themselves, and any dependents, without need to use public funds.	No	322(5)	It is undesirable to let an applicant stay because of their character, behaviour or associations (including convictions which do not fall within paragraph 322(1C)), or because they are a threat to national security.	Yes	<p><b>Related links</b></p> <p>The harm matrix</p> <p><b>External links</b></p> <p><a href="#">Immigration Rules: General grounds for refusal - Paragraph 322</a></p>
Refusal paragraph	When you should normally refuse leave	Refer to senior caseworker before you refuse?																		
322(2)	The applicant has made false representations or submitted false documents in a previous application or in order to obtain documents from the Secretary of State or a third party required in support of the application for leave to enter or a previous variation of leave.	No, but you must check the harm matrix before consideration.																		
322(2A)	The applicant has made false representations or submitted false documents in a current or previous application to obtain a document from the Secretary of State that indicates the person has a right to reside in the United Kingdom.	No, but you must check the harm matrix before consideration.																		
322(3)	The applicant has broken the conditions of their stay.	No																		
322(4)	The applicant has not maintained and accommodated themselves, and any dependents, without need to use public funds.	No																		
322(5)	It is undesirable to let an applicant stay because of their character, behaviour or associations (including convictions which do not fall within paragraph 322(1C)), or because they are a threat to national security.	Yes																		

<a href="#">interview</a>  <a href="#">Child under 18, no written parent or guardian consent</a>  <a href="#">Failure to pay NHS charges: application for leave</a>		<hr/> <b>Official sensitive: start of section</b>  The information on this page has been removed as it is restricted for internal Home Office use.  The information on this page has been removed as it is restricted for internal Home Office use.  <hr/> <b>Official sensitive: end of section</b>		
	322(5A)	It is undesirable to permit the person concerned to enter or remain in the UK because: <ul style="list-style-type: none"> <li>• in the view of the Secretary of State, their offending has caused serious harm, or</li> <li>• in the view of the Secretary of State, they are a persistent offender who shows a particular disregard for the law.</li> </ul>	Yes	
	322(6)	The applicant's sponsor fails to give an undertaking in writing to be responsible for maintaining and accommodating the applicant or fails to honour an undertaking once given.	No	
	322(7)	The applicant fails to honour any declaration	No	

This guidance is based on the Immigration Rules

		or undertaking given orally or in writing in relation to their intended purpose or duration and/or purpose of their stay.		
	322(8)	The applicant will not be allowed to return to another country if allowed to stay in the UK.	No	
	322(9)	The applicant does not give information on request within a reasonable time.	No	
	322(10)	The applicant has been asked to come to an interview by the Home Office but has failed to attend.	No	
	322(11)	An applicant under the age of 18 seeks leave to remain in the UK without the permission of their parent(s) or legal guardian.	No	
	322(12)	Where one or more relevant National Health Service (NHS) bodies have notified the Secretary of State that the applicant has an outstanding healthcare debt or cumulative debt: <ul style="list-style-type: none"> <li>• of £1000 or more incurred between 1 November 2011 and 5 April 2016</li> <li>• debts of £500 or more incurred on or after 6 April 2016</li> <li>• further charges after 6 April 2016 bringing the total outstanding NHS debt since 1 November 2011 to over £1000</li> </ul>	No (unless the debt is attached to a child under the age of 18).	
	NHS debt: Refusal under Part 7: 276ADE(1), App endix FM and Appendix Armed Forces	Where one or more relevant National Health Service (NHS) bodies has notified the Secretary of State that the applicant has an outstanding healthcare debt or cumulative debt: <ul style="list-style-type: none"> <li>• of £1000 or more incurred between 1 November 2011 and 23 November 2016</li> </ul>		

This guidance is based on the Immigration Rules

		<ul style="list-style-type: none"> <li>• debts of £500 or more incurred on or after 24 November 2016</li> <li>• further charges after 24 November 2016 bringing the total outstanding NHS debt since 1 November 2011 to over £1000</li> </ul>			
	<p><a href="#">322(13)</a></p> <p><a href="#">V3.14A</a> of Appendix V for visitors</p> <p>Paragraph <a href="#">S-LTR.4.4</a> of Appendix FM</p> <p><a href="#">Paragraph 10A</a> of Appendix Armed Forces</p>	<p>Where the applicant has failed to pay litigation costs awarded to the Home Office.</p> <p>For information on how to consider cases when the person owes a litigation debt, see the separate Litigation debt guidance.</p>			

This guidance is based on the Immigration Rules

## General grounds for refusal

### Failure to comply with conditions of stay: leave to remain

<p><a href="#">Failure to comply with conditions of stay: leave to remain</a></p> <p><a href="#">Failure to maintain and accommodate without using public funds: leave to remain</a></p> <p><a href="#">Not desirable to let a person remain in the UK: leave to remain</a></p> <p><a href="#">Criminality: leave to remain</a></p> <p><a href="#">No written sponsor undertaking: leave to remain</a></p> <p><a href="#">Declaration or undertaking not honoured</a></p> <p><a href="#">No ability to return</a></p> <p><a href="#">Failure to give information in reasonable time</a></p> <p><a href="#">Failure to attend for interview</a></p> <p><a href="#">Child under 18, no written parent or guardian consent</a></p> <p><a href="#">Failure to pay NHS charges: application for leave</a></p>	<p>This page contains guidance for caseworkers on what to consider when an applicant applying for leave to remain has breached the conditions of their stay.</p> <p>This relates to <a href="#">general grounds for refusal under paragraph 322(3) of the rules</a>.</p> <p>When you consider whether an applicant can have further leave, you may take into account their previous immigration history. When your checks show that an applicant has broken the conditions of their stay, you should refuse further leave to remain under paragraph 322(3).</p> <p>Conditions of stay means the conditions endorsed on an applicant's entry clearance or UK residence permit. For example:</p> <ul style="list-style-type: none"><li>• no recourse to public funds</li><li>• no recourse to public funds, no work or engaging in business</li><li>• no recourse to public funds, employment as a Minister of Religion, changes must be authorised by the Secretary of State</li><li>• restrictions on work or on place of work imposed on Tier 2 and 5 points-based system (PBS) migrants</li><li>• restrictions on work or place of study imposed on Tier 4 PBS migrants</li><li>• register with the police</li></ul> <p>When evidence shows that one or more of the above conditions has been broken, you must refuse further leave to remain under paragraph 322(3) as well as any refusal under the substantive rules.</p> <p>For more information on refusing leave to remain and refusal wording, see:</p> <ul style="list-style-type: none"><li>• Refusing leave to remain</li><li>• Refusal wording</li></ul>	<p><b>Related links</b></p> <p>Rights of appeal</p> <p><b>External links</b></p> <p><a href="#">Immigration Rules: General grounds for refusal - Paragraph 322</a></p>
--	---	--

This guidance is based on the Immigration Rules

	For information on appeal rights see related link: <a href="#">Rights of appeal.</a>	
--	--	--



