



Home Office

# Returning residents

Version 4.0

The guidance tells Entry Clearance Officers and Border Force officers how to make decisions on returning resident applications.

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# About this guidance

This guidance tells Entry Clearance Officers about considering applications for returning residents

## 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 Nationality policy.

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 **4.0**
- published for Home Office staff on **24 January 2022**

## Changes from last version of this guidance

To clarify the historical impact of Section 1(5) of the Immigration Act 1971 on the immigration status of Commonwealth citizens. Previous versions of Home Office guidance contained errors regarding the impact that this legislation had. The Windrush Scheme policy (and relevant guidance documents) has also been updated to reflect this issue.

### Related content

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# Returning residents

This page provides decision-makers with information about who is considered a returning resident under the Immigration Rules.

When a person holds indefinite leave to enter or remain and they leave the UK, on their return, they must either meet the requirements in [paragraph 18](#) or [paragraph 19](#) of the Rules. This will depend on the amount of time spent outside the UK.

## Less than 2 years' absence

A person who has been absent from the UK for less than 2 years will retain their indefinite leave and does not need to apply for entry clearance before resuming their residence in the UK. Border force officers will assess whether a person can be admitted for entry under the requirements of paragraph 18.

## More than 2 years' absence

A person who has been absent from the UK for more than 2 consecutive years, will automatically lose their indefinite leave as a matter of law. This is set out in [paragraph 20](#) of the Immigration Rules and in [Article 13 of the Immigration \(Leave to Enter and Remain\) Order 2000](#) (LTERO).

A person who has been absent for more than 2 years must apply for entry clearance as a returning resident and will be assessed by Entry Clearance Officers under paragraph 19 of the Rules.

There are some [exceptions](#) which prevent a person's leave from lapsing. Further provisions were made to the LTERO to ensure that any period spent outside the UK will not count towards the calculation of the 2 year period for the following people:

- Article 13A - partner or child accompanying a member of HM Forces overseas
- Article 13B - partner or child accompanying a permanent member of the British Council, Department for International Development, Home Office, or Foreign and Commonwealth Office overseas

This is set out in [paragraph 19A](#) of the Immigration Rules.

### Related content

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# Entry at the border

This page tells Border Force officers how a person with indefinite leave and who has been absent from the UK for less than 2 years can qualify for entry to the UK under paragraph 18 of the Rules.

Paragraph 18 of the Immigration Rules makes provision for a person to be readmitted for settlement provided that the Border Force officer is satisfied that the person concerned:

- had indefinite leave to enter or remain in the UK when they last left
- has not been away from the United Kingdom for more than 2 years
- did not receive assistance from public funds towards the cost of leaving the UK
- now seeks admission for the purpose of settlement

## Indefinite leave to enter or remain

Evidence of a person's settled status in the UK is normally found in the applicant's passport, on an immigration status document or a biometric residence permit (BRP). These documents may include the following:

- indefinite leave to enter (ILE) endorsement or BRP
- indefinite leave to remain (ILR) endorsement or BRP
- no time limit endorsement or BRP
- returning resident visas
- open date stamps in passport after ILE/ILR has been granted

If such evidence cannot be provided, a person's settled status may still be confirmed through:

- records on databases, such as central reference system (CRS) or case information database (CID), or paper files that show indefinite leave has been granted
- other proof the applicant was settled in the UK on or before 1 January 1973 and this status has not been lost or revoked

A person can apply to have their settled status confirmed by making a [No Time Limit \(NTL\)](#) application.

## Absence of less than 2 years

A person who has been absent from the UK for less than 2 continuous years will retain their indefinite leave. It is usually possible to check absences from the UK through entry and (old) embarkation stamps (endorsed by Immigration Officers).

## Assistance from public funds towards the cost of leaving the UK

A person whose departure from the UK was financed from public funds under either [section 5\(6\)](#) or [section 29](#) of the Immigration Act 1971 (they made a voluntary departure with payments), will not qualify for re-entry under paragraph 18 of the Rules.

## Seeking entry for the purposes of settlement

In line with paragraph 18, a person must show that they are seeking entry for the purposes of settlement. Whilst in most cases a person would be returning to settle at the point of entry, there may be other circumstances where a person is in work or study for long periods overseas, but still intends to ultimately settle in the UK on completion of the employment/study. This will not disqualify a person from admission as a returning resident, provided:

- they are normally resident in the UK (for example, a person has property or family or other interests in the UK which are being closely maintained through regular contact)
- at the time of their entry, they consider the UK to be their permanent home
- they have not been away from the UK for more than 2 years and intend to return to the UK for settlement in the future

## Further enquiries

No further enquiries should be necessary unless there is substantial evidence to doubt the person's true intentions or any entitlement to their residency.

