



Home Office

Reconsiderations

Reconsiderations

About this guidance

<p>About this guidance What is an acceptable reconsideration request What is not an acceptable reconsideration request Requirements for new reconsideration requests Legacy reconsideration requests Pre-sift for legacy reconsideration requests Applicant's status after submitting a reconsideration request Reconsideration request: initial checks Considering a reconsideration Reconsiderations: decisions Reconsiderations and appeals Reconsiderations: pre-action protocol cases and judicial review claims</p>	<p>This guidance tells caseworkers what to do when an applicant believes a relevant Home Office temporary or permanent migration decision is incorrect and asks for it to be reconsidered.</p> <p>This guidance deals with 3 categories of reconsideration request, reconsideration requests sent to the Home Office:</p> <ul style="list-style-type: none">• before 13 November 2012• on or after 13 November 2012• on or after 6 April 2015 <p>It tells you:</p> <ul style="list-style-type: none">• which decisions can be reconsidered• the process applicants must follow to request a reconsideration• how to process the requests <p>It covers requests for:</p> <ul style="list-style-type: none">• decisions on applications for limited or indefinite leave to remain made:<ul style="list-style-type: none">○ by postal application○ at a public enquiry office (PEO)• transfer of conditions (TOC)• no time limit (NTL)• Turkish European Community Association Agreement (ECAAA) <p>For more information on which requests are covered by the legacy policy and how to process them, see link on left: Legacy reconsideration requests.</p> <p>What this guidance does not cover This guidance does not apply to:</p>	<p>In this section Changes to this guidance</p> <p>Contact</p> <p>Information owner</p> <p>Links to staff intranet removed</p>
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- entry clearance in any category
- in the UK decisions which have a right of administrative review
- refusal of protection claims (this means decisions on asylum and humanitarian protection claims as well as on protection-based claims under article 3 of the European Convention on Human Rights)
- European Economic Area (EEA) nationals and their family members
- Bulgarian and Romanian nationals
- nationality decisions
- port decisions
- curtailment decisions
- enforcement decisions
- representations against removal made to a local immigration team

There is no right of reconsideration under this policy against decisions under any of the above categories.

For information on what is a valid reconsideration request, see link on left: requirements for new reconsideration requests.

For more information on administrative reviews see related links:

- for overseas applications: [Application for administrative review of a visa decision](#)
- for in the UK applications: [Administrative review guidance](#)

There are special arrangements for the consideration (or reconsideration on or after 9 July 2012) of any article 8 family and/or private life claim that was raised in the original application For more information see the related link.

Changes to this guidance - This page lists the changes to this guidance, with the most recent at the top.

Contacts - This page explains who to contact for more help or advice.

	Information owners - This page tells you about this version of the document and who owns it.	
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What is an acceptable reconsideration request

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April 2015 and meets the requirements set out in this policy

- there is no right of administrative review against the decision
- the reconsideration request was made on or after 13 November 2012, it relates to a granted application with no right of administrative review, and the applicant believes the type of leave granted or the expiry date of the leave is incorrect
- the reconsideration request was made on or after 13 November 2012, relates to a refused application and the applicant is:
 - providing new evidence to prove the date of application
 - providing new evidence that documents submitted with the application are genuine
 - identifying relevant material which was not available to the caseworker but was received by the Home Office before the decision date.
- the reconsideration is a legacy request submitted before 13 November 2012 and there are still reasons to reconsider the decision

If you are unsure whether to accept the reconsideration request, you must refer the case to your senior manager for advice.

See links on left for information on:

- what is not an acceptable reconsideration request
- the requirements a request must meet
- legacy reconsideration requests

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What is not an acceptable reconsideration request

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Requirements for new reconsideration requests

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- the applicant made an administrative review application
- any such application was successful
- more than one request for a reconsideration of the same decision.
- new evidence to support the qualifying requirements for their application if it will not be considered as part of the reconsideration process; this evidence must be raised as part of a new application, unless it affects the decision and does one or more of the following:
 - prove the date of application
 - prove the documents provided with the original application were genuine
 - identify relevant material which was not available to the caseworker but was received by the Home Office before the decision date

For more information on administrative review, see related link.