This guidance is based on the Immigration Rules

## General grounds for refusal

### Failure to maintain and accommodate without using public funds: leave to remain

<p><a href="#">Failure to comply with conditions of stay: leave to remain</a></p> <p><a href="#">Failure to maintain and accommodate without using public funds: leave to remain</a></p> <p><a href="#">Not desirable to let a person remain in the UK: leave to remain</a></p> <p><a href="#">Criminality: leave to remain</a></p> <p><a href="#">No written sponsor undertaking: leave to remain</a></p> <p><a href="#">Declaration or undertaking not honoured</a></p> <p><a href="#">No ability to return</a></p> <p><a href="#">Failure to give information in reasonable time</a></p> <p><a href="#">Failure to attend for interview</a></p> <p><a href="#">Child under 18, no written parent or guardian consent</a></p> <p><a href="#">Failure to pay NHS charges: application for leave</a></p>	<p>This page contains guidance for caseworkers on what to consider when an applicant applying for leave to remain has failed to maintain and accommodate themselves without using public funds.</p> <p>This relates to <a href="#">general grounds for refusal under paragraph 322(4) of the rules</a>.</p> <p>All categories of the Immigration Rules now need applicants to maintain and accommodate themselves without using public funds. You should refuse any applicant who uses public funds under the relevant category of the rules and paragraph 322(3). Paragraph 322(4) is no longer appropriate.</p> <p>For more information on paragraph 322(3), see the link on the left: Failure to comply with conditions of stay - leave to remain.</p> <p>For more information on refusing leave to remain and refusal wording, see:</p> <ul style="list-style-type: none"><li>• Refusing leave to remain</li><li>• Refusal wording</li></ul> <p>For information on appeal rights see related link: Rights of appeal.</p>	<p><b>Related links</b></p> <p><a href="#">Rights of appeal</a></p> <p><b>External links</b></p> <p><a href="#">Immigration Rules: General grounds for refusal - Paragraph 322</a></p>
--	--	--

This guidance is based on the Immigration Rules

## General grounds for refusal

### Not desirable to let a person remain in the UK: leave to remain

<p><a href="#">Failure to comply with conditions of stay: leave to remain</a></p> <p><a href="#">Failure to maintain and accommodate without using public funds: leave to remain</a></p> <p><a href="#">Not desirable to let a person remain in the UK: leave to remain</a></p> <p><a href="#">Criminality: leave to remain</a></p> <p><a href="#">No written sponsor undertaking: leave to remain</a></p> <p><a href="#">Declaration or undertaking not honoured</a></p> <p><a href="#">No ability to return</a></p> <p><a href="#">Failure to give information in reasonable time</a></p> <p><a href="#">Failure to attend for interview</a></p> <p><a href="#">Child under 18, no written parent or guardian consent</a></p> <p><a href="#">Failure to pay NHS charges: application for leave</a></p>	<p>This page contains guidance for caseworkers on how to consider when it is undesirable to let an applicant, applying for leave to remain, stay because of their character, behaviour or associations or they are a threat to national security.</p> <p>This includes convictions which do not fall within paragraph 322(1C).</p> <p>This relates to <a href="#">general grounds for refusal under paragraph 322(5) of the rules</a>.</p> <p>The main types of cases you need to consider for refusal under paragraph 322(5) or referral to other teams are those that involve criminality, a threat to national security, war crimes or travel bans.</p> <p>A person does not need to have been convicted of a criminal offence for this provision to apply. When deciding whether to refuse under this category, the key thing to consider is if there is reliable evidence to support a decision that the person's behaviour calls into question their character and/or conduct and/or their associations to the extent that it is undesirable to allow them to enter or remain in the UK. This may include cases where a migrant has entered, attempted to enter or facilitated a sham marriage to evade immigration control. If you are not sure the evidence to support your decision is reliable, then speak to your line manager or senior caseworker.</p> <p>For more information on such grounds for refusal, see: <a href="#">Grounds for refusal</a>.</p> <hr/> <p><b>Official sensitive: start of section</b></p> <p>The information on this page has been removed as it is restricted for internal Home Office use.</p> <p>The information on this page has been removed as it is restricted for internal Home Office use.</p>	<p><b>Related links</b></p> <p><a href="#">Rights of appeal</a></p> <p><a href="#">War crimes</a></p> <p><b>External links</b></p> <p><a href="#">Immigration Rules: General grounds for refusal - Paragraph 322</a></p>
--	---	--

The information on this page has been removed as it is restricted for internal Home Office use.

The information on this page has been removed as it is restricted for internal Home Office use.

The information on this page has been removed as it is restricted for internal Home Office use.

**Official sensitive: end of section**

---

When it is undesirable to give an applicant leave to remain in the UK because of their character or conduct or associations, you must consider whether you need to refer the case or refuse it under paragraph 322(5).

Before you refuse leave to remain under paragraph 322(5), you must first refer your decision to your senior caseworker.

You must:

- give specific reasons to refuse under this paragraph
- not include vague generalisations about a person's character, conduct or associations
- only refer to the specific reason you are refusing the application
- not refer to a threat to national security in your refusal notice

When a case falls into one of the above categories, you must consider it in line with the guidance in this section, regardless of whether the application is valid or not. However, when you consider such a case, you must only take into account information which is new and was not known to the Home Office at the time of any previous decision. You must not take action on information which was known to the Home Office at the time of the previous decision, unless advised to by a senior caseworker.

	<hr/> <p><b>Official sensitive: start of section</b></p> <p>The information on this page has been removed as it is restricted for internal Home Office use.</p> <hr/> <p><b>Official sensitive: end of section</b></p> <hr/> <p>For more information on refusing leave to remain and refusal wording, see related links:</p> <ul style="list-style-type: none"><li>• Refusing leave to remain</li><li>• Refusal wording</li></ul> <p>For information on appeal rights see related link: <a href="#">Rights of appeal</a>.</p>	
--	---	--

This guidance is based on the Immigration Rules

## General grounds for refusal

### Criminality: leave to remain

<p><a href="#">Failure to comply with conditions of stay: leave to remain</a></p> <p><a href="#">Failure to maintain and accommodate without using public funds: leave to remain</a></p> <p><a href="#">Not desirable to let a person remain in the UK: leave to remain</a></p> <p><a href="#">Criminality: leave to remain</a></p> <p><a href="#">No written sponsor undertaking: leave to remain</a></p> <p><a href="#">Declaration or undertaking not honoured</a></p> <p><a href="#">No ability to return</a></p> <p><a href="#">Failure to give information in reasonable time</a></p> <p><a href="#">Failure to attend for interview</a></p> <p><a href="#">Child under 18, no written parent or guardian consent</a></p> <p><a href="#">Failure to pay NHS charges: application for leave</a></p>	<p>This section explains what to do when your checks show that an applicant applying for leave to remain has been convicted of a criminal offence. This relates to <a href="#">general grounds for refusal under paragraph 322(5) of the rules</a>.</p> <p>When an applicant has been convicted of a criminal offence, you may need to refer the application to criminal casework (CC).</p> <hr/> <p><b>Official sensitive: start of section</b></p> <p>The information on this page has been removed as it is restricted for internal Home Office use.</p> <p><b>Official sensitive: end of section</b></p> <p>Before you casework such a case, you should check whether the applicant meets the CC referral criteria. If the applicant meets the criteria and CC accept it, you should refer the case to CC. You should not grant an application which is of interest to CC. For more information, see: <a href="#">When to refer a case to criminal casework (CC)</a>.</p> <hr/> <p><b>Official sensitive: start of section</b></p> <p>The information on this page has been removed as it is restricted for internal Home Office use.</p> <p><b>Official sensitive: end of section</b></p> <p>For more information on refusing leave to remain and refusal wording, see:</p>	<p><b>In this section</b></p> <p><a href="#">When to refer a case to criminal casework (CC)</a></p> <p><a href="#">Criminal prosecution</a></p> <p><a href="#">War crimes</a></p> <p><a href="#">Security, character, behaviour and travel bans</a></p> <p><a href="#">Offending which caused serious harm: paragraph 322(5A) (a)</a></p> <p><a href="#">Persistent offenders: paragraph 322 (5A) (b)</a></p> <p><b>Related links</b></p> <p><a href="#">Rights of appeal</a></p> <p><a href="#">1908 Drug offences</a></p> <p><a href="#">Deporting Non EEA Nationals</a></p> <p><a href="#">EEA FNO Cases</a></p>
--	--	---

