



Home Office

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

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| <p>Leave to remain - mandatory refusals</p> <p>Leave to remain – paragraphs 322(1A) and 322(2) – deception</p> <p>Leave to remain - Discretionary refusals</p> | <p>This section contains guidance for caseworkers on what you must consider when you refuse an applicant on general grounds. 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 Immigration Rules. See related link to the rules.</p> <p>Mandatory or discretionary</p> <p>The Immigration Rules have two 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>Paragraph 322 of the rules sets out these general grounds for refusal:</p> <ul style="list-style-type: none">• Mandatory refusals are in paragraphs 322(1) – 322(1C).• Discretionary refusals are in paragraphs 322(2) to 322(12). <p>Considering leave to remain for all categories of applications made to remain in the UK</p> <p>You must consider if:</p> <ul style="list-style-type: none">• there are any general grounds for refusal, and• you can refuse the application under the category the person applied for. <p>What you need to check for</p> <p>You must check for evidence of:</p> <ul style="list-style-type: none">• adverse behaviour (using deception including false representation, fraud, forgery, non-disclosure of material facts or failure to cooperate) | <p>Related links</p> <p>Links to staff intranet removed</p> |
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- 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).

For further guidance, see links on left.

For more information on the specific grounds above, see related links:

- Grounds for refusal, and
- 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.

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 related link: Safeguard and promote child welfare.

If you only refuse on general grounds and an appeal is allowed, you cannot then re-consider

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| | <p>them for the specific category and leave to remain will have to be given.</p> <p>You must consider if there are any human rights grounds such as:</p> <ul style="list-style-type: none">• the right to family life under Article 8 of the European Convention on Human Rights (ECHR), or• any exceptional, compelling circumstances which would justify you granting the application. | |
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General grounds for refusal

Leave to remain - mandatory refusals

| Leave to remain - mandatory refusals Leave to remain – paragraphs 322(1A) and 322(2) – deception Leave to remain - Discretionary refusals | <p>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.</p> | | <p>In this section</p> <p>Permission for a purpose not covered by the rules – leave to remain</p> <p>Related links</p> <p>Links to staff intranet removed</p> | | | | | | | | | | | | | | | |
|---|--|---|---|---|--------------------------|--------|---|----|---------|---|---|----------|---|--|----------|--|--|--|
| | <table border="1"> <thead> <tr> <th>Refusal paragraph</th> <th>When you must refuse leave</th> <th>Refer before you refuse?</th> </tr> </thead> <tbody> <tr> <td>322(1)</td> <td>The applicant is seeking leave to enter or remain for a purpose not covered by the rules.</td> <td>No</td> </tr> <tr> <td>322(1A)</td> <td>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.</td> <td> Yes, refer to senior case worker. You must also check the harm matrix before consideration. See related links for further guidance: <ul style="list-style-type: none"> • Case ownership processes and instructions, and • The harm matrix </td> </tr> <tr> <td>322 (1B)</td> <td>The applicant is, at the time of application, subject to a deportation order.</td> <td></td> </tr> <tr> <td>322 (1C)</td> <td> The applicant is seeking indefinite leave to remain and: <ul style="list-style-type: none"> • they have been convicted of an offence for which they have been sentenced to imprisonment for at least four years • they have been convicted of an offence for which they have been sentenced to imprisonment for at least 12 months but less than four years, unless a period of 15 </td> <td></td> </tr> </tbody> </table> | 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. See related links for further guidance: <ul style="list-style-type: none"> • Case ownership processes and instructions, and • The harm matrix | 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"> • they have been convicted of an offence for which they have been sentenced to imprisonment for at least four years • they have been convicted of an offence for which they have been sentenced to imprisonment for at least 12 months but less than four years, unless a period of 15 | | |
| | 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. See related links for further guidance: <ul style="list-style-type: none"> • Case ownership processes and instructions, and • The harm matrix | | | | | | | | | | | | | | |
| 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"> • they have been convicted of an offence for which they have been sentenced to imprisonment for at least four years • they have been convicted of an offence for which they have been sentenced to imprisonment for at least 12 months but less than four years, unless a period of 15 | | | | | | | | | | | | | | | | | |

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| | | <p>years has passed since the end of the sentence</p> <ul style="list-style-type: none">• they have been convicted of an offence for which they have been sentenced to imprisonment for less than 12 months, unless a period of seven years has passed since the end of the sentence, or• 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. | | |
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This guidance is based on the Immigration Rules

General grounds for refusal

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

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| <p>Leave to remain - mandatory refusals</p> <p>Leave to remain – paragraphs 322(1A) and 322(2) – deception</p> <p>Leave to remain - Discretionary refusals</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. This relates to general grounds for refusal under paragraph 322(1) of the rules.</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 related links:</p> <ul style="list-style-type: none">• Refusing leave to remain• Refusal wording. <p>For information on appeal rights see related link: Appeals (IDI chapter 12).</p> | <p>Related links</p> <p>Links to staff intranet removed</p> |
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This guidance is based on the Immigration Rules

