

Reviews

Introduction

Where should review requests be sent?

The applicant can only ask for one review of an initial HSMP application

No further evidence should be provided

What if the applicant sends in further information with the review request?

What if the review request is more than 28 days after the original HSMP decision?

What if the letter is a complaint about the handling of an application?

The review should not be worked by the same caseworker

The process of reviewing an application

What process should the caseworker follow on the caseworker comments?

What if a caseworker considers the review should be approved?

Wording concerning reviews

Introduction

Applicants or representatives may request a single review of a refused application. Reviews must always be based on the evidence that was supplied with the initial application. No new information can be considered.

The applicant or representative should send in either a review request form or a letter requesting a review of the initial consideration, explaining why they feel the application was not considered correctly. Verbal requests will not be accepted.

Work Permits (UK) should receive the request within 28 days of the date of the refusal letter. Any review requests received after this date will not normally be accepted (please refer to Q & A below).

Following the update to the Programme in November 2006, any reviews requested for refusals of applications made under the criteria in force prior to this date will continue to be assessed under the criteria in place when the original application was made. The previous caseworker instructions will be retained on Knowledge Base for reference in these circumstances.

Where should review requests be sent?

The applicant/representative should send the request for a review to the following:

**HSMP Team
PO Box 3468
Sheffield
S3 8WA**

E-mail: hsmp.workpermits@ind.homeoffice.gsi.gov.uk

Fax: 0114 207 6021

The applicant is entitled to one review of an initial HSMP application

The HSMP team will only accept one review for each initial application refused. An establishment of entitlement to review will be made. Grounds which do not meet this entitlement are:

- Review request received outside 28 days from the date of the refusal;
- Further information provided;
- Second review request.

An independent caseworker on the HSMP team will undertake a fresh reconsideration of the case. Where the caseworker reviewing the application identifies further grounds for refusal the decision to maintain refusal of the application will stand even if the scoring section the applicant requested to be reviewed has been overturned.

No further evidence should be provided

The fact that the applicant or representative states that no further evidence is provided, does not necessarily mean that this is the case. When the review request is received the past papers should be recalled and the caseworker should check the application to ensure that no fresh evidence has been included. The following are examples of new information:

- Supporting documents not previously submitted; and
- Revised references or salary details.

The following does not constitute new information:

- Justifiable reasons/explanations why the applicant feels we have misinterpreted HSMP criteria or evidence submitted in support of the initial application; and
- Repeat copies of material we have already seen.

What if the applicant sends in further information with the review request?

If any fresh evidence has been included in the review request it will be returned to the applicant or representative with a letter explaining that they must make a fresh application if they wish the further information to be considered.

A paragraph for inclusion in the refusal letter is on the chapter on 'Wording for refusal letters'.

What if the review request is received more than 28 days after the original HSMP decision?

Where a review request is received more than 28 days after the date of the HSMP decision a supervisor (EO) will consider if there are extenuating circumstances to explain the delay. If there is no such explanation, it will be returned to the applicant or representative with a letter advising them that their review will not be considered and if they still wish to apply for HSMP they should make a fresh application. A paragraph for inclusion in the refusal letter is included in the chapter on 'Wording for refusal letters'.

What if the letter is a complaint about the handling of an application?

Where the complaint refers to matters other than the assessment of the evidence provided, the letter should be forwarded to the WP(UK) Complaints and Compensation Team to monitor and provide an appropriate response. Where in doubt, the complaints section should be consulted.

The review should not be worked by the same caseworker

A review of a decision should always be undertaken by a different caseworker to the person who initially considered the application. If a caseworker finds they have been allocated a review that they caseworked initially they should return it to a supervisor to be re-allocated.

The process of reviewing an application

The consideration process of a review begins again at '0' (zero points) and a full review of the entire HSMP application will be undertaken. All reviews where the original decision to refuse is overturned, must be checked by a team manager.

Caseworkers may, on re-consideration, agree that points should be awarded for the section that the applicant/representative has questioned.

By following the normal consideration processes and undertaking any necessary checks the caseworker may find that points should not have been previously awarded to a section. In this case points should not be awarded on review.

- If the discrepancy is due to final verification checks not undertaken on the previous application, and verification shows the evidence is not reliable, points should not be awarded and the reason that the verification check failed should be briefly given in the letter.
- If the discrepancy is due to previous consideration error, the team manager should be consulted. In this instance if a previous error has occurred points should not be awarded, and an explanation of why points have been withheld should be given in the letter.
- Where further grounds for refusal are identified, the decision to maintain refusal on the case will stand, even if the original basis for refusal has been overturned.

Before removing points previously awarded, the review caseworker should consult their manager. If the overall decision is to maintain refusal, the letter should be carefully worded and personalised.

What process should the caseworker follow on the caseworker comments?

When a caseworker receives a review they will have the review request and the initial application file. They should make a fresh consideration of the entire application. The previous comments should be read to ensure that previous findings on verification are taken into consideration.

Comments for sections where the points claimed were previously awarded

The caseworker should use the comments stencil for the review consideration. If a section was awarded the points in the previous application and the review caseworker agrees with the consideration, then they should complete the stencil, adding to the comments 'agree with comments made against the previous application – award points'.

If the reviewing caseworker disagrees with the previous consideration, they should copy across the previous comments, and give details of why they disagree. They should then complete the process of considering the case. If the case still falls for overall refusal they should bring to the attention of a manager that they have not awarded points in an area where the points were previously awarded.

Comments for sections where caseworker considers points should have been awarded

The review caseworker should use the comments stencil. After consideration, if the reviewing caseworker considers that the evidence supplied by the applicant is sufficient to award points they should put appropriate comments on Adept and award the points.

What if a caseworker considers the review should be approved?

If, after reviewing the areas requested by the applicant, the application should be approved, the application should be caseworked in the normal way and an approval letter created. All reviews where the original decision to refuse is overturned, must be checked by a team manager.

Wording concerning reviews

The caseworker should ensure that the appropriate paragraphs have been added to the appropriate letter when composing the decision letter. Please see the chapter on 'Wording for refusal letters' for the paragraphs.