This guidance is based on the Immigration Rules

	<ul style="list-style-type: none"><li>• Refusing leave to remain</li><li>• Refusal wording</li></ul> <p>For information on appeal rights see related link: Rights of appeal.</p>	<b>External links</b>  <a href="#">Immigration Rules: General grounds for refusal - paragraph 322</a>
--	--	---

This guidance is based on the Immigration Rules

## General grounds for refusal

### When to refer a case to criminal casework (CC)

<p><a href="#">Failure to comply with conditions of stay: leave to remain</a> <a href="#">Failure to maintain and accommodate without using public funds: leave to remain</a> <a href="#">Not desirable to let a person remain in the UK: leave to remain</a> <a href="#">Criminality: leave to remain</a> <a href="#">No written sponsor undertaking: leave to remain</a> <a href="#">Declaration or undertaking not honoured</a> <a href="#">No ability to return</a> <a href="#">Failure to give information in reasonable time</a> <a href="#">Failure to attend for interview</a> <a href="#">Child under 18, no written parent or guardian consent</a> <a href="#">Failure to pay NHS charges: application for leave</a></p>	<p>This page explains when you must refer a case to criminal casework (CC). This relates to <a href="#">general grounds for refusal under paragraph 322(5) of the rules</a>.</p> <p>You must refer all cases with unspent convictions to CC, whether the applicant is detained or not, when:</p> <ul style="list-style-type: none"><li>• there is a CC case owner and action has been started to deport the applicant</li><li>• a court has recommended that the applicant is deported</li></ul> <p>For non-European Economic Area (EEA) nationals, in addition to the above, you must also refer to CC when:</p> <ul style="list-style-type: none"><li>• the applicant has served or is serving a custodial sentence of 12 months or more which has been served in either one sentence or as a combination of 2 or 3 sentences over a 5 year period</li><li>• from 1 August 2008, the applicant has been convicted of a serious drug offence (excluding simple possession) and received a custodial sentence of any length</li><li>• the applicant falls under the provisions of automatic deportation (commenced 1 August 2008) under the UK Borders Act 2007 – this will apply when the sentence is one year or more, and:<ul style="list-style-type: none"><li>○ that sentence was a single sentence for a single conviction, not including an aggregate or a consecutive sentence the applicant was still serving that sentence on or after 1 August 2008</li><li>○ the applicant has not been served with a notice of decision to deport prior to 1 August 2008</li></ul></li></ul> <p>In this definition ‘sentence’ also includes a suspended sentence that is one year or longer, provided any part of that suspended sentence has been activated by a court.</p> <p>For more information on deportation, see:</p>	<p><b>In this section</b></p> <p><a href="#">Criminal prosecution</a></p> <p><a href="#">War crimes</a></p> <p><a href="#">Security, character, behaviour and travel bans</a></p> <p><a href="#">Offending which caused serious harm: paragraph 322(5A) (a)</a></p> <p><a href="#">Persistent offenders: paragraph 322 (5A) (b)</a></p> <p><b>Related links</b></p> <p><a href="#">Rights of appeal</a></p> <p><a href="#">How to refer cases to the criminal casework directorate</a></p> <p><b>External links</b></p> <p><a href="#">Immigration Rules: General grounds for refusal - Paragraph 322</a></p>
--	--	---

- Deporting Non EEA Nationals
- European Economic Area Foreign National Offender Cases

Refer EEA nationals with a criminal conviction to Criminal Casework.

There may be exceptional circumstances when deportation is considered conducive to the public good.

**Criminal behaviour below the CC threshold**

When an applicant has been convicted of a criminal offence which does not meet the CC threshold, you may still refuse leave to remain under paragraph 322(5). For example, the applicant has committed an offence which by its nature or circumstances, suggests that it is not conducive to the public good to let the applicant remain in the UK. Such offences may include (but are not limited to):

- offences which involve violence
- sexual offences
- offences against children
- serious drug offences

When you have such an application, you must refer the case to a senior caseworker. The senior caseworker will then decide whether the case is to be refused under paragraph 322(5). Each case must be considered on its own merits. However, you should take the following into account for all cases:

- type of offence
- length of sentence
- the judge's sentencing remarks
- immigration history
- any pattern of re-offending

If you refuse an application on these grounds, you must get the certificate of conviction from the sentencing crown court. You must also get the judge's sentencing remarks from the appropriate court reporting company.



This guidance is based on the Immigration Rules

	<p>In your refusal notice you must refer to the fact that the applicant has been convicted of a specific offence and it is because of this conviction that you are refusing the application.</p> <p>For more information on types of convictions or offences, see: <a href="#">Sentence based thresholds</a>.</p> <p>For more information on refusing leave to remain and refusal wording, see related links:</p> <ul style="list-style-type: none"><li>• <a href="#">Refusing leave to remain</a></li><li>• <a href="#">Refusal wording</a></li></ul> <p>For information on appeal rights see: <a href="#">Rights of appeal</a>.</p>	
--	---	--

This guidance is based on the Immigration Rules

## General grounds for refusal

### Criminal prosecution

<p><a href="#">Failure to comply with conditions of stay: leave to remain</a></p> <p><a href="#">Failure to maintain and accommodate without using public funds: leave to remain</a></p> <p><a href="#">Not desirable to let a person remain in the UK: leave to remain</a></p> <p><a href="#">Criminality: leave to remain</a></p> <p><a href="#">No written sponsor undertaking: leave to remain</a></p> <p><a href="#">Declaration or undertaking not honoured</a></p> <p><a href="#">No ability to return</a></p> <p><a href="#">Failure to give information in reasonable time</a></p> <p><a href="#">Failure to attend for interview</a></p> <p><a href="#">Child under 18, no written parent or guardian consent</a></p> <p><a href="#">Failure to pay NHS charges: application for leave</a></p>	<p>This page explains what to do when an applicant applying for leave to remain is being prosecuted for an offence which could lead to them being refused on <a href="#">general grounds under paragraph 322(5)</a>.</p> <p>For guidance on pending prosecutions, see: Sentence based thresholds.</p> <p>For more information on refusing leave to remain and refusal wording, see:</p> <ul style="list-style-type: none"><li>• Refusing leave to remain</li><li>• Refusal wording</li></ul> <p>For information on appeal rights see related link: Rights of appeal.</p>	<p><b>In this section</b></p> <p><a href="#">When to refer a case to criminal casework (CC)</a></p> <p><a href="#">War crimes</a></p> <p><a href="#">Security, character, behaviour and travel bans</a></p> <p><a href="#">Offending which caused serious harm: paragraph 322(5A) (a)</a></p> <p><a href="#">Persistent offenders: paragraph 322 (5A) (b)</a></p> <p><b>Related links</b></p> <p>Rights of appeal</p> <p><b>External links</b></p> <p><a href="#">Immigration Rules: General grounds for refusal - Paragraph 322</a></p>
--	--	--