General grounds for refusal

Leave to remain – paragraphs 322(1A) and 322(2) – deception

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| <p>Leave to remain - mandatory refusals</p> <p>Leave to remain – paragraphs 322(1A) and 322(2) – deception</p> <p>Leave to remain - Discretionary refusals</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. This relates to general grounds for refusal under paragraphs 322(1A) or 322(2) of the rules.</p> <div style="border: 2px solid red; padding: 10px;"><p style="text-align: center;">Restricted – do not disclose – start of section</p><p>The information in this page has been removed as it is restricted for internal Home Office use only.</p><p style="text-align: center;">Restricted – do not disclose – end of section</p></div> <p>When an applicant has used deception either in their current or previous application, for example, made a false representation, submitted false documents or information or not disclosed material facts, you:</p> <ul style="list-style-type: none">• must refuse their application under paragraph 322(1A) (when deception has been used | <p>In this section</p> <p>False representations – paragraphs 322(1A) and 322(2)</p> <p>False documents - paragraphs 322(1A) and 322(2)</p> <p>Material facts not disclosed - paragraphs 322(1A) and 322(2)</p> <p>Recording grounds for refusal on CID – paragraphs 322(1A) and (2)</p> <p>Subject to a deportation order – paragraph 322(1B)</p> <p>Indefinite leave to remain criminal convictions paragraph 322(1C)</p> <p>Related links</p> |
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| | <p>in a current application), or</p> <ul style="list-style-type: none">• should refuse their application under paragraph 322(2) (when deception was used in a previous application). <p>You should refuse leave to remain for these reasons, where there is satisfactory evidence to show that the applicant or their appointed representative has deliberately provided representations or documents which they know to be false. You should also refuse leave to remain if a previous use of deception was unsuccessful. The Immigration Rules treat the successful and unsuccessful use of deception equally.</p> <p>Before you refuse leave to remain under paragraph 322(1A) or 322(2), you must first refer your decision to your senior caseworker.</p> <p>Standard of evidence</p> <p>To refuse under paragraph 322(1A) or 322(2), you must have positive evidence to prove that the applicant has lied or submitted a false document. The burden of proof is to a 'higher standard of probabilities', which means it must be more likely than not that the applicant has made false representations or given forged documents to get leave. It is not appropriate to refuse a current application under paragraph 322(1A) simply because you are not satisfied that the applicant is telling the truth.</p> <p>To refuse under paragraph 322(2), you must show that:</p> <ul style="list-style-type: none">• 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. <p>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.</p> | Links to staff intranet removed |
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General grounds for refusal

False representations – paragraphs 322(1A) and (2)

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| <p>Leave to remain - mandatory refusals</p> <p>Leave to remain – paragraphs 322(1A) and 322(2) – deception</p> <p>Leave to remain - Discretionary refusals</p> | <p>This page explains what to consider when an applicant applying for leave to remain has made false representations. This relates to general grounds for refusal under paragraphs 322(1A) and 322(2) of the rules.</p> <p>A false representation under paragraph 322(1A) and (322(2) will be considered to have been made, where an applicant or third party deliberately and dishonestly makes a false statement in an application. This could be in writing, on the application form or supporting documents produced at interview. You must refuse such an application under either:</p> <ul style="list-style-type: none">• paragraph 322(1A) (when the false representation has been made in a current application), or• paragraph 322(2) (when the false representation was made in a previous application). <p>The requirement for a false representation to be deliberately and dishonestly made is derived from the ruling in the case of A (Nigeria) v SSHD, 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 connection with a current application, you must refuse the application under paragraph 322(1A). This applies even if:</p> <ul style="list-style-type: none">• the false representation is not relevant to the application or your decision. <p>When a representation is confirmed as false and was submitted in connection with a previous application, you should refuse the application under paragraph 322(2).</p> <p>When you refuse under either 322(1A) or 322(2), your evidence must clearly show that the applicant’s representations conflict with other evidence such as any 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, when an applicant has given an incorrect address or mis-spelt a name on their application form you should not</p> | <p>In this section</p> <p>False documents - paragraphs 322(1A) and 322(2)</p> <p>Material facts not disclosed - paragraphs 322(1A) and 322(2)</p> <p>Recording grounds for refusal on CID – paragraphs 322(1A) and (2)</p> <p>Subject to a deportation order – paragraph 322(1B)</p> <p>Indefinite leave to remain criminal convictions paragraph 322(1C)</p> <p>Related links</p> <p>Links to staff intranet removed</p> |
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refuse the application.

Where an applicant confirms they do not have any criminal convictions but our checks confirm they do, you must refuse the application. This is because they have deliberately made false representations so that they can obtain leave. 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:

- The applicant answers 'no' to the criminal conviction question on their application form.
- Caseworking checks confirm that they have been convicted of a criminal offence.
- The application must be refused, as there is enough reason to believe that they have answered falsely as the result of a deliberate choice rather than innocently.

Refusals on this basis must make specific reference to the fact that they answered 'no' to the question on criminal convictions and this was confirmed by them signing the application form. In the refusal letter you must add:

'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 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: Appeals (IDI chapter 12).