Time limit for making a reconsideration request

The reconsideration request must be submitted within 14 working days of the deemed date of receiving the decision, for all decisions made on or after 6 April. Applications submitted after this deadline has expired must normally be rejected, unless both the following apply:

- there are exceptional reasons which prevented the applicant from making a request within the time limit
- the request was made as soon as reasonably practicable.

The applicant may need to provide evidence of the exceptional circumstances.

For decisions made before 6 April, the deadline is 3 months from the deemed date of receiving the decision.

The deemed date of receiving a decision sent by post to a UK address is 2 working days after the decision was posted, unless the migrant can prove they received the decision on a later date.

When a reconsideration request lapses

An applicant’s reconsideration request will lapse (this means it will receive no further consideration) if the applicant’s status has been resolved because they have:

- been granted leave in another category
- left the UK and their leave has expired or lapsed
- been removed or deported from the UK
- appealed the decision under reconsideration and exhausted all their appeal rights
- sought judicial review of the decision and permission was refused or the decision was subsequently upheld at the substantive hearing

You must reject any reconsideration request where the applicant's status has been resolved as above, whether this happened before or after making the request. The Home Office will not contact the applicant about the reconsideration if they have left the UK and this has caused the reconsideration request to lapse (as above). The only exception is that if the migrant has a recognised legal representative in the UK, then you must send the rejection letter to the representative.

The effect of a fresh application

For decisions made on or after 9 July 2013, if an applicant makes a reconsideration request and then submits a fresh application for limited or indefinite leave to remain, this will have the effect of withdrawing the reconsideration request.

If the migrant makes a reconsideration request about a decision made on or after 9 July 2013 after making a new application, you must reject the request.

For more information on what can and cannot be treated as a reconsideration, see links on left:

- What is an acceptable reconsideration request
- What is not an acceptable reconsideration request

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Legacy reconsideration requests

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- reconsideration requests sent on or after 13 November 2012.
- curtailment decisions
- refusal of asylum applications (including decisions on protection-based claims under article 3 of the European Convention on Human Rights)
- port or enforcement decisions
- nationality decisions
- decisions on applications made outside the UK

For more information on how to pre-sift legacy reconsideration requests, see link on left:
[Pre-sift for legacy reconsideration requests.](#)

For more information on what is not a reconsideration request, see link on left.

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Pre-sift for legacy reconsideration requests

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- in all other cases keep the documents on file
- if the migrant has abandoned their reconsideration request by leaving the UK and their leave has expired or lapsed, you do not need to produce a decision letter or notify the migrant of the rejection; the only exception is if the migrant has a recognised legal representative in the UK, in which case you must send the rejection letter to the representative
- record the outcome on CID
- allocate case ownership to the relevant team so they can begin progressive enforcement action, if the migrant is still in the UK

For more information on keeping documents, see related link: [Retention of valuable documents](#)

Accepting the legacy request

If you have not rejected the request, place the case in the workflow queue for reconsideration. For information on how to reconsider an application, see link on left: [Considering a reconsideration](#).

For more information on what can and cannot be treated as a reconsideration and the requirements for reconsiderations, see links on left:

- [What is an acceptable reconsideration request](#)
- [What is not an acceptable reconsideration request](#)

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Applicant's status after submitting a reconsideration request

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Reconsideration request: initial checks

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This page tells you what to check when you receive a reconsideration request from the applicant.

