



Home Office

Suitability: non-conductive grounds for refusal or cancellation of entry clearance or permission

Version 2.0

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About this guidance

This guidance tells you how to refuse or cancel entry clearance or permission on the basis that the person's presence in the UK is not conducive to the public good.

The guidance does not apply to those categories set out in section 9.1 of Part 9 of the [Immigration Rules](#).

Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors, then email the Migrant Criminality Policy team.

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email the Guidance Rules and Forms team.

Publication

Below is information on when this version of the guidance was published:

- version **2.0**
- published for Home Office staff on **10 November 2021**

Changes from last version of this guidance

All internal Horizon links updated to those on the new SharePoint guidance platform.

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Introduction

This page explains what is meant by not conducive to the public good.

Background

On 1 December 2020, the Immigration Rules were amended to introduce a more robust and consistent framework against which immigration applications are assessed or permission cancelled on suitability grounds. Paragraph 9.3.1. of [Part 9 of the Immigration Rules](#) provides a mandatory ground for refusal of entry clearance, permission to enter and permission to stay where the applicant's presence in the UK is not conducive to the public good. Paragraph 9.3.2. of the Immigration Rules provide a mandatory ground to cancel entry clearance or permission where the person's presence in the UK is not conducive to the public good.

Non-conducive to the public good means that it is undesirable to admit the person to the UK, based on their character, conduct, or associations because they pose a threat to UK society. This applies to conduct both in the UK and overseas.

The test is intentionally broad in nature so that it can be applied proportionately on a case-by-case basis, depending on the nature of the behaviour and circumstances of the individual. What may be appropriate action in one scenario may not be appropriate in another. All decisions must be reasonable, proportionate and evidence-based.

You must be able to show on a balance of probabilities that a decision to refuse is based on sufficiently reliable information. You must consider each case on its individual merits.

Allegations, unsubstantiated and vague generalisations are not sufficient. However, intelligence given by UK law enforcement agencies or relevant and reliable open-source information may give sufficient grounds for your refusal.

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When is a person's presence in the UK not conducive to the public good?

A person's presence may be non-conducive to the public good for a range of reasons – for example because of reprehensible behaviour falling short of a conviction, or because their identity, travel history or other circumstances means that their presence in the UK poses a threat to UK society. A person does not need to have a criminal conviction to be refused admission on non-conducive grounds.

Many types of offending or reprehensible behaviour can mean that an individual's presence in the UK would not be conducive to the public good, and many factors will weigh into this such as:

- the nature and seriousness of the behaviour
- the level of difficulty we could experience in the UK as a result of admitting the person with that behaviour
- the frequency of the behaviour
- the other relevant circumstances pertaining to that individual

Other examples of situations where a person's presence may be non-conducive to the public good include the following:

- the person is a threat to national security, including involvement in terrorism and membership of proscribed organisations
- the person has engaged in extremism or other unacceptable behaviour
- the person has committed serious criminality
- the person is associated with individuals involved in terrorism, extremism, war crimes or criminality
- admitting the person to the UK could unfavourably affect the conduct of foreign policy between the UK and elsewhere
- there is reliable information that the person has been involved in war crimes or crimes against humanity – it is not necessary for them to have been charged or convicted
- the person is the subject of an international travel ban imposed by the United Nations (UN) Security Council or the European Union (EU), or an immigration designation (travel ban) made under the Sanctions and Anti-Money Laundering Act 2018
- the person has committed immigration offences
- if admitted to the UK the person is likely to incite public disorder

This list is not exhaustive. In all cases, you must consider what threat the person poses to the UK public. You should balance factors in the individual's favour against negative factors to reach a reasonable and proportionate decision.

Threat to national security

National security threats will often be linked to terrorism. Terrorist activities are any act committed, or the threat of action designed to influence a government or intimidate the public, and made for the purposes of advancing a political, religious or ideological cause and that:

- involves serious violence against a person
- may endanger another person's life
- creates a serious risk to the health or safety of the public
- involves serious damage to property
- is designed to seriously disrupt or interfere with an electronic system

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Extremism and unacceptable behaviour

In October 2015 the government published its [Counter-Extremism Strategy](#), which contains a commitment to make it more explicit that unacceptable behaviour includes past or current extremist activity, either in the UK or overseas. Where a person has previously engaged in unacceptable behaviour you must consider if they have since publicly retracted those views and have not re-engaged in such behaviour.