## Granting entry at the border

A passenger should be granted entry at the border where they:

- can provide evidence they have been granted indefinite leave
- have been outside the UK for less than 2 years
- meet the requirement of paragraph 18 of the Rules

Passengers who meet the above requirements, should have their passport endorsed with an open date stamp. This does not grant any form of leave but is simply evidence of the person's arrival in the UK.

Where it is likely, but it is not clear, that they qualify, they may be given immigration bail and asked to provide evidence of their claimed residency or that they have applied for a biometric residence permit by making a [No Time Limit application](#).

Passengers who had indefinite leave when they last left the UK and who have not been away for more than 2 years, occasionally seek entry not as returning residents, but as visitors. You must not grant entry as a visitor in this instance where the person

meets the requirements under paragraph 18 of the Rules. Instead, you should endorse their passport with an open date stamp which confirms they continue to hold indefinite leave.

## Refusing entry to the UK

If you have doubts that the passenger still qualifies as a returning resident, they should be further examined and a decision made to either refuse leave to enter or to readmit the passenger as before. It is no longer acceptable to land the passenger as a visitor in these circumstances. A person may qualify in another capacity but the onus is on them to seek entry in that capacity. They should be refused entry under paragraph 320(9) of HC 395.

## Refusing entry where entry clearance not held

A person seeking entry without a valid UK entry clearance falls to be refused under paragraph 24 of HC 395. See guidance on Refusal of leave to enter.

## Refusing entry where entry clearance held

Where a passenger seeking entry as a returning resident holds an entry clearance for this purpose, refusal may only be considered under paragraph 321A of HC 395.

## Refusing entry for medical reasons

A person who has been absent from the UK for less than 2 years and continues to hold indefinite leave, cannot be refused entry on medical grounds. They may however be referred to the Port Medical Inspector if they are intending to stay for more than 6 months (this is in accordance with [paragraph 36 of the Immigration Rules](#)). If recommended by the Port Medical Inspector, you may admit the passenger with a notice to report to the medical office of Environmental Health as explained in Paragraph 38 of HC 395.

## Cancelling indefinite leave

If, upon conducting a thorough examination, you are satisfied that the person has indefinite leave but that they are not returning to the UK to settle, either now or in the future, then you must cancel the indefinite leave due to a change of circumstances. The individual will have a right to an Administrative Review unless they waive their right to it.

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**Official – sensitive: End of section**

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## British citizens seeking entry

Any person who has been granted British citizenship cannot continue to seek entry into the UK by means of any previous grant of leave they may still be in possession of, such as an indefinite leave vignette or stamp in their passport. This is because indefinite leave places conditions on their entry and, as a British citizen, they are no longer subject to immigration control.

UK Visas and Immigration (UKVI) decide British citizenship applications. Once citizenship has been granted, the applicant has 3 months to attend a citizenship ceremony. They only become a citizen once they make an oath and pledge at the ceremony.

As such, UKVI cannot cancel the person's leave at the point of decision as there is then a time period of up to 3 months when the person is not a citizen and so would be in the UK without leave or proof of right to work or remain.

Although very unlikely, should an applicant who has been granted British citizenship but not attended their ceremony seek entry within the 3 months, then their leave by virtue of their indefinite leave stamp or vignette would still be in force, so you must grant entry in line with that leave.

Where a person has become a British citizen and attended their ceremony, but is still in possession of an indefinite leave stamp or vignette in their passport, they may no longer use this as a means of entry to the UK. The applicant should instead now be in possession of a British passport or have a certificate of entitlement to the right of abode. You must then place a 'cancelled without prejudice' stamp across the indefinite leave stamp or vignette and return to the passenger. They will then be allowed to pass through the primary control point (PCP).

### Related content

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# Applications for entry clearance

This page tells entry clearance officers how to assess applications for entry clearance as a returning resident where a person has been absent from the UK for more than 2 years.