If you receive a new or legacy reconsideration request about a decision covered by this guidance, you must check:

Check	Action
Check CID to confirm the applicant did not have a right of appeal against the decision, if the decision was made on or after 6 April 2015	Reject the reconsideration request if the applicant had a right of appeal review against the decision, whether or not they exercised that right.
Check CID to confirm the applicant did not have a right of administrative review against the decision.	Reject the reconsideration request if the applicant had a right of administrative review against the decision, whether or not they exercised that right.
CID to confirm this is the applicant's first reconsideration request.	<ul style="list-style-type: none"> Reject the reconsideration request if the decision has already been reconsidered and send an appropriate letter to the applicant. This does not apply to legacy requests if the Home Office has already undertaken to reconsider the decision again. If the request is about a decision made on or after 9 July 2013, you must make sure the migrant has not made a subsequent application for limited or indefinite leave to remain.

Links to staff intranet removed

	<p>The applicant's request is not a 'letter before claim' or 'pre-action protocol'.</p>	<p>Refer these requests to your senior caseworker or manager. For more information on what to do if the request is a pre-action protocol, see link on left: Reconsiderations: pre-action protocol cases and judicial review claims.</p>	
	<p>The applicant has made their request in writing and stated the grounds for their reconsideration request.</p>	<p>If the request is not made in writing you must ask them to put the request in writing.</p>	
	<p>The applicant made their request within 14 calendar days of receiving the decision, if it relates to a decision made on or after 6 April 2015. For decisions made before 6 April 2015, the deadline is 3 months from the date of receiving the decision.</p>	<p>You must reject the request if it was made out of time, unless there are exceptional reasons why it could not have been made in time.</p>	
	<p>If the applicant changes their representative, or appoints one for the first time, before you accept the change of representative, you must check:</p> <ul style="list-style-type: none"> • they have given us written authorisation for the representative to act on their behalf, and any new representative the applicant nominates is either: <ul style="list-style-type: none"> ○ regulated by the Office of the Immigration Service Commission (OISC) ○ a solicitor or barrister 	<p>To accept the change of representative you must update CID with the new contact details.</p> <p>To reject representative changes because they are not appropriately regulated you must write to the applicant and their proposed representative informing them you cannot correspond with the new representative about the case.</p> <p>Rejecting the change of representative is not a reason for rejecting the reconsideration request.</p>	
<p>You must not accept reconsideration or legacy reconsideration requests that do not meet</p>			

the criteria set out in the 'Requirements for reconsideration requests' section of this guidance.

If you are unsure whether to accept the reconsideration request, you must refer the case to your senior manager for advice.

For more information on reconsideration requests, see links on left:

- Requirements for new reconsideration requests
- Legacy reconsideration requests
- Pre-sift for legacy reconsideration requests

For more information on new evidence, see related link: Considering a reconsideration: evidence and information.

Rejecting a reconsideration request

If your initial checks confirm you cannot accept the reconsideration request, you must:

- produce and complete the standard ICD.4563 'reconsideration request rejection' letter, using DocGen, and send it to the applicant, or their representative if they have one, explaining you cannot reconsider the application, stating the reason(s) for rejection
- update CID to record:
 - that the reconsideration request was received
 - it was rejected
 - the reason(s) for rejection

Do not add a decision 'Outcome to be Reconsidered by UKBA' in the CID outcome field if you are rejecting the reconsideration request.

For more information on what can and cannot be treated as a reconsideration, see links on left:

- What is an acceptable reconsideration request
- What is not an acceptable reconsideration request

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Considering a reconsideration

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This section tells you what to consider and what is relevant information when reconsidering a decision, after you receive a valid written reconsideration request.

Who processes the reconsideration

Type of case	Who considers the case
New	The team who originally granted the applicant leave. If the team no longer exists it must be done by the team who cover work in that area.
Legacy	The team who were set up to process legacy reconsideration requests.

The reconsideration must be reviewed by a caseworker of at least the same grade as the one who made the original decision but not by the same caseworker.

You must refer any complex or difficult cases to a more senior manager for advice.