Unacceptable behaviour covers any non-UK national whether in the UK or abroad who uses any means or medium including:

- writing, producing, publishing or distributing material
- public speaking including preaching
- running a website
- using a position of responsibility such as a teacher, community or youth leader

to express views which:

- incite, justify or glorify terrorist violence in furtherance of particular beliefs
- seek to provoke others to terrorist acts
- foment other serious criminal activity or seek to provoke others to serious criminal acts
- foster hatred which might lead to inter-community violence in the UK

The list of unacceptable behaviours is indicative rather than exhaustive.

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Association with individuals involved in terrorism, extremism, or war crimes

A person may be associated with or have associated with persons involved in terrorism, extremism or war crimes. The association link will need careful consideration, particularly where it concerns a family member. Family association with war criminals must be disregarded in the case of minors.

You must consider the following questions:

- Is there evidence to suggest the person's association with the individual was not of their own free will? - this is particularly relevant for family associations
- Is there evidence to suggest the person associated with the individual whilst unaware of their background and activities?
- If so, what action did the person take once the background and nature of the individual came to light?
- Are there any suggestions that the person's association signals their implicit approval of the views and nature of the individual's illegal activities?
- How long has this association lasted? - the longer the association, the more likely it may be that the person is aware of or accepts the activities and views
- How long ago did such association take place?

If there is evidence that an associate or family member does not accept, tolerate or support the views or activities of a person involved in war crimes, or where they have clearly distanced themselves from those activities, their association alone will not be a reason to refuse on non-conducive grounds.

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Admitting the person to the UK could unfavourably affect the conduct of foreign policy

A person's presence in the UK could unfavourably affect foreign policy. If you consider this might be the case, you must seek the advice of the Foreign, Commonwealth and Development Office before making a decision to refuse or cancel a person's entry clearance or permission to enter or stay in the UK.

War crimes, crimes against humanity and genocide

War crimes are grave breaches of the Geneva Conventions committed during an armed conflict. This includes an internal armed conflict within a State and an international armed conflict between States.

The types of acts that may constitute a war crime include:

- wilful killing
- torture
- extensive destruction of property not justified by military necessity
- unlawful deportation
- the intentional targeting of civilians
- the taking of hostages

Crimes against humanity are acts committed at any time (not just during armed conflict) as part of a widespread or systematic attack, directed against any civilian population, with knowledge of the attack. This includes:

- murder
- torture
- rape
- severe deprivation of liberty in violation of fundamental rules of international law
- enforced disappearance of persons

Genocide means acts committed with intent to destroy, in whole or in part, a national, ethnic, racial or religious group.

This list is not exhaustive. The full definitions of war crimes, crimes against humanity and genocide can be found in [Schedule 8](#) of the International Criminal Court Act 2001.

In establishing whether there are grounds to refuse permission you must consider evidence directly linking the person to such activities, such as the likelihood of their membership of and activities for groups responsible for committing such crimes. The individual role of the individual, the length of their membership and level of seniority in the group are also relevant.

Information about a person must be considered against information from reputable sources on war crimes and crimes against humanity in the country concerned and, where relevant, on the groups in which the individual has been involved. Where these sources provide sufficient evidence to support the view that the person's activities or involvement constitute responsibility for international crimes, crimes against humanity or genocide you must refuse or cancel permission on non-conducive grounds.

When assessing evidence, you must consider the following:

- an admission or allegation of involvement in such crimes

- an admission or allegation of involvement in groups known to have committed such crimes
- the length of time since the individual's involvement in the war crime and any evidence that the individual has rehabilitated
- if not directly involved did the person support the commission of those crimes, or support groups whose main purpose or mode of operation consists of the committing of such crimes, even if that support did not make any direct contribution to the groups' war crimes, crimes against humanity or genocide

Information may range from a brief claim to have been a member of a particular group or profession to a detailed, time framed account. Membership of a particular group may be sufficient to determine that a person has been supportive of or complicit in such crimes committed by that group; consideration should be given to the length of membership and the degree to which the group employed such crimes to achieve its ends.