The following do not qualify as returning residents:

- a person whose previous stay was subject to a time limit (for example a person had limited leave to enter or remain)
- a person who was exempt from control under [section 8 of the Immigration Act 1971](#) at the end of their previous stay (for example seaman, aircrew and other special cases)
- a person whose departure from the UK was financed from public funds under either [section 5\(6\)](#) or [section 29](#) of the act (they made a voluntary departure with payments)
- a person to whom the general grounds of refusal set out in paragraph 320 of HC 395 apply

## Absences from the UK of more than 2 years

Where a person is absent from the UK for more than 2 years, their indefinite leave will automatically lapse. In line with paragraph 19 of the Rules, a person may nevertheless be admitted as a returning resident if they can demonstrate strong ties to the UK. Any applications for readmission following a 2 year absence, must be made at a [UK visa application centre](#).

## Windrush scheme

Any person who meets the criteria set out in the caseworking guidance on the Windrush scheme, and who lost their indefinite leave due to an absence from the UK of more than 2 years, can apply to return to the UK permanently as a returning resident free of charge.

Applicants who wish to be considered under the Windrush Scheme should be referred to the information about the [Windrush Scheme on GOV.UK](#).

## Factors for consideration

You must consider the following factors when assessing whether a person can be readmitted to the UK as a returning resident under paragraph 19:

- their strength of ties to the UK including:
  - the nature of those ties
  - the extent to which those ties have been maintained during the applicant's absence
- the length of their original residence in the UK

- the length of time the applicant has been outside the UK
- the circumstances in which they left the UK and their reasons for remaining absent
- their reasons for now wishing to return
- whether, if they were to be readmitted, they would continue to live in the UK
- any other compelling or compassionate factors

## Strength of ties to the UK

A person's ties to the UK may be evident in a number of different ways. The nature of those ties, and the degree those ties have been maintained during a person's absence, will need to be considered when assessing whether a person should be readmitted as a returning resident. Such ties may include (but are not limited to):

- family ties
- property ties
- business ties

## Family ties

Where a person has close family ties in the UK which have been maintained during their absence, this will likely indicate strong ties to the UK. The more immediate the family members are, for example parents, spouse, partner, children or grandchildren, the greater the strength those ties are likely to have. However, relationships with wider family members, such as cousins or nieces and nephews, may also be taken into account if those ties have been closely maintained.

The nature of any contact will also need to be considered. For example, regular visits from, or to, the applicant from family members in the UK will help demonstrate the strength of those ties. Such contact does not, however, need to have been made physically in person, and strong ties can still be demonstrated where there has been regular contact through other means.

## Property and business ties

Ties may also be in the form of property/business interests. This may be, for example, where the applicant owns their own property in the UK or has a vested interest in an ongoing business venture within the UK. Ties on the basis of property or business interests alone are unlikely to demonstrate strong ties to the UK, but can be used in conjunction with other factors to satisfy this.

## Length of original residence

Generally, the longer the period of original residence, the more likely it is that the applicant will have developed strong ties to the UK and can be admitted as a returning resident. It is important to consider the length of the original residence together with all other relevant factors. You must not refuse an application solely

based on a short period of original residence, if the other evidence points to the applicant having strong ties to the UK.

## Length of time outside the UK

The length of time spent outside the UK will be an important factor to take into account when assessing whether a person can be readmitted as a returning resident. This must be assessed against all other factors, including the time spent in the UK before they left.

## Extended absence from the UK due to COVID-19 pandemic travel restrictions

Some applicants will have been prevented from returning to the UK in 2020 and 2021, due to travel restrictions in place relating to the COVID-19 pandemic. In some cases this will have resulted in their indefinite leave lapsing.

You should consider whether travel restrictions after 24 January 2020 resulted in unintended absences from the UK. Where you assess someone had intended to return to the UK before their leave lapsed but were prevented from returning by travel restrictions, you should consider this as an additional factor supporting a grant of entry clearance.

## Reasons for leaving and wishing to return

A person may leave the UK for a variety of reasons. This may include:

- to access health treatment overseas
- to care for family
- to retire
- for employment/self-employment
- study

In some cases, these reasons mean a person remains outside the UK for more than 2 years, and so their indefinite leave lapses. You must consider their reasons for leaving and for now wishing to return to the UK. For example, a person may have left the UK to care for family members and now wishes to return to the UK to retire.

## Any other circumstances

Other more specific circumstances which would support an application are:

- travel and service overseas with a particular employer before return to the UK with the employer
- service abroad for the UK Government, or as a dependant of a member of HM Forces or as an employee of a quasi-governmental body, a British company or a United Nations organisation

- employment abroad in the public service of a country that has good relations with the UK, by a person who could not reasonably be expected to settle in that country permanently
- a prolonged period of study abroad by a person who wishes to rejoin the family in UK on completion of studies
- prolonged medical treatment abroad of a kind not available in the UK
- unintended absences from the UK due to the COVID-19 pandemic

Additionally, there may be other compelling or compassionate circumstances not mentioned above which need to be considered. Each case must be considered on its individual merits.