Processing the reconsideration

When you reconsider a decision, you must focus on considering the points the applicant has raised in the reconsideration request and satisfy yourself that, having taken those into account, the original decision was correct.

Reconsidering granted applications

You only need to check the following aspects of the applicant's grant of leave that they have challenged are correct:

- period of leave was granted
- condition code was used
- applicant's details were on the grant of leave

In this section

[Considering a reconsideration: evidence and information](#)

Links to staff intranet removed

Checking the details of the request for legacy cases

You must check:

- the decision was lawful, and:
 - made in line with the Immigration Rules and any other relevant legislation, and consistent with any applicable policies, guidance and instructions that applied on the date the decision was made (in exceptional circumstances, where transitional provisions are in place following an Immigration Rules change, the rule in force at the date the application was made may apply and you must check this)
 - consistent with the Home Office's duties under Section 55 of the Borders Citizenship and Immigration Act 2009 to make the best interests of any child affected by the decision a primary consideration
- all correctly submitted information and documentary evidence was taken into account and correctly assessed before the decision was made
- the decision was served on the correct letter or notice, and the applicant was notified correctly of any applicable appeal rights
- the decision was served correctly to the applicant's last known address or to their representative

Considering the request

You must:

- only reconsider the specific aspects of the decision the applicant or representative challenges in their reconsideration request, unless it becomes clear the original decision contained errors the applicant or representative has not identified
- not consider any new evidence or information provided, unless it impacts upon the decision and/or any subsequent appeal rights and:
 - proves the date of application, or
 - proves that documents provided with the original application were genuine, where this was material (relevant) to the decision made
 - identifies relevant material which was not available to the caseworker but was received by the Home Office before the decision date.
- consider if the original decision was correct at the time it was made, not if any events that have occurred since the application was decided would make a fresh application likely to succeed

- tell the applicant they must make a new charged application, if they want to raise new facts or evidence in support of a grant of leave. For more information on new evidence, see related link: [Considering a reconsideration: evidence and information](#).

If the request for reconsideration relates to the refusal of an application for leave on the basis of article 8 family and private life, you must also refer to the section of this guidance about reconsidering article 8 case, see related link.

Errors in the original decision

If it becomes clear during the reconsideration that the original casework or decision contained errors which the applicant or representative has not identified, you must reconsider those aspects of the case. You must rectify any errors you find with the original consideration or decision.

For more information, see related link: [Reconsiderations - changing the reason\(s\) for refusal](#).

Reconsidering a decision: curtailment leave

You must consider curtailment if the migrant still has leave to remain and there is evidence that they may meet the curtailment criteria set out in the Immigration Rules. For example, the migrant may have committed a criminal offence since the leave was granted.

For more information on curtailment of leave, see related link.

You must discuss any possible or proposed curtailment decision with a senior caseworker or manager first unless it is a points-based system (PBS) case and curtailment is mandatory.

You must discuss the case with a senior caseworker or manager if you have doubts about:

- whether a reconsideration request is valid
- the correct outcome of a reconsideration request

The importance of your reconsideration

By reconsidering the original decision at this stage, if the applicant goes on to challenge the decision with a letter before claim or judicial review the caseworker can use your

	<p>reconsideration decision letter to assist in defending the decision.</p>	
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For more information on judicial reviews, see link on left: [Reconsiderations: pre-action protocol cases and judicial review claims.](#)