This guidance is based on the Immigration Rules

## General grounds for refusal

### War crimes

<p><a href="#">Failure to comply with conditions of stay: leave to remain</a> <a href="#">Failure to maintain and accommodate without using public funds: leave to remain</a> <a href="#">Not desirable to let a person remain in the UK: leave to remain</a> <a href="#">Criminality: leave to remain</a> <a href="#">No written sponsor undertaking: leave to remain</a> <a href="#">Declaration or undertaking not honoured</a> <a href="#">No ability to return</a> <a href="#">Failure to give information in reasonable time</a> <a href="#">Failure to attend for interview</a> <a href="#">Child under 18, no written parent or guardian consent</a> <a href="#">Failure to pay NHS charges: application for leave</a></p>	<p>This page explains what to do when your checks show that an applicant applying for leave to remain has been involved in war crimes or crimes against humanity.</p> <p>This relates to <a href="#">general grounds for refusal under paragraph 322(5) of the rules</a>.</p> <hr/> <p><b>Official sensitive: start of section</b></p> <p>The information on this page has been removed as it is restricted for internal Home Office use.</p> <p>The information on this page has been removed as it is restricted for internal Home Office use.</p> <p>The information on this page has been removed as it is restricted for internal Home Office use.</p> <p>The information on this page has been removed as it is restricted for internal Home Office use.</p> <hr/> <p><b>Official sensitive: end of section</b></p> <p>For more information on refusing leave to remain and refusal wording, see:</p>	<p><b>In this section</b></p> <p><a href="#">When to refer a case to criminal casework (CC)</a></p> <p><a href="#">Criminal prosecution</a></p> <p><a href="#">Security, character, behaviour and travel bans</a></p> <p><a href="#">Offending which caused serious harm: paragraph 322(5A) (a)</a></p> <p><a href="#">Persistent offenders: paragraph 322 (5A) (b)</a></p> <p><b>Related links</b></p> <p>Rights of appeal</p> <p><b>External links</b></p> <p><a href="#">Immigration Rules: General grounds for refusal - Paragraph 322</a></p>
--	---	--

This guidance is based on the Immigration Rules

- Refusing leave to remain
- Refusal wording

For information on appeal rights see related link: [Rights of appeal](#).

This guidance is based on the Immigration Rules

## General grounds for refusal

### Security, character, behaviour and travel bans

<p><a href="#">Failure to comply with conditions of stay: leave to remain</a> <a href="#">Failure to maintain and accommodate without using public funds: leave to remain</a> <a href="#">Not desirable to let a person remain in the UK: leave to remain</a> <a href="#">Criminality - leave to remain</a> <a href="#">No written sponsor undertaking: leave to remain</a> <a href="#">Declaration or undertaking not honoured</a> <a href="#">No ability to return</a> <a href="#">Failure to give information in reasonable time</a> <a href="#">Failure to attend for interview</a> <a href="#">Child under 18, no written parent or guardian consent</a> <a href="#">Failure to pay NHS charges: application for leave</a></p>	<p>This page explains what to do when your checks show there are reasons to consider an applicant applying for leave to remain has met one or more of the grounds for refusal relating to security, character, behaviour or travel bans.</p> <p>This relates to <a href="#">general grounds for refusal under paragraph 322(5) of the rules</a>.</p> <p>When your checks show that an applicant may fit into one of the categories, you must take no further action before you have read the relevant guidance below:</p> <ul style="list-style-type: none"><li>• exclusion under article 1F of the refugee convention</li><li>• ‘acts against the purposes of the United Nations’ – see section 2.5 of the above instruction</li><li>• the applicant is the subject of an United Nations (UN) or European Union (EU) travel ban</li></ul> <hr/> <p><b>Official sensitive: start of section</b></p> <p>The information on this page has been removed as it is restricted for internal Home Office use.</p> <p>The information on this page has been removed as it is restricted for internal Home Office use.</p> <p>The information on this page has been removed as it is restricted for internal Home Office use.</p>	<p><b>In this section</b></p> <p><a href="#">When to refer a case to criminal casework (CC)</a></p> <p><a href="#">Criminal prosecution</a></p> <p><a href="#">War crimes</a></p> <p><a href="#">Offending which caused serious harm: paragraph 322(5A) (a)</a></p> <p><a href="#">Persistent offenders: paragraph 322 (5A) (b)</a></p> <p><b>Related links</b></p> <p><a href="#">Rights of appeal</a></p> <p><b>External links</b></p> <p><a href="#">Immigration Rules: General grounds for refusal - paragraph 322</a></p>
---	--	--

The information on this page has been removed as it is restricted for internal Home Office use.

The information on this page has been removed as it is restricted for internal Home Office use.

**Official sensitive: end of section**

---

When you have read the guidance, if appropriate, you should refuse the application under [paragraph 322\(5\)](#).

For more information on refusing leave to remain and refusal wording, see:

- Refusing leave to remain
- Refusal wording

For information on appeal rights see related link: Rights of appeal.

This guidance is based on the Immigration Rules

## General grounds for refusal

### Offending which caused serious harm: paragraph 322(5A) (a)

<p><a href="#">Failure to comply with conditions of stay: leave to remain</a></p> <p><a href="#">Failure to maintain and accommodate without using public funds: leave to remain</a></p> <p><a href="#">Not desirable to let a person remain in the UK: leave to remain</a></p> <p><a href="#">Criminality: leave to remain</a></p> <p><a href="#">No written sponsor undertaking: leave to remain</a></p> <p><a href="#">Declaration or undertaking not honoured</a></p> <p><a href="#">No ability to return</a></p> <p><a href="#">Failure to give information in reasonable time</a></p> <p><a href="#">Failure to attend for interview</a></p> <p><a href="#">Child under 18, no written parent or guardian consent</a></p> <p><a href="#">Failure to pay NHS charges: application for leave</a></p>	<p>This page explains how to consider if the nature of an applicant's offending has caused serious harm.</p> <p>Offending considered as causing serious harm includes, but is not limited to, causing death or serious injury to an individual or group of individuals.</p> <p>A person does not need to be convicted for specifically causing a death or serious injury. Examples might include but are not limited to:</p> <ul style="list-style-type: none"><li>• manslaughter</li><li>• dangerous driving</li><li>• driving whilst under the influence of drink and/or drugs</li><li>• arson</li></ul> <p>If the applicant is convicted of this type of offence you must consider if refusal is appropriate.</p> <p>For further guidance on what is meant by the above terms and how to consider applications where the nature of an applicant's offending falls into one of the above groups see: Sentence based thresholds.</p>	<p><b>In this section</b></p> <p><a href="#">When to refer a case to criminal casework (CC)</a></p> <p><a href="#">Criminal prosecution</a></p> <p><a href="#">War crimes</a></p> <p><a href="#">Security, character, behaviour and travel bans</a></p> <p><a href="#">Persistent offenders: paragraph 322 (5A) (b)</a></p> <p><b>Related links</b></p> <p>Refusing leave to remain</p> <p>Refusal wording</p> <p>Referring a case to special cases unit</p> <p>Rights of appeal</p> <p><b>External links</b></p> <p><a href="#">Immigration Rules: General grounds for refusal - Paragraph 322</a></p>
--	---	---

This guidance is based on the Immigration Rules

## General grounds for refusal

### Persistent offenders: paragraph 322 (5A) (b)

<p><a href="#">Failure to comply with conditions of stay: leave to remain</a> <a href="#">Failure to maintain and accommodate without using public funds: leave to remain</a> <a href="#">Not desirable to let a person remain in the UK: leave to remain</a> <a href="#">Criminality: leave to remain</a> <a href="#">No written sponsor undertaking: leave to remain</a> <a href="#">Declaration or undertaking not honoured</a> <a href="#">No ability to return</a> <a href="#">Failure to give information in reasonable time</a> <a href="#">Failure to attend for interview</a> <a href="#">Child under 18, no written parent or guardian consent</a> <a href="#">Failure to pay NHS charges: application for leave</a></p>	<p>This page explains how to consider if the nature of an applicant's offending means they must be considered as a persistent offender who has shown a particular disregard to the law.</p> <p>For a definition of persistent offender see: Sentence based thresholds.</p> <p>If an applicant is considered to be a consistent offender you must consider if refusal is appropriate in line with the sentence based thresholds guidance.</p>	<p><b>In this section</b> <a href="#">When to refer a case to criminal casework (CC)</a></p> <p><a href="#">Criminal prosecution</a></p> <p><a href="#">War crimes</a></p> <p><a href="#">Security, character, behaviour and travel bans</a></p> <p><a href="#">Offending which caused serious harm: paragraph 322(5A) (a)</a></p> <p><b>Related links</b> Refusing leave to remain</p> <p>Refusal wording</p> <p>Referring a case to special cases unit</p> <p>Rights of appeal</p> <p><b>External links</b> <a href="#">Immigration Rules: General grounds for refusal - Paragraph 322</a></p>
--	--	--