Where a person is assessed to have been involved in war crimes or crimes against humanity, but there is evidence of mitigating circumstances, decisions must be made with consideration of applicable defences under international law.

International travel bans

International travel bans can be imposed by the United Nations Security Council or the European Union (EU). The UK can now also impose travel bans under the [Sanctions and Anti-Money Laundering Act 2018](#) (SAMLA) which creates an autonomous UK sanctions regime now the UK has left the EU.

Under [Section 8B of the Immigration Act 1971](#) a person who is the subject of a travel ban imposed by either the UN Security Council, the EU, or the UK under SAMLA, must be refused entry clearance or entry to the UK. If the person is in the UK any permission held must also be cancelled.

See International travel bans for more information.

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Immigration offending

You must refuse or cancel on non-conductive grounds where there is reliable evidence of immigration offending.

Examples include, but are not limited to:

- Human trafficking
- Facilitation
- Providing false documents to assist people in the application process

Before refusing or cancelling permission as a result of immigration offending, you should satisfy yourself to the balance of probabilities that the individual has knowingly been involved in the offence or that the offence has occurred as a direct result of their conduct. For example, an individual who provides false identity documents to an individual and seeks to bring them to the UK as their relative has more likely than not knowingly committed an offence. A lorry driver who makes no attempt to comply with the Civil Penalty Code of Practice and secure his vehicle and is subsequently discovered with people hidden in the vehicle can be said to have directly enabled an offence to occur by virtue of his conduct. It is less likely that a lorry driver who has secured their vehicle but is subsequently discovered with people hidden in the vehicle can be described as having knowingly committed an offence or directly enabled an offence by their conduct.

Inciting public disorder

Where a person has engaged or intends to engage in activities that resulted in public disorder or are likely to give rise to this, you must consider if they meet the threshold for refusal or cancellation of permission on non-conductive grounds because it is undesirable to allow them to enter or remain in the UK.

Examples of such behaviour include, but are not limited to:

- making or intending to make speeches (or similar) with the aim of inciting ethnic and/or racial, religious or other discriminatory violence
- admitting the person may lead to an offence being committed by someone else or an increased level of unacceptable behaviour - for example, the applicant may have extreme views which if expressed could result in civil unrest and a breach of the law
- advocating or being involved in rioting, violent disorder or affray

A person's activities do not have to be politically motivated. For example, a known football hooligan could be regarded as a public order risk.

If the applicant has been convicted of a public order offence, you must consider the sentence handed down and if appropriate refuse or cancel permission under the criminality grounds.

Involvement with criminals and gangs

Where there is compelling evidence that a person is or has been involved with gangs or known criminals, either abroad or in the UK, you must consider if they meet the threshold for refusal or cancellation of permission on non-conductive grounds.

You must carefully weigh the evidence which suggests a person's connections with the individual or group concerned, and the known impact of their activities. For example, is there evidence of active membership of a violent gang in either the person's home country or the UK.

You must not refuse an application simply because you are satisfied that the person knows a gang or known criminal. You must consider both the conduct of the person and the gang or criminal they are associated with.

The more senior or involved a person is in a gang, or the more prominent and active the gang is, the more likely it is that refusal or cancellation of permission is justified.

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Proceeds of crime and corruption

Where a person has been involved or complicit in corruption, you must consider if they meet the test for refusal or cancellation of permission on non-conductive grounds, particular if the corruption is high-level or state sanctioned.

If you have reliable information that a person has benefited from the proceeds of crime, particularly where that financing is directly relevant to their application to enter or stay in the UK, you must also consider if they meet the test for refusal or cancellation of permission on non-conductive grounds.

A person does not need to have had action taken under [Proceeds of Crime Act 2002](#) to be refused on the basis of corruption or benefitting from the proceeds of crime.