Reconsiderations

Considering a reconsideration: evidence and information

<p>About this guidance What is an acceptable reconsideration request What is not an acceptable reconsideration request Requirements for new reconsideration requests Legacy reconsideration requests Pre-sift for legacy reconsideration requests Applicant's status after submitting a reconsideration request Reconsideration request: initial checks Considering a reconsideration Reconsiderations: decisions Reconsiderations and appeals Reconsiderations: pre-action protocol cases and judicial review claims</p>	<p>This page tells you what evidence and information you can take into account when reconsidering a decision.</p> <p>When you reconsider a decision you must only consider the evidence and information supplied either:</p> <ul style="list-style-type: none">• with the original application• before the date of the decision <p>unless it meets both the following requirements:</p> <ul style="list-style-type: none">• proves the date of application, that documents provided with the original application were genuine, or that relevant documents were received by the Home Office before the decision date and were not considered• impacts upon the decision outcome and/or any subsequent appeal rights <p>You must explain in the reconsideration decision letter that if the applicant wants the Home Office to consider new information outside these criteria, they must submit a new valid application under the relevant Immigration Rules:</p> <ul style="list-style-type: none">• on the correct form• with the specified fee, if applicable <p>This applies to all immigration applications, including non-protection related requests to be granted leave under article 3 and/or article 8 of the European Convention on Human Rights.</p> <p>Examples of new information</p> <p>You must not accept new information that was missing from the original application for example:</p> <ul style="list-style-type: none">• supporting documents about qualifying criteria for the route, such as qualifications or bank statements	<p>In this section Considering a reconsideration: article 8 family and private life</p>
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- revised application details, such as an attempt to add grounds to the application
- new facts such as a claimed new family relationship which are presented within the text of the reconsideration request letter

You must check that none of the information provided with the request is new even if the applicant or their representative states there is no new or further evidence provided.

Reconsideration request about the date of application

You must take into account information provided with a reconsideration request if it is about the date an application was submitted. For example, if the Home Office decided an original application was submitted out of time and the applicant has provided evidence, such as a post office receipt that proves the application was sent before their leave expired.

If the application you are reconsidering was made out of time because a previous application was rejected, and the applicant or representative claims the rejection was incorrect, contact the team who rejected the application for a contribution if required. You can out find which team rejected the application on CID.

If the applicant or their representative is only challenging the rejection of an application and not the decision on any following application, this is dealt with by the team who rejected the application and is outside the scope of this policy.

Reconsideration request about whether evidence was genuine

You must take into account information submitted with a reconsideration request if the information is about whether original supporting evidence was genuine.

This applies if the original application was refused on the basis that one or more supporting documents were not genuine. If necessary, conduct further verification checks before making a final decision on the application.

Reconsideration request about evidence received before the decision date

You must only consider additional evidence with the reconsideration request which meets all the following requirements:

- the evidence was originally received by the Home Office before the decision date on

the original application

- it was not linked to the case in time for the caseworker to consider it
- it is relevant to the decision outcome

You must not accept evidence that was received by the Home Office after the date of decision.

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Considering a reconsideration: article 8 family and private life

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Family and private life - 10-year route (see section 9 – Exceptional circumstances).

Reconsideration of 'no recourse to public funds' condition code

Applicants granted leave under the 10 year partner, parent or private life routes may also request a reconsideration of the condition code 'no recourse to public funds' attached to that leave.

This would apply if an applicant provided information and evidence which relates to the financial circumstances with their application for leave to remain to support a claim that they are destitute or that there are compelling reasons which relate to the welfare of a child of a parent in receipt of a very low income, but the applicant thinks a casework error has been made in assessing this against the policy on when to allow recourse to public funds.

In this circumstance you must consider any additional information which relates to the financial circumstances the applicant has submitted, as well as considering the information submitted with the original application. This allows us to take a full and appropriate decision on whether or not they should be granted recourse to public funds, on the basis of up-to-date evidence.

For information on what counts as public funds for immigration purposes, see related link:
Public funds

Published form for seeking an amendment to conditions of leave

There is a separate process for applicants who did not submit evidence of their financial position with their application, or whose circumstances have changed since the decision was made. Where an applicant is granted leave to remain under the 10-year partner, parent or private life routes with no recourse to public funds, they may request an amendment to the conditions attached to their leave if one of the following applies:

- they failed to provide sufficient information or evidence about their financial circumstances with their application, but they believe they meet the terms of the published policy and provide additional information or evidence
- when the applicant applied for leave to remain, they were not destitute and there were no compelling reasons relating to the welfare of their child, but their financial circumstances have since changed so that they want to request a change in their

conditions of leave

Guidance and a form for this process are published and can be accessed by applicants on the GOV.UK website. There is no charge for this process.