This guidance is based on the Immigration Rules

## General grounds for refusal

### No written sponsor undertaking

<p><a href="#">Failure to comply with conditions of stay: leave to remain</a> <a href="#">Failure to maintain and accommodate without using public funds: leave to remain</a> <a href="#">Not desirable to let a person remain in the UK: leave to remain</a> <a href="#">Criminality: leave to remain</a> <a href="#">No written sponsor undertaking: leave to remain</a> <a href="#">Declaration or undertaking not honoured</a> <a href="#">No ability to return</a> <a href="#">Failure to give information in reasonable time</a> <a href="#">Failure to attend for interview</a> <a href="#">Child under 18, no written parent or guardian consent</a> <a href="#">Failure to pay NHS charges: application for leave</a></p>	<p>This page contains guidance for caseworkers on what to consider when an applicant applying for leave to remain fails to show that their sponsor will maintain and accommodate them.</p> <p>This relates to <a href="#">general grounds for refusal under paragraph 322(6) of the rules</a>.</p> <p>When an applicant is dependant on a sponsor to support and accommodate them, you may request that the sponsor confirm this in writing. If the sponsor refuses to give this, you must refuse the application under paragraph 322(6). If the sponsor has previously given written confirmation but then did not support the applicant, you may also refuse the application under paragraph 322(6).</p> <p>For more information on refusing leave to remain and refusal wording, see:</p> <ul style="list-style-type: none"><li>• Refusing leave to remain</li><li>• Refusal wording</li></ul> <p>For information on appeal rights see related link: Rights of appeal.</p>	<p><b>Related links</b></p> <p><a href="#">Rights of appeal</a></p> <p><b>External links</b></p> <p><a href="#">Immigration Rules: General grounds for refusal - Paragraph 322</a></p>
--	---	--

This guidance is based on the Immigration Rules

## General grounds for refusal

### Declaration or undertaking not honoured

<p><a href="#">Failure to comply with conditions of stay: leave to remain</a> <a href="#">Failure to maintain and accommodate without using public funds: leave to remain</a> <a href="#">Not desirable to let a person remain in the UK: leave to remain</a> <a href="#">Criminality: leave to remain</a> <a href="#">No written sponsor undertaking: leave to remain</a> <a href="#">Declaration or undertaking not honoured</a> <a href="#">No ability to return</a> <a href="#">Failure to give information in reasonable time</a> <a href="#">Failure to attend for interview</a> <a href="#">Child under 18, no written parent or guardian consent</a> <a href="#">Failure to pay NHS charges: application for leave</a></p>	<p>This page contains guidance for caseworkers on what to consider when an applicant applying for leave to remain has broken an agreement to get leave to enter or remain in the UK.</p> <p>This relates to <a href="#">general grounds for refusal under paragraph 322(7) of the rules</a>.</p> <p>When an applicant has given an undertaking to an entry clearance officer, Home Office officer or the Secretary of State about the length or purpose of their stay but then does not honour that agreement, you must refuse leave to remain under <a href="#">paragraph 322(7)</a>. For example, an applicant states that they will leave the UK at the end of a specific period rather than apply to extend their stay.</p> <p>If they then change their mind, it is up to the applicant to give an acceptable reason. When there is good reason, such as unforeseen circumstances, you may grant leave. When the applicant cannot give a good reason, and when there is reason to doubt the applicant's future intentions, you must refuse leave to remain on these grounds.</p> <p><b>Standard of proof</b></p> <p>To refuse leave to remain under paragraph 322(7), you must show that a declaration or undertaking was given by the applicant. You should only refuse under this paragraph when you have reason to doubt the applicant's intentions and there is clear evidence of the undertaking.</p> <p>For more information on refusing leave to remain, and refusal wording, see:</p> <ul style="list-style-type: none"><li>• Refusing leave to remain</li><li>• Refusal wording</li></ul> <p>For information on appeal rights see related link: Rights of appeal.</p>	<p><b>Related links</b></p> <p><a href="#">Rights of appeal</a></p> <p><b>External links</b></p> <p><a href="#">Immigration Rules: General grounds for refusal - Paragraph 322</a></p>
--	---	--

This guidance is based on the Immigration Rules

## General grounds for refusal

### No ability to return

<p><a href="#">Failure to comply with conditions of stay: leave to remain</a> <a href="#">Failure to maintain and accommodate without using public funds: leave to remain</a> <a href="#">Not desirable to let a person remain in the UK: leave to remain</a> <a href="#">Criminality: leave to remain</a> <a href="#">No written sponsor undertaking: leave to remain</a> <a href="#">Declaration or undertaking not honoured</a> <a href="#">No ability to return</a> <a href="#">Failure to give information in reasonable time</a> <a href="#">Failure to attend for interview</a> <a href="#">Child under 18, no written parent or guardian consent</a> <a href="#">Failure to pay NHS charges: application for leave</a></p>	<p>This page contains guidance for caseworkers on what to consider when an applicant applying for leave to remain would not be allowed to return to another country or accepted elsewhere if allowed to remain longer in the UK.</p> <p>This relates to <a href="#">general grounds for refusal under paragraph 322(8) of the rules</a>.</p> <p>When an applicant would not be able to return to another country if they were allowed to remain in the UK, you must refuse leave to remain under <a href="#">paragraph 322(8)</a>. You cannot refuse an applicant on this ground if they qualify for:</p> <ul style="list-style-type: none"><li>• settlement</li><li>• limited leave which leads to settlement</li></ul> <p>To decide whether an applicant can return abroad, you must check the validity of:</p> <ul style="list-style-type: none"><li>• the passport or travel document</li><li>• returning visa or exit permit (if applicable)</li></ul> <p>For more information on refusing leave to remain and refusal wording, see:</p> <ul style="list-style-type: none"><li>• Refusing leave to remain</li><li>• Refusal wording</li></ul> <p>For information on appeal rights see related link: Rights of appeal.</p>	<p><b>Related links</b></p> <p><a href="#">Rights of appeal</a></p> <p><b>External links</b></p> <p><a href="#">Immigration Rules: General grounds for refusal - Paragraph 322</a></p>
--	--	--

This guidance is based on the Immigration Rules

## General grounds for refusal

### Failure to give information within a reasonable time

<p><a href="#">Failure to comply with conditions of stay: leave to remain</a> <a href="#">Failure to maintain and accommodate without using public funds: leave to remain</a> <a href="#">Not desirable to let a person remain in the UK: leave to remain</a> <a href="#">Criminality: leave to remain</a> <a href="#">No written sponsor undertaking: leave to remain</a> <a href="#">Declaration or undertaking not honoured</a> <a href="#">No ability to return</a> <a href="#">Failure to give information in reasonable time</a> <a href="#">Failure to attend for interview</a> <a href="#">Child under 18, no written parent or guardian consent</a> <a href="#">Failure to pay NHS charges: application for leave</a></p>	<p>This page contains guidance for caseworkers on what to consider when an applicant applying for leave to remain fails to give information, documents or other evidence on request within a reasonable time.</p> <p>This relates to <a href="#">general grounds for refusal under paragraph 322(9) of the rules</a>.</p> <p>When an applicant has made a valid application but you need more information to make your decision, you must:</p> <ul style="list-style-type: none"><li>• ask in writing for the applicant to give the information within a set number of days</li><li>• state that if they fail to give all the evidence requested (without good reason), you may refuse their application</li></ul> <p>If the applicant fails to give the information, documents or other evidence you have requested within the set time, you must refuse the application under <a href="#">paragraph 322(9)</a> only.</p> <p>If an applicant who has been refused under paragraph 322(9) asks for their application to be reconsidered, you must inform them that you cannot reconsider the application and they should make a new application, unless:</p> <ul style="list-style-type: none"><li>• the extra information you requested and the refusal notice crossed in the post</li><li>• the information was lost by the Home Office</li></ul> <p>For more information on refusing leave to remain and refusal wording, see:</p> <ul style="list-style-type: none"><li>• Refusing leave to remain</li><li>• Refusal wording</li></ul> <p>For information on appeal rights see related link: Rights of appeal.</p>	<p><b>Related links</b></p> <p><a href="#">Rights of appeal</a></p> <p><b>External links</b></p> <p><a href="#">Immigration Rules: General grounds for refusal - Paragraph 322</a></p>
--	--	--