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General grounds for refusal

False documents – paragraphs 322(1A) and (2)

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| <p>Leave to remain - mandatory refusals</p> <p>Leave to remain – paragraphs 322(1A) and 322(2) – deception</p> <p>Leave to remain - Discretionary refusals</p> | <p>This page explains what to consider when an applicant applying for leave to remain has given a false document with their application. This relates to general grounds for refusal under paragraphs 322(1A) and 322(2) of the rules.</p> <p>When a document is independently confirmed as false, you must refuse leave to remain under either:</p> <ul style="list-style-type: none">• paragraph 322(1A) (when the false documents were given with a current application), or• 322(2) (when the false documents were given with a previous application). <p>For more information on false documents see related link: Forgery.</p> <p>When a document is independently confirmed as false and was submitted with a current application, you must refuse the application under paragraph 322(1A). This applies even if:</p> <ul style="list-style-type: none">• the false document is not relevant to the application or your decision• the applicant did not know, or claims not to know, that they had submitted a false document. <p>When a document is independently confirmed as false and was submitted in connection with a previous application, you must refuse the application under paragraph 322(2).</p> <p>Standard of proof</p> <p>To confirm that a document is false you must get independent evidence. Ideally, you should ask the authority which issued the document or information to confirm in writing that it is not genuine. When this is not possible, you should consider whether you can refuse the application for substantive reasons.</p> <p>You are free to point out any inconsistencies in a document which lead you to think that it cannot be trusted. For example:</p> | <p>In this section</p> <p>False representations – paragraphs 322(1A) and 322(2)</p> <p>Material facts not disclosed - paragraphs 322(1A) and 322(2)</p> <p>Recording grounds for refusal on CID – paragraphs 322(1A) and (2)</p> <p>Subject to a deportation order – paragraph 322(1B)</p> <p>Indefinite leave to remain criminal convictions paragraph 322(1C)</p> <p>Related links</p> <p>Links to staff intranet removed</p> |
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- An applicant has given bank statements with spelling errors. Also the transactions do not add up to the balance.
- Because confidentiality issues stop the bank confirming whether the document is genuine, you cannot refuse the application under 322(1A).
- Instead, you should point out each error on the statement and refuse the application on maintenance grounds. This is because the applicant has not proven they can meet the maintenance requirement.

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: Appeals (IDI chapter 12).

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General grounds for refusal

Material facts not disclosed – paragraphs 322(1A) and (2)

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| <p>Leave to remain - mandatory refusals</p> <p>Leave to remain – paragraphs 322(1A) and 322(2) – deception</p> <p>Leave to remain - Discretionary refusals</p> | <p>This page explains what to consider when an applicant applying for leave to remain has failed to disclose material facts. This relates to general grounds for refusal under paragraphs 322(1A) and 322(2) of the rules.</p> <p>When an applicant has not disclosed material facts which relate to a current application, you must refuse their application under paragraph 322(1A).</p> <p>When a material fact was not disclosed in a previous application, you must refuse the application under paragraph 322(2).</p> <p>A material fact is one which is relevant to your decision to grant leave to remain. You must not refuse an application when the information the applicant has withheld is not relevant to your decision or when failure to reveal information is an innocent mistake. For example:</p> <ul style="list-style-type: none">• An applicant has applied for indefinite leave to remain as a spouse.• Your casework checks show that the applicant receives Child Benefit but they have not declared this on their application form.• The applicant is claiming Child Benefit legally under an exception to their conditions of leave which state ‘no recourse to public funds’.• You cannot refuse the applicant under paragraph 322(1A) because, if they had disclosed the information, it would be inappropriate to refuse their application. <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> <p>For more information on refusing leave to remain and refusal wording, see related links:</p> <ul style="list-style-type: none">• Refusing leave to remain• Refusal wording. | <p>In this section</p> <p>False representations – paragraphs 322(1A) and 322(2)</p> <p>False documents - paragraphs 322(1A) and 322(2)</p> <p>Recording grounds for refusal on CID – paragraphs 322(1A) and (2)</p> <p>Subject to a deportation order – paragraph 322(1B)</p> <p>Indefinite leave to remain criminal convictions paragraph 322(1C)</p> <p>Related links</p> <p>Links to staff intranet removed</p> |
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| | For information on appeal rights see related link: Appeals (IDI chapter 12) . | |
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General grounds for refusal

Recording grounds for refusal on CID – paragraphs 322(1A) and (2)

[Leave to remain - mandatory refusals](#)

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

[Leave to remain - Discretionary refusals](#)

This page explains that an applicant applying for leave to remain who is refused under paragraph 322(1A) or 322(2) may be banned from getting future entry clearance or leave to enter because of paragraph 320(7B). This relates to general grounds for refusal under paragraphs 322(1A) and 322(2) of the rules.

When you refuse leave to remain, you must refer specifically to your grounds for refusal on CID. 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 related link: Previous breach of the rules - when paragraph 320(7B) does not apply.

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:

- ban triggered – yes
- ban triggered – no.

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: Appeals (IDI chapter 12).

In this section

[False representations – paragraphs 322\(1A\) and 322\(2\)](#)

[False documents - paragraphs 322\(1A\) and 322\(2\)](#)

[Material facts not disclosed - paragraphs 322\(1A\) and 322\(2\)](#)

[Subject to a deportation order – paragraph 322\(1B\)](#)

[Indefinite leave to remain criminal convictions paragraph 322\(1C\)](#)

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General grounds for refusal

Subject to a deportation order – paragraph 322(1B)

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| <p>False representations False documents Material facts not disclosed Recording grounds for refusal on CID</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 paragraph 322 (1B) 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 and how to refer a case to CC, see the relevant link: When to refer a case to criminal casework (CC).</p> | <p>In this section</p> <p>False representations – paragraphs 322(1A) and 322(2)</p> <p>False documents - paragraphs 322(1A) and 322(2)</p> <p>Material facts not disclosed - paragraphs 322(1A) and 322(2)</p> <p>Recording grounds for refusal on CID – paragraphs 322(1A) and (2)</p> <p>Indefinite leave to remain criminal convictions paragraph 322(1C)</p> <p>Related links</p> <p>When to refer a case to criminal casework (CC)</p> |
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General grounds for refusal