For an example of the form, see related link: Application for change of conditions of leave to allow access to public funds if your circumstances change.

Legacy human rights based reconsiderations

Legacy human rights reconsideration requests are those submitted before 13 November 2012, where all the following apply:

- the request is about an application for leave that raised an article 8 claim
- the decision refused the article 8 claim
- the reconsideration request remains outstanding

To decide how to consider the legacy request, you must check what type of application was originally made, using the guidance below.

It is important to be aware that the approach to dealing with article 8 cases changed on 9 July 2012, when the new family and private life rules came into force. From this date onwards, any consideration of article 8 must be in line with Appendix FM and paragraph 276ADE, rather than considering case law. For more information on how to consider article 8, see related links:

- IDI chapter 8: Family members transitional (covers legacy cases)
- 1.0a - Partners - 5-year route (covers post 9 July 2012 cases)
- 1.0b Family and private life - 10-year route (covers post 9 July 2012 cases).

Article 8 within the rules

If the legacy application was made under the part 8 family or part 7 long residence Immigration Rules before 9 July 2012, you must reconsider the application against the rules in force at the date of the application as these were the rules against which the original application was considered.

You must check the decision was correctly made in line with the requirements of the rules at that time. You must only consider the evidence available to the caseworker and the circumstances of the applicant at the time of the original decision.

If the applicant did not meet the requirements of the rules, and the original caseworker went on to consider article 8 outside the rules, you must reconsider the article 8 claim outside the rules.

Because the new family and private life rules came into force on 9 July 2012 your reconsideration of the article 8 claim must not consider case law. Instead, you must consider if the applicant meets the provisions of the current family and private life Immigration Rules, set out in Appendix FM and paragraph 276ADE.

If an applicant does not meet the requirements of the rules, you must then go on to consider if there are exceptional circumstances in their case.

If the legacy application is a decision that was made after 9 July 2012 under Appendix FM or paragraph 276ADE of the Immigration Rules, you must reconsider the article 8 claim by checking those rules were applied correctly.

Article 8 outside the rules

If the legacy application was for article 8 consideration outside the rules, your reconsideration must address article 8. Since the introduction of the family rules on 9 July 2012 your reconsideration of the article 8 claim must not consider case law. Instead, you must consider whether or not the applicant meets the provisions of the current family and private life Immigration Rules, set out in Appendix FM and paragraph 276ADE.

For article 8 cases both inside and outside the rules you must only consider the evidence available to the caseworker, and circumstances of the applicant, at the time of the original decision.

If an applicant fails to meet the requirements of the rules, you must go on to consider if there are exceptional circumstances in their case. For more information on exceptional circumstances, see section 9 – Exceptional circumstances of related link:1.0b Family and private life - 10-year route.

Change of circumstances

If the applicant's family or private life circumstances have changed since the date of their reconsideration request, for example if they have new family members, you must not consider these new issues as part of the reconsideration.

If the applicant wants to have their article 8 case assessed again, they must submit a new valid application under the relevant Immigration Rules.

Asylum cases

Where an applicant has an outstanding legacy reconsideration request, they subsequently applied for asylum and their asylum application was refused:

- if the applicant had asked for reconsideration of an article 8 claim outside the rules, the subsequent asylum consideration will have already addressed this, so there is no need to proceed with the reconsideration and you must reject the request.
- if the applicant made an application under the family or long residence rules applicable at that time, the asylum consideration will not have looked at those old Immigration Rules, so you must proceed with the reconsideration

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Reconsiderations: decisions

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- send the documents for linking to the CRS file if you do not need a Home Office file
- ask for a Home Office file to be created if required, for example if you are keeping any valuable documents