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# Case scenarios

This page gives you examples of cases where you might grant or refuse indefinite leave as a returning resident.

## Example 1

Mrs S is 68 years old and arrived in the UK in 1965 with her parents and resided in the UK for 11 years before returning to her country of origin to take employment. She has 3 children residing in the UK who hold British passports, one who was born in the UK in 1975. Her other 2 children were born outside the UK and obtained British citizenship in their own right through work/marriage. Mrs S has resided outside the UK for 42 years and has continued to visit the UK for periods of less than 6 months. In 2015, she overstayed on her visit visa (remaining in the UK for 11 months).

Question	Answer
What considerations must you take into account before you make a decision?	You must consider the length of time spent in the UK (11 years) and that the applicant has ties to the UK, evidenced through her children being British and residing in the UK, along with her visits to the UK. This must then be weighed against the fact that she left the UK through choice and made another country her permanent home for 42 years. In addition, she has previously overstayed her leave. There are no other compelling or compassionate circumstances.

Question	Answer
Would you grant the application in this case?	On balance, the applicant has not demonstrated sufficiently strong ties to the UK which would outweigh her significant absence and other factors.  You decide to refuse the application.

## Example 2

Mrs K is 72 years old and arrived in the UK in 1970 with her family. She left the UK in 2002 to retire overseas. She has not travelled back to the UK since departing. Her children have visited her and her daughter is British and resides in the UK. Mrs K now wishes to return to the UK to reside with her daughter and extended family members.

Question	Answer
What considerations must you take into account before you make a decision?	You must consider the length of time spent in the UK (32 years) and the ties the applicant has to the UK (British child and extended family members). This must then be weighed against the fact that she left the UK in 2002 to retire and has not visited since. Her reasons for returning are due to wishing to live with her British family permanently. There are no other compelling or compassionate circumstances.

Question	Answer
Would you grant the application in this case?	On balance, whilst the applicant has not visited the UK since retiring, she has maintained strong ties to the UK and her family have visited her often. This is combined with the significant time she spent in the UK in her formative years with family.  You decide to grant the application.

### Example 3

Mr F is 81 years old and arrived in the UK in 1972 where he remained for 22 years when he relocated back to his country of birth to live with his extended family. Three of his four children reside in the UK and are British citizens. Mr F owns property overseas and has extended family living locally and receives a UK state pension. He has not resided in the UK since 1994 but has visited the UK regularly since he left. He wishes to return to the UK to live with his family as he is now in poor health.

Question	Answer
What considerations must you take into account before you make a decision?	You must consider the length of time spent in the UK (22 years) and that the applicant has ties to the UK, evidenced through 3 of his children being British and residing in the UK. In addition, applicant has visited the UK regularly to maintain those ties and is now elderly and in poor health. This must be weighed against the fact that he left the UK in 1994 and been outside the UK for 24 years at the date of application.

Question	Answer
Would you grant the application in this case?	On balance, the applicant has demonstrated strong ties to the UK and there are compassionate circumstances (age and poor health).  You decide to grant the application.

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# Returning residents: evidence

This page tells you what documents a person may present as evidence to demonstrate they qualify as a returning resident.

Evidence to support an application where a person has been absent from the UK for more than 2 years may include:

- evidence of settled status - for those who were settled before 1 January 1973 when the Immigration Act 1971 came into force, this may not be evidenced through a vignette, BRP or passport. Other evidence, such as Doctor's records, or school letters may be taken into account instead
- details of any family in the UK and correspondence with them (to establish strong ties to the UK)
- evidence of property in the UK and/or any business interests (to establish strong ties to the UK)
- letters of enrolment/attendance at an education establishment if they have been studying outside the UK for long periods
- letter of employment where this has been reason for their absence from the UK
- a letter from a medical professional if their reason for their absence relates to caring for another person or for their own medical reasons

This list is not exhaustive and other evidence can be taken into account.

## Further enquiries

Where there are minor errors or omissions in the application, and there is sufficient evidence to suggest that the application would be granted, enquiries should be made to seek clarification or request missing documentation and information.

If the applicant is interviewed, questions put to the applicant may sometimes lead to an indication that the claim to be a returning resident is a fraudulent one. It is expected that the applicant can display sufficient knowledge relevant to their claimed life in the UK.