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

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| <p>False representations False documents Material facts not disclosed Recording grounds for refusal on CID</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">• have been convicted of an offence and sentenced to imprisonment for at least four years• were convicted of an offence and sentenced to imprisonment for at least 12 months but less than four years, and 15 years has not passed since the end of the sentence• were convicted of an offence and sentenced to imprisonment for less than 12 months, and seven years has not passed since the end of the sentence• 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. <p>For information on how to consider applications where the applicant falls into one of the above groups, see related link: 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>In this section</p> <p>False representations – paragraphs 322(1A) and 322(2)</p> <p>False documents - paragraphs 322(1A) and 322(2)</p> <p>Material facts not disclosed - paragraphs 322(1A) and 322(2)</p> <p>Recording grounds for refusal on CID – paragraphs 322(1A) and (2)</p> <p>Subject to a deportation order – paragraph 322(1B)</p> |
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This guidance is based on the Immigration Rules

General grounds for refusal

Leave to remain - discretionary refusals

[Failure to comply with conditions of stay – leave to remain](#)

[Failure to maintain and accommodate without using public funds – leave to remain](#)

[Not desirable to let a person remain in the UK – leave to remain](#)

[Criminality - leave to remain](#)

[No written sponsor undertaking - leave to remain](#)

[Declaration or undertaking not honoured](#)

[No ability to return](#)

[Failure to give information in reasonable time](#)

[Failure to attend for](#)

This page lists the discretionary 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 should normally refuse leave | Refer to senior caseworker before you refuse? |
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| 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. See related links for further guidance: Case ownership processes and instructions, and The harm matrix |
| 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. Restricted – do not disclose – start of section The information in this page has been removed as it is restricted for internal Home | Yes |

Related links

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| interview Child under 18, no written parent or guardian consent Failure to pay NHS charges – application for leave | | <p>Office use only.</p> <p>The information in this page has been removed as it is restricted for internal Home Office use only.</p> <p>Restricted – do not disclose – end of section</p> | | |
| | 322(5A) | <p>It is undesirable to permit the person concerned to enter or remain in the UK because:</p> <ul style="list-style-type: none"> • in the view of the Secretary of State, their offending has caused serious harm, or • in the view of the Secretary of State, they are a persistent offender who shows a particular disregard for the law. | 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 or undertaking given orally or in writing in relation to their intended purpose or duration and/or purpose of their stay. | No | |
| | 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 | No | |

This guidance is based on the Immigration Rules

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| | | interview by the Home Office but has failed to attend. | | |
| | 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) | The applicant has an outstanding charge of £1,000 or more to the National Health Service (NHS) in accordance with the relevant NHS regulations on charges to overseas visitors. | No (unless the debt is attached to a child under the age of 18). | |

This guidance is based on the Immigration Rules

General grounds for refusal

Failure to comply with conditions of stay – leave to remain

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| <p>Failure to comply with conditions of stay – leave to remain Failure to maintain and accommodate without using public funds – leave to remain Not desirable to let a person remain in the UK – leave to remain Criminality - leave to remain No written sponsor undertaking - leave to remain Declaration or undertaking not honoured No ability to return Failure to give information in reasonable time Failure to attend for interview Child under 18, no written parent or guardian consent Failure to pay NHS charges – application for leave</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. This relates to general grounds for refusal under paragraph 322(3) of the rules.</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">• no recourse to public funds• no recourse to public funds, no work or engaging in business• no recourse to public funds, employment as a Minister of Religion, changes must be authorised by the Secretary of State• register with the police. <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 related links:</p> <ul style="list-style-type: none">• Refusing leave to remain• Refusal wording. <p>For information on appeal rights see related link: Appeals (IDI Chapter 12).</p> | <p>Related links</p> <p>Links to staff intranet removed</p> |
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This guidance is based on the Immigration Rules

General grounds for refusal

Failure to maintain and accommodate without using public funds – leave to remain

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| <p>Failure to comply with conditions of stay – leave to remain Failure to maintain and accommodate without using public funds – leave to remain Not desirable to let a person remain in the UK – leave to remain Criminality - leave to remain No written sponsor undertaking - leave to remain Declaration or undertaking not honoured No ability to return Failure to give information in reasonable time Failure to attend for interview Child under 18, no written parent or guardian consent Failure to pay NHS charges – application for leave</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. This relates to general grounds for refusal under paragraph 322(4) of the rules.</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 related links:</p> <ul style="list-style-type: none">• Refusing leave to remain• Refusal wording. <p>For information on appeal rights see related link: Appeals (IDI chapter 12).</p> | <p>Related links</p> <p>Links to staff intranet removed</p> |
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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

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| <p>Failure to comply with conditions of stay – leave to remain Failure to maintain and accommodate without using public funds – leave to remain Not desirable to let a person remain in the UK – leave to remain Criminality - leave to remain No written sponsor undertaking - leave to remain Declaration or undertaking not honoured No ability to return Failure to give information in reasonable time Failure to attend for interview Child under 18, no written parent or guardian consent Failure to pay NHS charges – application for leave</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 general grounds for refusal under paragraph 322(5) of the rules.</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>For more information on such grounds for refusal, see related link: Grounds for refusal.</p> <div style="border: 2px solid red; padding: 10px; text-align: center;"><p>Restricted – do not disclose – start of section</p><p>The information in this page has been removed as it is restricted for internal Home Office use only.</p></div> | <p>Related links</p> <p>War crimes</p> <p>Links to staff intranet removed</p> |
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Restricted – do not disclose – 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.