This guidance is based on the Immigration Rules

## General grounds for refusal

### Failure to attend for interview

<p><a href="#">Failure to comply with conditions of stay: leave to remain</a></p> <p><a href="#">Failure to maintain and accommodate without using public funds: leave to remain</a></p> <p><a href="#">Not desirable to let a person remain in the UK: leave to remain</a></p> <p><a href="#">Criminality: leave to remain</a></p> <p><a href="#">No written sponsor undertaking: leave to remain</a></p> <p><a href="#">Declaration or undertaking not honoured</a></p> <p><a href="#">No ability to return</a></p> <p><a href="#">Failure to give information in reasonable time</a></p> <p><a href="#">Failure to attend for interview</a></p> <p><a href="#">Child under 18, no written parent or guardian consent</a></p> <p><a href="#">Failure to pay NHS charges: application for leave</a></p>	<p>This page contains guidance for caseworkers on what to consider when an applicant applying for leave to remain fails to come to an interview.</p> <p>This relates to <a href="#">general grounds for refusal under paragraph 322(10) of the rules</a>.</p> <p>When an applicant has been asked to come to an interview by the Home Office but then does not attend and does not contact us, you should normally refuse leave to remain under paragraph 322(10).</p> <p>However, if the applicant can give a reasonable explanation why they could not come to the interview or why they failed to attend, you should:</p> <ul style="list-style-type: none"><li>• give them the chance to come to a second interview</li><li>• warn that if they fail to come again, you may refuse their application</li></ul> <p>For more information on refusing leave to remain and refusal wording, see:</p> <ul style="list-style-type: none"><li>• Refusing leave to remain</li><li>• Refusal wording</li></ul> <p>For information on appeal rights see related link: <a href="#">Rights of appeal</a>.</p>	<p><b>Related links</b></p> <p><a href="#">Rights of appeal</a></p> <p><b>External links</b></p> <p><a href="#">Immigration Rules: General grounds for refusal - Paragraph 322</a></p>
--	---	--

This guidance is based on the Immigration Rules

## General grounds for refusal

### Child under 18, no written parent or guardian consent

<p><a href="#">Failure to comply with conditions of stay: leave to remain</a> <a href="#">Failure to maintain and accommodate without using public funds: leave to remain</a> <a href="#">Not desirable to let a person remain in the UK: leave to remain</a> <a href="#">Criminality: leave to remain</a> <a href="#">No written sponsor undertaking: leave to remain</a> <a href="#">Declaration or undertaking not honoured</a> <a href="#">No ability to return</a> <a href="#">Failure to give information in reasonable time</a> <a href="#">Failure to attend for interview</a> <a href="#">Child under 18, no written parent or guardian consent</a> <a href="#">Failure to pay NHS charges: application for leave</a></p>	<p>This page contains guidance for caseworkers on what to consider when an applicant applying for leave to remain under the age of 18 seeks leave to remain in the UK without the permission of their parent or legal guardian.</p> <p>This relates to <a href="#">general grounds for refusal under paragraph 322(11) of the rules</a>.</p> <p>When you suspect that an applicant under the age of 18 is applying for leave to remain in the UK without the permission of their parent or legal guardian, you must ask for written consent from their parent or legal guardian. If this is not given, you must refuse leave to remain under paragraph 322(11).</p> <p>Paragraph 322(11) does not apply to a child who has been admitted to the UK as an asylum seeker.</p> <p>You must carefully consider your statutory duty to children, under section 55 of the Borders, Citizenship and Immigration Act 2009, before you apply the instructions in this guidance either to children or people with children.</p> <p>For more information on section 55 see: Safeguard and promote child welfare.</p> <p>For more information on refusing leave to remain, and refusal wording see:</p> <ul style="list-style-type: none"><li>• Refusing leave to remain</li><li>• Refusal wording</li></ul> <p>For information on appeal rights see related link: Rights of appeal.</p>	<p><b>Related links</b></p> <p><a href="#">Rights of appeal</a></p> <p><b>External links</b></p> <p><a href="#">Immigration Rules: General grounds for refusal - Paragraph 322</a></p>
--	--	--

This guidance is based on the Immigration Rules

## General grounds for refusal

### Leave to remain: NHS debt

<p><a href="#">Failure to comply with conditions of stay: leave to remain</a></p> <p><a href="#">Failure to maintain and accommodate without using public funds: leave to remain</a></p> <p><a href="#">Not desirable to let a person remain in the UK: leave to remain</a></p> <p><a href="#">Criminality: leave to remain</a></p> <p><a href="#">No written sponsor undertaking: leave to remain</a></p> <p><a href="#">Declaration or undertaking not honoured</a></p> <p><a href="#">No ability to return</a></p> <p><a href="#">Failure to give information in reasonable time</a></p> <p><a href="#">Failure to attend for interview</a></p> <p><a href="#">Child under 18, no written parent or guardian consent</a></p> <p><a href="#">Failure to pay NHS charges: application for leave</a></p>	<p>This page contains guidance for caseworkers on what to consider when an applicant applying for leave to remain owes a debt to NHS bodies.</p> <p><b>NHS bodies</b></p> <p>The term 'NHS body' is defined in paragraph 6 of the Immigration Rules. In England an NHS body is an NHS Trust or NHS Foundation Trust. In Wales and Northern Ireland a number of bodies are NHS bodies, including the Local Health Board (LHB) in Wales and Health and Social Care (HSC) in Northern Ireland. In Scotland, Health Boards, the Common Services Agency and Healthcare Improvement Scotland are NHS bodies. For a full list of NHS bodies see the <a href="#">Immigration Rules: introduction</a>.</p> <p><b>Part 9 and Appendix V</b></p> <p>You should normally refuse the leave to remain application under paragraph 322(12) for non-visit applications and paragraph V3.14 of Appendix V for visit applications if either of the following apply:</p> <ul style="list-style-type: none"><li>• the individual has an outstanding healthcare debt or cumulative debt of £1000 or more incurred on or after 1 November 2011</li><li>• the individual has debts of £500 or more incurred on or after 6 April 2016</li></ul> <p>An individual who has incurred charges of under £1000 before 6 April 2016 cannot be refused on this basis after 6 April 2016 unless either of the following apply:</p> <ul style="list-style-type: none"><li>• they incur further charges of at least £500 after 6 April 2016</li><li>• they incur further charges after 6 April 2016 bringing the total outstanding NHS debt since 1 November 2011 to over £1000</li></ul> <p><b>Part 7 paragraph 276ADE(1) (private life), Appendix FM (family life) and Appendix Armed Forces</b></p> <p>The Part 7 paragraph 276ADE(1) and Appendix FM routes are for those seeking to enter or remain in the UK on the basis of their private life or family life with a person who is a British</p>	<p><b>Related links</b></p> <p><a href="#">Rights of appeal</a></p> <p><a href="#">Safeguard and promote child welfare</a></p> <p><b>External links</b></p> <p><a href="#">Immigration Rules: General grounds for refusal - paragraph 322</a></p> <p><a href="#">Article 3</a></p>
--	--	--



Citizen, is settled in the UK, or is in the UK with limited leave as a refugee or person granted humanitarian protection.