## Granting entry clearance

Where a person's leave has lapsed due to an absence of more than 2 years outside the UK, and they satisfy the requirements in paragraph 19 of the Rules, they must be issued indefinite leave to enter. This will be granted on a visa valid for 30 days and endorsed with Indefinite Leave to Enter. A person must travel into the UK during the validity of the visa, where their BRP will be available for collection from the nominated Post Office.

Where a person has not been absent from the UK for more than 2 years but their passport has expired and they wish to have their indefinite leave vignette transferred into a new passport, they should be advised to apply for a 'Vignette Transfer', rather

than as a returning resident. If they hold a biometric residence permit (BRP) but this has been lost/stolen or is due to expire, they should apply for a 'Replacement BRP'.

## Endorsements

- Endorsement Type: Settlement
- Endorsement: RETURNING RESIDENT
- Duration: Other
- Cat D endorsement: ILE Settlement: Indefinite Leave to Enter
- Validity: From intended travel date to expiry date of passport

## Refusing entry clearance

Where the applicant does not meet the requirements of paragraph 19 of the Rules, you must refuse entry clearance. You must also consider general grounds for refusal. Where you are refusing on general grounds and the general ground relates to a requirement of the specific category the person has applied for, you must refuse on all the grounds for refusal. For example, if forged documents were used as supporting evidence for an application in this category, you would refuse the application on both:

- general grounds 320(7A): deception
- failure to supply required documents for the specific category

If the applicant has not been away from the UK for more than 2 years, you do not need to assess the application under paragraph 19. This is because a person will continue to hold indefinite leave. Border Force officers will need to consider at the point of entry whether that person meets the requirements of paragraph 18, including whether they are returning for the purposes of settlement.

There is no right of appeal against the refusal of a returning resident visa. The applicant will have a right to an Administrative Review.

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# Returning residents: exceptions

This page tells you the circumstances in which indefinite leave does not automatically lapse where the person has been absent from the UK for more than 2 years.

Under the Immigration (Leave to Enter and Remain) Order 2000 which has been given effect in paragraph 19A of the Immigration Rules, any period spent outside the UK for certain categories of people, will not count towards the calculation of the 2 year period.

## Members of armed forces or government departments

A person's indefinite leave shall not lapse where a person has indefinite leave to enter or remain in the UK and who accompanies on an overseas posting, a spouse, civil partner, unmarried partner, or same-sex partner who is either of the following:

- a member of the HM Forces serving overseas
- a British citizen or is settled in the UK and is:
  - a permanent member of HM Diplomatic Service
  - a comparable UK based staff member of the British Council
  - a staff member of the Department for International Development
  - Home Office employee

The result of this is that any period spent accompanying a partner who is serving overseas in one of the above capacities will not count towards the calculation of the 2 year period (such that if the posting lasts more than 2 years and the partner or child does not return to the UK during that time, their leave will not lapse).

Where a partner travels independently, however, and is absent from the UK for more than 2 years (for example on private visits to family) their indefinite leave will lapse and they should apply as a returning resident under paragraph 19 or for entry on another basis within the Rules.

## British passport holders

There are also exceptions to the 2 year rule for certain returning residents who are holders of UK passports.

Under paragraph 16 of the Rules if any of the following produce a UK passport issued in the UK and Islands or the Irish Republic before 1 January 1973, they should be admitted freely (unless the passport has been endorsed to show that they were subject to immigration control):

- a British Dependent Territories Citizen (BDTC)
- a British National (Overseas) (BN(0))
- a British Overseas Citizen (BOC)

- a British Protected Person (BPP); a British Subject (BS) by virtue of section 30(a) of the British Nationality Act 1981 (who, immediately before 1 January 1983 would have been a British Subject not possessing citizenship of the UK and Colonies or the citizenship of any other Commonwealth country or territory)

Under [paragraph 17](#) of the rules, British Overseas Citizens (BOC) who hold UK passports wherever issued are also entitled to admission at any time as returning residents if they can satisfy the Immigration Officer that, since 1 March 1968, they have been given indefinite leave to enter or remain in the UK.

Those who benefit from paragraph 16 or 17 will normally have “Holder is entitled to re-admission to the UK” endorsed in their passport and are entitled to readmission as returning residents at any time. This means that their leave will not lapse after 2 years’ absence from the UK.

Persons described in paragraph 16 who produce a UK passport issued outside the Common Travel Area (CTA), or issued within the CTA on or after 1 January 1973, are subject to the normal 2 year rule, unless their passports bear the ‘right of readmission’ endorsement.

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