Restricted – do not disclose – start of section

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

Restricted – do not disclose – end of section

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

This guidance is based on the Immigration Rules

- Refusing leave to remain
- Refusal wording.

For information on appeal rights see related link: Appeals (IDI chapter 12).

This guidance is based on the Immigration Rules

General grounds for refusal

Criminality – leave to remain

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| <p>Failure to comply with conditions of stay – leave to remain Failure to maintain and accommodate without using public funds – leave to remain Not desirable to let a person remain in the UK – leave to remain Criminality - leave to remain No written sponsor undertaking - leave to remain Declaration or undertaking not honoured No ability to return Failure to give information in reasonable time Failure to attend for interview Child under 18, no written parent or guardian consent Failure to pay NHS charges – application for leave</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 general grounds for refusal under paragraph 322(5) of the rules.</p> <p>When an applicant has been convicted of a criminal offence, you may need to refer the application to criminal casework (CC).</p> <div data-bbox="465 544 1644 719" style="border: 2px solid red; padding: 5px;"><p style="text-align: center;">Restricted – do not disclose – start of section</p><p style="text-align: center;">The information in this page has been removed as it is restricted for internal Home Office use only.</p><p style="text-align: center;">Restricted – do not disclose – end of section</p></div> <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 the related link: When to refer a case to criminal casework (CC).</p> <div data-bbox="465 946 1644 1305" style="border: 2px solid red; padding: 5px;"><p style="text-align: center;">Restricted – do not disclose – start of section</p><p style="text-align: center;">The information in this page has been removed as it is restricted for internal Home Office use only.</p><p style="text-align: center;">Restricted – do not disclose – end of section</p></div> | <p>In this section</p> <p>When to refer a case to criminal casework (CC)</p> <p>Criminal prosecution</p> <p>War crimes</p> <p>Security, character, behaviour and travel bans</p> <p>Offending which caused serious harm – paragraph 322(5A) (a)</p> <p>Persistent offenders - paragraph 322 (5A) (b)</p> <p>Related links</p> <p>Links to staff intranet removed</p> |
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This guidance is based on the Immigration Rules

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| | <p>For more information on refusing leave to remain and refusal wording, see related links:</p> <ul style="list-style-type: none">• Refusing leave to remain• Refusal wording. <p>For information on appeal rights see related link: Appeals (IDI Chapter 12).</p> | |
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General grounds for refusal

When to refer a case to criminal casework (CC)

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| <p>Failure to comply with conditions of stay – leave to remain Failure to maintain and accommodate without using public funds – leave to remain Not desirable to let a person remain in the UK – leave to remain Criminality - leave to remain No written sponsor undertaking - leave to remain Declaration or undertaking not honoured No ability to return Failure to give information in reasonable time Failure to attend for interview Child under 18, no written parent or guardian consent Failure to pay NHS charges – application for leave</p> | <p>This page explains when you must refer a case to criminal casework (CC). This relates to general grounds for refusal under paragraph 322(5) of the rules.</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">• there is a CC case owner and action has been started to deport the applicant• a court has recommended that the applicant is deported. <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">• 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 two or three sentences over a five year period.• From 01 August 2008, the applicant has been convicted of a serious drug offence (excluding simple possession) and received a custodial sentence of any length.• The applicant falls under the provisions of automatic deportation (commenced 01 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">○ that sentence was a single sentence for a single conviction, not including an aggregate or a consecutive sentence, and○ the applicant was still serving that sentence on or after 1 August 2008, and○ the applicant has not been served with a notice of decision to deport prior to 1 August 2008. <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 drug offences and the CC process for automatic deportation, see related links:</p> | <p>In this section</p> <p>Criminal prosecution</p> <p>War crimes</p> <p>Security, character, behaviour and travel bans</p> <p>Offending which caused serious harm – paragraph 322(5A) (a)</p> <p>Persistent offenders - paragraph 322 (5A) (b)</p> <p>Related links</p> <p>Links to staff intranet removed</p> |
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- Automatic deportation
- 1908 Drug Offences.

For EEA nationals, you must also refer to CC when the applicant has served or is serving a custodial sentence of:

- 24 months or more
- 12 months or more for offences falling within the following categories:
 - drug offences
 - sex offences
 - violent offences.

You must refer to Annex B of the CC European Economic Area (EEA) instructions for the full list of offences which meet these criteria, see related link: EEA cases.

There may be other exceptional circumstances when deportation is considered conducive to the public good - see below.

Before referring a case to CC you must make sure that the convictions which are the basis of the referral are not spent.

Convictions when there has been a court recommendation for deportation become spent in the same way as other cases. Spent convictions cannot normally be taken into account when assessing whether a person falls within the criteria for deportation. Therefore you should not refer these cases to CC unless they have additional convictions that meet the criteria above, or are an exceptional case.

Exceptional cases

Only in very exceptional circumstances can spent convictions be taken into account:

- When a deportation order has been issued and the person has gone to ground – until after the relevant convictions are spent - the deportation order will still remain in force.

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.

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.

For more information on types of convictions or offences, see related link: [Sentence based thresholds](#).

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

This guidance is based on the Immigration Rules

- Refusing leave to remain
- Refusal wording.

For information on appeal rights see related link: Appeals (IDI chapter 12).