The Appendix Armed Forces routes are for members of the armed forces, civilian employees and their families.

You may consider refusing the entry clearance application under Part 7 paragraph 276CE or the decision (D-paragraphs) with reference to S-EC.3.2. or S-LTR.4.5. Appendix FM and Appendix Armed Forces if either of the following apply:

- the individual has an outstanding healthcare debt or cumulative debt of £1000 or more incurred on or after 1 November 2011
- the individual has debts of £500 or more incurred on or after 24 November 2016

An individual who has incurred charges of under £1000 before 24 November 2016 cannot be refused on this basis after 24 November 2016 unless either of the following apply:

- they incur further charges of at least £500 after 24 November 2016
- they incur further charges after 24 November 2016 bringing the total outstanding NHS debt since 1 November 2011 to over £1000

### **Consideration**

You must check if the applicant has an outstanding total NHS debt that meets the above thresholds.

A person may have an NHS debt if they have received secondary healthcare, which is healthcare provided to the person by a hospital. For guidance on secondary care treatment in England, see the [Department of Health website](#).

Details of the exemptions which exist in respect of chargeable NHS treatments, as well as details of treatment which is not chargeable in England, can be found in the [Overseas visitors hospital charging regulations](#) . If the application for further or indefinite leave to remain contains evidence which indicates that chargeable treatment was received by the applicant after 1 November 2011, but the applicant was not charged, a referral must be



made to the Interventions and Sanctions Directorate (I&SD). For more information on referrals, see Referring NHS cases to Interventions and Sanctions Directorate

NHS bodies use their own internal processes to recover the monies owed, and will only notify the Home Office once the debt has been outstanding for 2 months and there is no agreement to pay by instalments.

Refusal on the basis of NHS debt is discretionary rather than mandatory. You must consider the following before refusing leave to remain on the basis of NHS debt:

- you must be satisfied that there are no compelling, compassionate circumstances or human rights considerations which would make refusal inappropriate because discretion should be exercised in the person's favour
- the unpaid debt relates to one or more NHS bodies and the total value of the debt is at least £1000 or more incurred on or after 1 November 2011 (for all case types), or either:
  - (in the case of applications other than those made under Appendix FM / Appendix Armed Forces) £500 or more incurred on or after 6 April 2016
  - (in the case of applications made under Part 7 paragraph 276ADE(1), Appendix FM / Appendix Armed Forces) £500 or more incurred on or after 24 November 2016 in line with the relevant NHS regulations

You must only consider refusing an application on the basis of NHS debt if the NHS debt information has been supplied or confirmed by a NHS body.

If checks do not confirm the application has an outstanding NHS debt, you must not refuse the applicant on this basis, even if they have received NHS treatment.

---

**Official sensitive: start of section**

The information on this page has been removed as it is restricted for internal Home Office use.

The information on this page has been removed as it is restricted for internal Home Office use.

The information on this page has been removed as it is restricted for internal Home Office use.

The information on this page has been removed as it is restricted for internal Home Office use.

The information on this page has been removed as it is restricted for internal Home Office use.

The information on this page has been removed as it is restricted for internal Home Office use.

**Official sensitive: end of section**

**Refusal of further leave or indefinite leave application, based on NHS debt**

If the check confirms the applicant has an outstanding total NHS debt of £1000 or more incurred on or after 1 November 2011 (for all case types), or debts of £500 or more incurred on or after 6 April 2016 (other than Appendix FM and Appendix Armed Forces cases) or debts of £500 or more incurred on or after 24 November 2016 in Part 7 paragraph 276ADE(1), Appendix FM and Appendix Armed Forces cases, you must ask the applicant to demonstrate they have repaid their debt. You must therefore write to the applicant in all

cases where checks have identified there is an outstanding NHS debt and request evidence that the outstanding debt has been repaid. The burden of proof is on the applicant to demonstrate they meet the Immigration Rules. An example of the wording to use in your information request is below:

“Your application for (insert application type here) dated (insert date application was made) is under consideration. Home Office records show that you have an outstanding debt of £[amount] owed to (insert details of healthcare provider debt is owed to) from (insert date debt was raised).

You must provide written confirmation from (insert details of healthcare provider) to show that this debt have been or is subject to an agreed schedule of payment by instalment which is being maintained. We will only accept formal documentation and receipts from the healthcare provider as evidence. We will not accept evidence from any other source. Please provide this information within 10 days from the date of receipt of this letter. If you fail to respond within this timescale, your application will be assessed against the evidence available regarding the outstanding healthcare debt, as well as all other factors set out in your application.”

In respect of the NHS debt, you can only accept evidence from the healthcare provider that charged for the treatment. Receipts must accompany this evidence and are to be considered as evidence that the debt has been paid. You may accept the evidence by email or in writing. You must confirm with the healthcare provider that the documentation has been genuinely issued. If such genuine documentary evidence is produced and can be verified by the healthcare provider, do not refuse the application under paragraph 322(12) in respect of that NHS debt.

If the applicant fails to respond to your request, you must assess the application based on the available evidence. Any requests for extensions to submit evidence must be considered on a case by case basis. Details of the nature of medical treatment received by the individual should not have been passed to the Home Office by the health body. If, however, such details have been inadvertently passed on by the health body (i) that data should not be retained on the applicant’s record and (ii) no mention must be made of the nature of the treatment in the decision letter.

**False representations**

You must consider whether the applicant's stated reason for entering or remaining in the UK at the time of their previous application was genuine, or whether their true intention was to gain free access to healthcare that was chargeable. If the person made a false representation about the purpose of their current or previous application, you must refuse their application on this basis. For more information on false representations in a current or previous application, see the [False representations](#) section of this guidance.

**Where the NHS debt relates to a linked dependant**

A linked dependant is a person who is applying for leave to remain as a dependant of the main applicant at the same time as the main applicant. If you refuse the main applicant because they owe an NHS debt, you must also refuse any linked dependants. However, if you refuse an application from a linked dependant because the dependant owes an NHS debt, you must not also refuse the main applicant on the basis of the dependant's debt.

Where the treatment was received by a child (anyone under the age of 18), their parent, parents, guardian or guardians are liable for any healthcare charges. These cases will be identified and recorded by the healthcare provider. In these cases you must consider whether the main applicant's claimed reason for entering the UK at the time of their application was genuine, or whether their intention was to access healthcare for their dependant. If the main applicant made false representations, you must refuse their application as set out above. Details of the nature of medical treatment received by the individual should not have been passed to the Home Office by the health body. If, however, such details have been inadvertently passed on by the health body (i) that data should not be retained on the applicant's record and (ii) no mention must be made of the nature of the treatment in the decision letter.

If the checks show an outstanding NHS debt attached to a child, the application must be referred to a Higher Executive Officer (HEO) before a decision is taken. The HEO must consider the best interests of any child affected by the decision and any Article 8 implications.

**Human rights**

Applicants who are applying in non human-rights based routes should make a further application if they wish to raise any human rights issues (most likely Article 3 and/or 8) which should then be considered in the usual way.

If the application is of a type which allows Article 3 and Article 8 grounds to be raised, these must be considered and dealt with in the usual way in all cases where they are raised. Where an applicant has an outstanding NHS debt, full consideration must be given to the application. You must consider whether to refuse on this basis or whether it is appropriate to exercise discretion in the applicant's favour. See: [Leave outside the rules](#).

For more information on refusing leave to remain and refusal wording, see:

- Refusing leave to remain
- Refusal wording

Details of the nature of medical treatment received by the individual should not have been passed to the Home Office by the health body. If, however, such details have been inadvertently passed on by the health body (i) that data should not be retained on the applicant's record and (ii) no mention must be made of the nature of the treatment in the decision letter.