The reconsideration decision letter

You must inform the migrant, or their legal representative (if they have one) of the outcome of the reconsideration in writing, using the correct letter templates. For more information on what letters to produce, see related links:

- Reconsiderations: change the decision
- Reconsiderations: maintain the decision

You must be aware that the content of your letter responding to a reconsideration request may form part of any following judicial review that challenges the decision. It is important that your letter is:

- clear
- concise
- responds to all points the applicant or their representative raise in the reconsideration request

For more information on judicial reviews, see link on left: Reconsiderations – pre-action protocol cases and judicial review claims.

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Reconsiderations: change the decision

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link.

Rectifying errors on approved decisions

If the reconsideration request relates to aspects of an approved application, such as the period of leave granted or condition code, you must rectify any errors you identify.

You must consider whether curtailment is appropriate if there are relevant new facts or evidence since leave has been granted. For example, curtailment may be appropriate if the migrant has since been convicted of a criminal offence or has breached the conditions of their leave.

For more information on curtailment of leave, see related link.

If necessary you must issue a new biometric residence permit stating the correct conditions of leave.

You must issue updated approval letters and an ICD.4565 'Reconsideration request – notification of outcome' covering letter, using DocGen to produce and complete the letters.

Reconsiderations

Reconsiderations: changing the reason(s) for refusal

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This page tells you what to do when you have reconsidered the original decision and have decided to change the reason(s) for refusal.

Changing the reason(s) for refusal

If you reconsider a refusal decision and decide the original decision was mainly but not wholly correct you must maintain the original refusal of the application. For example, it may be that the:

- application should also have been refused for other reasons
- decision notice contained the correct refusal reasons but was worded incorrectly
- decision was correct but was issued on the wrong decision notice template

In this case you must issue a supplementary letter to address the error(s) but maintain the original refusal date.

If you reconsider the case and decide it should have been refused for different reasons, you must:

- withdraw the original decision
- issue a new decision notice (including fresh appeal rights if the original application was in-time) and an ICD.4565 'Reconsideration request – notification of outcome' covering letter, using DocGen to produce and complete the letters

If you withdraw the original decision and issue a new refusal notice, this will reinstate any 3C leave the migrant benefitted from following submission of the original application. For more information on section 3C leave, see related link.

Decisions with a pending appeal

If the applicant has lodged an appeal against the original decision that you have withdrawn, contact the applicant to request they withdraw the appeal as you will issue a new decision on the application.

In this section

[Reconsideration: change the decision](#)

[Reconsideration: maintain the decision](#)

Links to staff intranet removed

	<p>You must notify the tribunal service that you have withdrawn the decision so they can cancel the appeal. For more information on how to do this, see link on left: Reconsiderations and appeals.</p> <p>If the applicant has a right of appeal against the new decision, they will have the usual 10 working days from the date of notification of the new decision to lodge an appeal.</p>	
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Reconsiderations: maintain the decision

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- enclose the appropriate appeal forms, under regulation 5 of the Immigration (Notices) Regulations 2003

This is to make sure the requirements of the Immigration (Notices) Regulations 2003 are met. For more information, see related link.

The applicant has limited right of appeal with an appeal pending

You only need to link the Home Office reconsideration decision letter to the appeal bundle for the immigration judge to consider if it concerns the one or more of the limited grounds on which the applicant made the appeal, for example, race relations, human rights or asylum grounds.

If the request for reconsideration is wholly or partly based on one of the limited grounds of appeal, then you must re-serve the decision.

Maintaining the decision but for different reasons

If the result of your reconsideration is that you maintain the refusal but for different reasons from those against which the previous appeal has been lodged, and the appeal is still pending, then you must serve a fresh notice of appeal in accordance with regulation 5(7) of the Notices Regulations. If appropriate, make and serve a removal decision at the same time.