This guidance is based on the Immigration Rules

General grounds for refusal

Criminal prosecution

[Failure to comply with conditions of stay – leave to remain](#)
[Failure to maintain and accommodate without using public funds – leave to remain](#)
[Not desirable to let a person remain in the UK – leave to remain](#)
[Criminality - leave to remain](#)
[No written sponsor undertaking - leave to remain](#)
[Declaration or undertaking not honoured](#)
[No ability to return](#)
[Failure to give information in reasonable time](#)
[Failure to attend for interview](#)
[Child under 18, no written parent or guardian consent](#)
[Failure to pay NHS charges – application for leave](#)

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 general grounds under paragraph 322(5).

For guidance on pending prosecutions, see related link: Sentence based thresholds.

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: Appeals (IDI chapter 12).

In this section
[When to refer a case to criminal casework \(CC\)](#)

[War crimes](#)

[Security, character, behaviour and travel bans](#)

[Offending which caused serious harm – paragraph 322\(5A\) \(a\)](#)

[Persistent offenders - paragraph 322 \(5A\) \(b\)](#)

This guidance is based on the Immigration Rules

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This guidance is based on the Immigration Rules

General grounds for refusal

War crimes

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| <p>Failure to comply with conditions of stay – leave to remain Failure to maintain and accommodate without using public funds – leave to remain Not desirable to let a person remain in the UK – leave to remain Criminality - leave to remain No written sponsor undertaking - leave to remain Declaration or undertaking not honoured No ability to return Failure to give information in reasonable time Failure to attend for interview Child under 18, no written parent or guardian consent Failure to pay NHS charges – application for leave</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. This relates to general grounds for refusal under paragraph 322(5) of the rules.</p> <div style="border: 2px solid red; padding: 10px; text-align: center;"><p>Restricted – do not disclose – start of section</p><p>The information in this page has been removed as it is restricted for internal Home Office use only.</p><p>Restricted – do not disclose – end of section</p></div> <p>For more information on refusing leave to remain and refusal wording, see related links:</p> <ul style="list-style-type: none">• Refusing leave to remain | <p>In this section</p> <p>When to refer a case to criminal casework (CC)</p> <p>Criminal prosecution</p> <p>Security, character, behaviour and travel bans</p> <p>Offending which caused serious harm – paragraph 322(5A) (a)</p> <p>Persistent offenders - paragraph 322 (5A) (b)</p> <p>Related links</p> <p>Links to staff intranet removed</p> |
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This guidance is based on the Immigration Rules

- Refusal wording.

For information on appeal rights see related link: [Appeals \(IDI chapter 12\)](#).

This guidance is based on the Immigration Rules

General grounds for refusal

Security, character, behaviour and travel bans

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| <p>Failure to comply with conditions of stay – leave to remain Failure to maintain and accommodate without using public funds – leave to remain Not desirable to let a person remain in the UK – leave to remain Criminality - leave to remain No written sponsor undertaking - leave to remain Declaration or undertaking not honoured No ability to return Failure to give information in reasonable time Failure to attend for interview Child under 18, no written parent or guardian consent Failure to pay NHS charges – application for leave</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. This relates to general grounds for refusal under paragraph 322(5) of the rules.</p> <p>For more information see related link: Immigration Rules: General grounds for refusal – paragraph 322.</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">• ‘article 1F of the refugee convention’ (see related link)• ‘acts against the purposes of the United Nations’ – see section 2.4 of the above instruction• the applicant is the subject of an United Nations (UN) or European Union (EU) travel ban. <div data-bbox="465 917 1646 1404" style="border: 2px solid red; padding: 10px;"><p style="text-align: center;">Restricted – do not disclose – start of section</p><p>The information in this page has been removed as it is restricted for internal Home Office use only.</p></div> | <p>In this section</p> <p>When to refer a case to criminal casework (CC)</p> <p>Criminal prosecution</p> <p>War crimes</p> <p>Offending which caused serious harm – paragraph 322(5A) (a)</p> <p>Persistent offenders - paragraph 322 (5A) (b)</p> <p>Related links</p> <p>Links to staff intranet removed</p> |
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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 related links:

- Refusing leave to remain
- Refusal wording.

For information on appeal rights see related link: Appeals (IDI chapter 12).

This guidance is based on the Immigration Rules

General grounds for refusal

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

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| <p>Failure to comply with conditions of stay – leave to remain Failure to maintain and accommodate without using public funds – leave to remain Not desirable to let a person remain in the UK – leave to remain Criminality - leave to remain No written sponsor undertaking - leave to remain Declaration or undertaking not honoured No ability to return Failure to give information in reasonable time Failure to attend for interview Child under 18, no written parent or guardian consent Failure to pay NHS charges – application for leave</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">• manslaughter• dangerous driving• driving whilst under the influence of drink and/or drugs• arson. <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 related guidance: Sentence based thresholds.</p> | <p>In this section</p> <p>When to refer a case to criminal casework (CC)</p> <p>Criminal prosecution</p> <p>War crimes</p> <p>Security, character, behaviour and travel bans</p> <p>Persistent offenders - paragraph 322 (5A) (b)</p> |
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This guidance is based on the Immigration Rules

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General grounds for refusal

Persistent offenders – paragraph 322 (5A) (b)