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Assessing non-conducive at the border

This page tells you how to consider the non-conducive test at the border.

The power to cancel permission at the border is set out in [paragraph 2A of Schedule 2 to the Immigration Act 1971](#). Under paragraph 2A(3), permission (including that which derives from an entry clearance) may be cancelled on the grounds that it is not conducive to the public good to allow the person to enter the UK.

Additionally, several rules in Part 9 address specific conduct which could warrant cancellation of permission under paragraph 2A (3). You must also therefore consider whether any of the following grounds for cancellation apply:

- where the Secretary of State has personally directed that the person be excluded from the UK (9.2.2.)
- where the person has been convicted of a criminal offence in the UK or overseas for which they have received a custodial sentence of 12 months or more (9.4.2(a).)
- where the person is a persistent offender who shows a particular disregard for the law (9.4.2(b).)
- where the person has committed a criminal offence, or offences which have caused serious harm (9.4.2(c).)
- where the person is excluded from the Refugee Convention or would be so excluded if they made a protection claim (9.5.2.)
- where it is more likely than not that the person is, or has been, involved in a sham marriage or civil partnership (9.6.2.)
- where the decision-maker is satisfied that the person has committed a customs breach (9.19.2.)

You must only cancel leave at the border on the above grounds if you are satisfied that the circumstances are such that it would be conducive to the public good for that leave to be cancelled.

EEA citizens with leave granted under the EU Settlement Scheme (EUSS)

Paragraph A3.1(b) of Annex 3 to [Appendix EU to the Immigration Rules](#) sets out that leave granted under the EU Settlement Scheme, or leave acquired by virtue of arriving with an EUSS Family Permit, may be cancelled on or before arrival in the UK on the grounds that the person's presence in the UK would not be conducive to the public good.

You can only cancel EUSS leave on non-conducive grounds on the basis of conduct occurring after 23:00GMT on 31 December 2020. Any conduct prior to that must be considered under the EU public policy test. For further information see [EEA decisions on public policy, public security and public health](#).

The following grounds in [Part 9 of the Immigration Rules](#) may be considered when assessing whether to cancel EUSS leave on the grounds that the person's presence in the UK would be conducive to the public good.

- where the Secretary of State has personally directed that the person be excluded from the UK (9.2.2)
- where the person has been convicted of a criminal offence in the UK or overseas for which they have received a custodial sentence of 12 months or more (9.4.2(a))
- where the person is a persistent offender who shows a particular disregard for the law (9.4.2(b))
- where the person has committed a criminal offence, or offences which have caused serious harm (9.4.2(c))
- where the person is excluded from the Refugee Convention or would be so excluded if they made a protection claim (9.5.2)
- where it is more likely than not that the person is, or has been, involved in a sham marriage or civil partnership (9.6.2)
- where the decision-maker is satisfied that the person has committed a customs breach (9.19.2)

In all cases it is the date of offence which is relevant, regardless of the date of any conviction or sentence.

An EEA citizen may have criminality or engaged in adverse conduct which occurred both before and after the end of the transition period. Where conduct has occurred both before and after 23:00GMT on 31 December 2020, you may either:

- consider the totality of their conduct under the public policy, public security or public health test
- consider only the conduct that occurred after 23:00GMT on 31 December 2020 under the 'conducive to the public good test' and do not rely on the conduct that occurred prior to that date

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Refusal and cancellation wording

Grounds	Rule	-
Refusal	9.3.1	You have sought entry clearance/permission to enter/permission to stay in the United Kingdom but you [insert details of why non-conducive] I am therefore satisfied that your presence in the UK would not be conducive to the public good. I therefore refuse you entry clearance/permission to enter/permission to stay in the UK.
Cancellation	9.3.2 or paragraph 2A(3) of Schedule 2	On [date] you were granted [insert details of leave/permission]. However, you [insert details of why non-conducive] I am therefore satisfied that your continued presence in the UK would not be conducive to the public good. I therefore cancel your permission to enter/permission to stay in the UK.

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