For more information on the Immigration (Notices) Regulations 2003, see related link.

For more information on removals casework, see related link.

The applicant has full right of appeal with appeal pending

You must link the additional factors and the Home Office reconsideration decision letter to the appeal bundle for the immigration judge to consider. You do this by using internal mail, but if the hearing is due within the next seven days you must fax the documents to the presenting officer unit.

The applicant has remaining leave (other than leave under section 3C)

When you write the reconsideration decision letter maintaining a decision, you must tell the applicant they can submit a new application with the required fee before their leave expires,

if they believe they meet the requirements to be granted leave.

The applicant has no remaining leave

When you send the reconsideration decision letter to the applicant, you must also tell them to make arrangements to leave the UK subject to any in the UK appeal rights. If appropriate, make and serve a removal decision at the same time. You must follow standard operational processes for migrants who no longer have leave to remain in the UK, by allocating the case to the relevant case ownership unit for enforcement action.

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Reconsiderations and appeals

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If you reverse the original decision when there is a pending appeal

If you grant leave in a case with a pending appeal, this will stop the appeal, unless it is brought on race discrimination grounds.

You must:

- inform the tribunal service immediately
- contact the relevant court by letter, or fax if it is within 7 days of the hearing, and
- notify the relevant presenting officers unit

The appeals screen on CID will identify the relevant court or presenting officer unit for all cases already listed for a hearing.

If the court where the appeal will be heard is not identified on the CID appeals screen, you must call the IAC's general helpline on 0300 123 1711 to find out where the appeal is located.

For more information on informing the tribunal, see rule 17(2) in the related link: Asylum and Immigration Tribunal (Procedures) Rules 2005.

Request to reconsider a decision in advance of a pending appeal

The reconsideration process and the appeals process are entirely separate and independent of one another:

- the appeals process is governed by legislation
- the reconsiderations process is not a legal requirement but a service the Home Office provides, as a matter of policy, for some types of cases

You must reconsider the decision without taking into account any new information or evidence submitted to the IAC, unless it is evidence that is otherwise permitted for the purposes stated in this policy.

You must reject a reconsideration request if all the following apply:

- it was made before the appeal was heard
- it was still outstanding after the appeal had been heard
- the IAC upheld the original decision
- the migrant has exhausted their appeal rights

You can make reference to the appeal decision in the rejection decision. You must not delay reconsidering a case to wait for the IAC decision.

If the IAC overturns the decision following an appeal and makes a direction to grant leave

You must grant the applicant leave as directed by the immigration judge unless it has been agreed to challenge the judge's decision to overturn the refusal.

If the judge's decision is not being challenged, you do not need to consider any outstanding reconsideration request about the refusal because the appeal has reversed the refusal.

If it has been agreed to challenge the judge's decision, you must:

- wait until the challenge to the judge's decision is lodged before processing the reconsideration:
 - this is to make sure the applicant is aware they will not be immediately granted leave as a result of the immigration judge's decision, before they receive the reconsideration decision
- contact the specialist appeals team, through your higher executive officer (HEO), before reconsidering the case:
 - this is to make sure there is no conflict between the reconsideration action and the challenge to the appeal decision

If the IAC directs that a decision be reconsidered following an appeal

An immigration judge may return a refusal to the Home Office with a direction to reconsider the decision following an allowed appeal.

You must proceed to reconsider the refusal as directed by the immigration judge unless it has been agreed to challenge the judge's decision. In this case, you must wait until the challenge to the judge's decision has been lodged before processing the reconsideration.

	<p>You do not need to ask the applicant to make a further written request in these circumstances.</p> <p>You must update CID with the details of the appeal outcome and the reconsideration.</p>	
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Reconsiderations

Reconsiderations: pre-action protocol cases and judicial review claims

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Contact

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This page tells you about this version of the 'Reconsiderations' guidance and who owns it.

Version	9.0
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Approver's role	Acting director legal strategy team
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