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| <p>Failure to comply with conditions of stay – leave to remain Failure to maintain and accommodate without using public funds – leave to remain Not desirable to let a person remain in the UK – leave to remain Criminality - leave to remain No written sponsor undertaking - leave to remain Declaration or undertaking not honoured No ability to return Failure to give information in reasonable time Failure to attend for interview Child under 18, no written parent or guardian consent Failure to pay NHS charges – application for leave</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 related link: 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>In this section</p> <p>When to refer a case to criminal casework (CC)</p> <p>Criminal prosecution</p> <p>War crimes</p> <p>Security, character, behaviour and travel bans</p> <p>Offending which caused serious harm – paragraph 322(5A) (a)</p> |
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This guidance is based on the Immigration Rules

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This guidance is based on the Immigration Rules

General grounds for refusal

No written sponsor undertaking

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| <p>Failure to comply with conditions of stay – leave to remain Failure to maintain and accommodate without using public funds – leave to remain Not desirable to let a person remain in the UK – leave to remain Criminality - leave to remain No written sponsor undertaking - leave to remain Declaration or undertaking not honoured No ability to return Failure to give information in reasonable time Failure to attend for interview Child under 18, no written parent or guardian consent Failure to pay NHS charges – application for leave</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. This relates to general grounds for refusal under paragraph 322(6) of the rules.</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 related links:</p> <ul style="list-style-type: none">• Refusing leave to remain• Refusal wording. <p>For information on appeal rights see related link: Appeals (IDI chapter 12).</p> | <p>Related links</p> <p>Links to staff intranet removed</p> |
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This guidance is based on the Immigration Rules

General grounds for refusal

Declaration or undertaking not honoured

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| <p>Failure to comply with conditions of stay – leave to remain Failure to maintain and accommodate without using public funds – leave to remain Not desirable to let a person remain in the UK – leave to remain Criminality - leave to remain No written sponsor undertaking - leave to remain Declaration or undertaking not honoured No ability to return Failure to give information in reasonable time Failure to attend for interview Child under 18, no written parent or guardian consent Failure to pay NHS charges – application for leave</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. This relates to general grounds for refusal under paragraph 322(7) of the rules.</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 paragraph 322(7). 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>Standard of proof</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 related links:</p> <ul style="list-style-type: none">• Refusing leave to remain• Refusal wording. <p>For information on appeal rights see related link: Appeals (IDI chapter 12).</p> | <p>Related links</p> <p>Links to staff intranet removed</p> |
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This guidance is based on the Immigration Rules

General grounds for refusal

No ability to return

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| <p>Failure to comply with conditions of stay – leave to remain Failure to maintain and accommodate without using public funds – leave to remain Not desirable to let a person remain in the UK – leave to remain Criminality - leave to remain No written sponsor undertaking - leave to remain Declaration or undertaking not honoured No ability to return Failure to give information in reasonable time Failure to attend for interview Child under 18, no written parent or guardian consent Failure to pay NHS charges – application for leave</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. This relates to general grounds for refusal under paragraph 322(8) of the rules.</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 paragraph 322(8). You cannot refuse an applicant on this ground if they qualify for:</p> <ul style="list-style-type: none">• settlement, or• limited leave which leads to settlement. <p>To decide whether an applicant can return abroad, you must check the validity of:</p> <ul style="list-style-type: none">• the passport or travel document• returning visa or exit permit (if applicable). <p>For more information on refusing leave to remain and refusal wording, see related links:</p> <ul style="list-style-type: none">• Refusing leave to remain• Refusal wording. <p>For information on appeal rights see related link: Appeals (IDI chapter 12).</p> | <p>Related links</p> <p>Links to staff intranet removed</p> |
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This guidance is based on the Immigration Rules

General grounds for refusal

Failure to give information within a reasonable time

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| <p>Failure to comply with conditions of stay – leave to remain Failure to maintain and accommodate without using public funds – leave to remain Not desirable to let a person remain in the UK – leave to remain Criminality - leave to remain No written sponsor undertaking - leave to remain Declaration or undertaking not honoured No ability to return Failure to give information in reasonable time Failure to attend for interview Child under 18, no written parent or guardian consent Failure to pay NHS charges – application for leave</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. This relates to general grounds for refusal under paragraph 322(9) of the rules.</p> <p>When an applicant has made a valid application but you need more information to make your decision, you should:</p> <ul style="list-style-type: none">• ask in writing for the applicant to give the information within a set number of days• state that if they fail to give all the evidence requested (without good reason), you may refuse their application. <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 paragraph 322(9) 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">• the extra information you requested and the refusal notice crossed in the post, or• the information was lost by the Home Office. <p>For more information on refusing leave to remain and refusal wording, see related links:</p> <ul style="list-style-type: none">• Refusing leave to remain• Refusal wording. <p>For information on appeal rights see related link: Appeals (IDI chapter 12).</p> | <p>Related links</p> <p>Links to staff intranet removed</p> |
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This guidance is based on the Immigration Rules

General grounds for refusal

Failure to attend for interview

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| <p>Failure to comply with conditions of stay – leave to remain Failure to maintain and accommodate without using public funds – leave to remain Not desirable to let a person remain in the UK – leave to remain Criminality - leave to remain No written sponsor undertaking - leave to remain Declaration or undertaking not honoured No ability to return Failure to give information in reasonable time Failure to attend for interview Child under 18, no written parent or guardian consent Failure to pay NHS charges – application for leave</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. This relates to general grounds for refusal under paragraph 322(10) of the rules.</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">• give them the chance to come to a second interview, and• warn that if they fail to come again, you may refuse their application. <p>For more information on refusing leave to remain and refusal wording, see related links:</p> <ul style="list-style-type: none">• Refusing leave to remain• Refusal wording. <p>For information on appeal rights see related link: Appeals (IDI chapter 12).</p> | <p>Related links</p> <p>Links to staff intranet removed</p> |
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This guidance is based on the Immigration Rules