#### **Recently discharged NHS debt**

An NHS debt was recently discharged if it was paid off in the 6 month period before the application was made. If the applicant has only recently discharged their debt to the NHS, before granting leave to remain, you must consider the effect of paying off the debt on the person's ability to meet any relevant requirements of the Immigration Rules. This includes the ability of the applicant to maintain and accommodate themselves while in the UK and that they have no intention to seek further NHS treatment without paying, unless such access is permitted on the route under which they are applying. A refusal on the grounds of insufficient funds should be made under the relevant rules and not under the NHS debtor rules.

#### **Discharged NHS debt**

Once the NHS debt has been cleared, there will no longer be a reason to refuse leave to

This guidance is based on the Immigration Rules

	<p>remain on this basis. The applicant must satisfy you that they meet the all requirements of the Immigration Rules for the category in which they are applying before you grant the application. This includes the ability of the applicant to maintain and accommodate themselves while in the UK. You must consider whether the applicant has sufficient funds to support themselves in the UK, given that they previously had an outstanding healthcare debt. You must also consider whether they intend to access further NHS treatment without paying, unless such access is permitted on the route under which they are applying.</p>	
--	---	--

This guidance is based on the Immigration Rules

## General grounds for refusal

### Entry clearance: Litigation debt

<p><a href="#">Failure to comply with conditions of stay: leave to remain</a> <a href="#">Failure to maintain and accommodate without using public funds: leave to remain</a> <a href="#">Not desirable to let a person remain in the UK: leave to remain</a> <a href="#">Criminality: leave to remain</a> <a href="#">No written sponsor undertaking: leave to remain</a> <a href="#">Declaration or undertaking not honoured</a> <a href="#">No ability to return</a> <a href="#">Failure to give information in reasonable time</a> <a href="#">Failure to attend for interview</a> <a href="#">Child under 18, no written parent or guardian consent</a> <a href="#">Failure to pay NHS charges: application for leave</a></p>	<p>Litigation debt is a debt owed to the Home Office where the court or Tribunal has ordered another party to pay our legal costs.</p> <p>For information on how to consider cases when the applicant owes a litigation debt, see the separate Litigation debt guidance.</p>	<p><b>Related links</b></p> <p><a href="#">Litigation debt guidance</a></p> <p><b>External links</b></p> <p><a href="#">Immigration Rules: General grounds for refusal - Paragraph 322</a></p>
--	--	--

This guidance is based on the Immigration Rules

## General grounds for refusal

### Leave to remain: visitors

<p><a href="#">Leave to remain: mandatory refusals</a></p> <p><a href="#">Leave to remain: paragraphs 322(1A), 322(2) and 322(2A) – deception</a></p> <p><a href="#">Leave to remain: Discretionary refusals</a></p>	<p>This page is guidance for caseworkers on suitability grounds for refusal (part V3 of Appendix V) where a visitor is applying for leave to remain as a visitor.</p> <p>The suitability rules for visitors (<a href="#">part V3 of Appendix V</a>) are mostly the same as the general grounds for refusal in <a href="#">paragraph 322 of part 9 of the rules</a>.</p> <p>Where there are changes these are set out below.</p> <p>Where the substance of the rules has not changed you should apply the guidance linked to in the table below but refer to the appropriate paragraph of the visitor rules in any refusal.</p> <p><b>Changes</b></p> <p>Paragraph 322(1) – leave to remain being sought for a purpose outside these rules. You should refuse on paragraph V 4.2(c). Appendices 3 to 5 of Appendix V set out permitted activities for visitors.</p> <p>Paragraph 322(7) - failure to honour any declaration as to intended duration and / or purpose of stay – does not have a direct parallel for visitors seeking leave to remain as visitors, but visitors can be refused on the following grounds:</p> <ul style="list-style-type: none"><li>• for duration: the limits on which visitors can extend their stay and for how long are covered by part V8 of Appendix V – if a visitor has overstayed their grant of leave they must be refused under V8.5 unless paragraph 39E applies</li><li>• for purpose of stay: permitted activities for visitors are set out in appendices 3 to 5 of Appendix V – where a visitor is seeking to stay for a purpose or activity that is not permitted, they must be refused under paragraph V 4.2 (c)</li></ul> <p>Paragraph 322(9) and 322(10) are replaced by paragraph V 3.12(b), which makes failure, without reasonable excuse to attend an interview, or provide information a mandatory ground for refusal. See guidance on required information not provided.</p>	<p><b>Related links</b></p> <p>Grounds for refusal</p> <p>Checks</p> <p>Safeguard and promote child welfare</p> <p><b>External links</b></p> <p><a href="#">Immigration Rules: General grounds for refusal - Paragraph 322</a></p> <p><a href="#">Appendix V of the Immigration Rules</a></p>
--	---	---



**Table showing how Part V3 of visitor rules corresponds to paragraph 322.**

<b>Rule under Part 9</b>	<b>Rule in Appendix V</b>	<b>See guidance on</b>
322(1)	4.2(c)	See note on paragraph 322(1) above
322(1A)	V3.6	<p>Leave to remain: paragraphs 322(1A), 322(2) and 322(A): deception</p> <p>Recording grounds for refusal on CID: paragraphs 322(1A), 322 and 322(2A)</p> <p>Material facts not disclosed: paragraphs 322(1A), 322(2) and 322(2A)</p> <p>False documents: paragraphs 322(1A) 322(2) and 322(2A)</p> <p>False representations: paragraphs 322(1A), 322(2) and 322(2A)</p>
322(1B)	V3.2(b)	Subject to deportation order: paragraph 322(1B)
322 (1C)	-	Only relevant to applications for indefinite leave to remain
322(1E)	V 3.4A	<a href="#">Exclusion from the Refugee Convention and from humanitarian protection: paragraph 322(1E)</a>
322(2)	V 3.9(d)	<p>Leave to remain: paragraphs 322(1A), 322(2) and 322(A): deception</p> <p>Recording grounds for refusal on CID: paragraphs 322(1A), 322 and 322(2A)</p> <p>Material facts not disclosed: paragraphs 322(1A), 322(2) and 322(2A)</p> <p>False documents: paragraphs 322(1A) 322(2) and</p>

This guidance is based on the Immigration Rules

		322(2A)	False representations: paragraphs 322(1A), 322(2) and 322(2A)
322(2A)	V 3.9(d)		As above
322(3)	V 3.9(b)		Failure to comply with conditions of stay: leave to remain
322(4)	V 3.9(b)		Failure to maintain and accommodate without using public funds: leave to remain  Failure to comply with conditions of stay: leave to remain
322(5)	V 3.3		Not desirable to let person remain in the UK: leave to remain  Criminality: leave to remain  When to refer a case to criminal casework (CC)  Security, character, behaviour and travel bans  War crimes  Criminal prosecution
322(5A)	V 3.5(b-c)		Criminality: leave to remain  Persistent offenders: paragraphs 322(5A)(b)  Offending which caused serious harm: paragraph 322(5A)(a)  When to refer a case to criminal casework (CC)
322(6)	V 4.4		No written sponsor undertaking

This guidance is based on the Immigration Rules

	322(7)	-	See note on paragraph 322(7) above	
	322(8)	V 3.16	No ability to return	
	322(9)	V 3.12(b)	See note on paragraphs 322(9) and 322(10) See Failure to give information in reasonable time on the steps you must take	
	322(10)	V 3.12(b)(i)	See note on paragraph 322(9) and 322(10) above See Failure to attend interview on the steps you must take	
	322(11)	V 4.12	Child under 18, no written consent	
	322(12)	V 3.14	Failure to pay NHS charges	
	322(13)	V3.14A	Litigation debt	