General grounds for refusal

Child under 18, no written parent or guardian consent

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| <p>Failure to comply with conditions of stay – leave to remain Failure to maintain and accommodate without using public funds – leave to remain Not desirable to let a person remain in the UK – leave to remain Criminality - leave to remain No written sponsor undertaking - leave to remain Declaration or undertaking not honoured No ability to return Failure to give information in reasonable time Failure to attend for interview Child under 18, no written parent or guardian consent Failure to pay NHS charges – application for leave</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(s) or legal guardian. This relates to general grounds for refusal under paragraph 322(11) of the rules.</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(s) or legal guardian, you must ask for written consent from their parent(s) 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 related link: Safeguard and promote child welfare.</p> <p>For more information on refusing leave to remain, and refusal wording see related links:</p> <ul style="list-style-type: none">• Refusing leave to remain• Refusal wording. <p>For information on appeal rights see related link: Appeals (IDI chapter 12).</p> | <p>Related links</p> <p>Links to staff intranet removed</p> |
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General grounds for refusal

Failure to pay NHS charges – application for leave

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| <p>Failure to comply with conditions of stay – leave to remain Failure to maintain and accommodate without using public funds – leave to remain Not desirable to let a person remain in the UK – leave to remain Criminality - leave to remain No written sponsor undertaking - leave to remain Declaration or undertaking not honoured No ability to return Failure to give information in reasonable time Failure to attend for interview Child under 18, no written parent or guardian consent Failure to pay NHS charges – application for leave</p> | <p>This page tells you what to do when an applicant applying for leave has outstanding National Health Service (NHS) charges of £1,000 or more.</p> <p>You must check if an applicant has failed to pay an outstanding charge or charges with a total of at least £1,000, to one or more relevant NHS bodies.</p> <p>The check must be carried out if the applicant is applying for:</p> <ul style="list-style-type: none">• further leave, or• indefinite leave. <p>These charges are in line with the relevant NHS charges to overseas visitors and relate to general grounds for refusal under paragraph 322(12) of the rules.</p> <div style="border: 2px solid red; padding: 5px; text-align: center;"><p>Restricted – do not disclose – start of section</p><p>The information in this page has been removed as it is restricted for internal Home Office use only.</p><p>Restricted – do not disclose – end of section</p></div> <p>If the check confirms the applicant has an outstanding NHS charge or charges of £1,000 or over you should refuse the applicant on this basis, subject to the consideration of exceptions.</p> <p>If the check does not confirm the application has outstanding NHS charge or charges, you must not refuse the applicant on this basis, even if they have received NHS treatment. This is because it is for the NHS body providing the treatment to determine whether the individual is required to pay for the treatment or whether they are a debtor. Details of the exemptions which exist in respect of payments for NHS treatment can be found on Department of Health</p> | <p>Related links</p> <p>Links to staff intranet removed</p> |
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website (see related link).

Where the NHS charge relates to a linked applicant

If you refuse the applicant on this basis, but they have dependants over the age of 18 linked to the application, they must also be refused. They must be refused on the basis that the main applicant's application is being refused.

However, where the outstanding charge or charges is related to a dependant and not the main applicant, it will not affect the main applicant's application. You must only refuse the dependant on this basis.

Where the treatment relates to a minor, which is anyone under the age of 18, their parent(s) or guardian(s) are liable for any NHS costs. These cases will also be identified by the NHS. If the checks show the outstanding charge or charges are attached to a minor, the application must be referred to a higher executive officer (HEO) before a decision is taken. The HEO must consider any Article 8 implications. In these cases, you must contact the relevant NHS body to make sure the charge has been correctly made against the minor and not the parent(s) or guardian(s).

For more information on Article 8, see related link.

Restricted – do not disclose – start of section

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

Restricted – do not disclose – end of section

Exceptional circumstances

Where an applicant has an outstanding charge or charges for NHS treatment, full consideration must be given to the application. You must consider whether to refuse on this basis or whether a discretionary consideration is appropriate. See related link: Leave outside the rules.

Where Article 3 grounds are raised (including implicitly) these must be referred to the

relevant team. See related link: Article 3.

Documenting the refusal

If you refuse an application on this basis, you will need to contact the relevant NHS body or their appointed agent to obtain written confirmation of the outstanding charge. You can accept the confirmation by letter or fax. The confirmation must include the following information:

- patient's full name
- date of birth
- nationality
- address
- outstanding charge
- location of treatment
- dates of treatment
- details of any attempts to obtain payment in respect of the treatment.

The confirmation must be included in the appeal bundle.

You must not proceed with the refusal if the relevant NHS body informs you the applicant no longer is a debtor.

Making sure latest information is used

You must make sure the written evidence was submitted no more than two days before the date of decision, before refusing further or indefinite leave to remain under paragraph 322(12). If the written evidence was submitted more than two days before the date of decision, a further check with the NHS body must be carried out to make sure the amount has not been repaid in the interim.

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

- Refusing leave to remain
- Refusal wording.

This guidance is based on the Immigration Rules

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| | For information on appeal rights, see related link: Appeals (IDI chapter 12) . | |
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