



Home Office

Transfer of conditions

Version 12.0

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About this guidance

This guidance tells you how to consider transfer of conditions (TOC) applications made in the UK.

This is not an Immigration Rules based decision.

People who have limited leave endorsed in a passport that is lost, stolen, damaged or due to expire can have their leave transferred to a biometric residence permit (BRP) by making a transfer of conditions application.

A person can also apply for a transfer of conditions if their current leave is endorsed on an immigration status document (ISD).

A person who has valid limited leave on a BRP or ISD and has changed their name, for example, following marriage or using deed poll can apply for a BRP in their new details as long as they have obtained a new national passport in their new identity. Recognised refugees, beneficiaries of humanitarian protection and stateless persons are not required to produce passports, but they must produce a Home Office travel document, if they hold one, in the identity they are requesting to change. A BRP can only be produced in the same identity as that contained in the applicant's **current valid** passport.

Where a person holds a Home Office travel document (HOTD), this must be submitted with the application and cancelled when the new BRP is authorised. It will be clear from CID if the person has been issued with a HOTD. You can ask the applicant to provide this. If following that request the HOTD is still not provided, where one is held, you must refuse the application.

Contacts

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

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

Clearance and publication

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

- version 12.0
- published for Home Office staff on **16 January 2017**

Changes from last version of this guidance

Minor housekeeping changes and placing the guidance into the new format.

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Requirements

This page tells you about the requirements the applicant must meet in order to be granted a transfer of conditions.

An applicant with leave in an expired passport must be encouraged to make a transfer of conditions application. Migrants can travel on a new passport without an endorsement if they also carry the old document which contains the endorsement. This can create delays at border control.

Before you consider an application you must check the:

- application is valid
- applicant has given their biometric information
- applicant's passport or travel document is genuine

For more information, see:

- Specified application forms and procedures
- Biometric information

The applicant must:

- have leave remaining - leave that has expired cannot be transferred
- continue to meet the requirements and conditions of the leave they were granted
 - if they no longer meet these requirements or conditions, or the change of identity indicates that they may have previously gained (or attempted to gain) leave by identity deception, it may be appropriate for leave to be curtailed
 - curtailment must be considered by the Curtailment team unless the applicant is a recognised refugee or beneficiary of humanitarian protection (HP)
 - for refugees or beneficiaries of HP you must make a referral to the status review unit (SRU)
- provide:
 - a valid passport or Home Office travel document, (if they hold one)
 - their biometric residence permit (BRP) (if they hold one)
 - any previous passport or travel document containing their existing leave
 - their immigration status document (ISD) (if they hold one) which shows their current leave, if this is not fixed to their passport

If the previous passport is not supplied they must provide a:

- new valid passport (this does not apply to recognised refugees, beneficiaries of HP, or recognised stateless persons)
- letter which explains why they do not have their passport containing evidence of their leave
- police report or crime reference number if the previous passport has been lost or stolen

You must check all documents carefully to make sure they are genuine and belong to the applicant.

If you are satisfied the applicant has existing leave and continues to meet the requirements for that leave, you must grant the application.

For more information on considering transfer of conditions applications, see related links:

- [Previous passport is not submitted or does not show leave](#)
- [Transfer leave in a passport to a biometric residence permit](#)

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Evidence of existing leave is not submitted

This page tells you how to consider cases where the document containing the conditions of leave has not been included.

If the applicant does not include evidence of their existing leave, you must check all available systems and files for evidence of leave. This includes CID, CRS, i-search, Home Office files and visa application forms. You must:

- take special care if the applicant claims their previous passport was lost or stolen
 - applicants must provide a crime reference number or police report if their passport, has been lost or stolen
- check the applicant is the same person who was previously granted leave
- update CID notes to say the applicant has lost their passport

If you are satisfied the applicant has existing leave, you must grant the application.

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Transfer leave in a passport to a biometric residence permit (BRP)

If the applicant's current leave is in a passport, you must consider the application in the same way, but ensure that you mark the original grant as 'transferred to BRP'

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Different personal details provided with this application

This page tells you how to process transfer of conditions (TOC) applications where the applicant provides different personal details to those given on previous applications.

There are a number of reasons why a person may wish to change their name, including marriage, divorce or merely a wish to be known by another name. It is acceptable for applicants to change their name as long as the applicant:

- intends to use this new name for all purposes
- has gained legal documentation to evidence this change, for example a:
 - marriage certificate
 - deed poll which shows a link to the previous name
 - statutory declaration which shows a link to the previous name
- has gained a new national passport from the relevant authorities and the issuing of that passport post dates the legal documentation:
 - recognised refugees, beneficiaries of humanitarian protection (HP) and persons recognised as stateless are not required to obtain a new national passport
- has not previously concealed their true name from the Home Office and is now using this process to revert to their original name

Whilst a name can be changed, a date of birth (DOB) **cannot**. If an application is received where the applicant wishes to change their date of birth it can only be done if the original date of birth has been recorded incorrectly.

Consideration of facts

If the applicant (or legal representative) has provided a justifiable reason why any of the following details were incorrect in their original documentation, you must approve the application if an applicant gained no material benefit from using a:

- different name
- date of birth
- combination of both

If the applicant previously provided false details and gained a material benefit from doing so, you must refuse the application and refer to the Curtailment team unless the applicant is a recognised refugee or beneficiary of humanitarian protection (HP). For refugees or beneficiaries of HP a referral must be made to the status review unit (SRU).

Examples of material or non material deception:

Example 1

Mr A, DOB 17 May 1977 arrived in the UK in 2009 and claimed asylum. That asylum claim was never heard or outcomed. Following a stay in the UK of 5 years whilst his

application was waiting to be considered, his stay was regularised outside the immigration rules under legacy arrangements and he was granted 30 months leave to remain. Following his grant of leave he submitted a TOC application stating that his real name was Mr B and his DOB was actually 21 September 1980. The change in personal details had no bearing on his grant of leave. It would be unreasonable to refuse his TOC application if the applicant can provide sufficient documentation to prove that 21 September 1980 is his real DOB.

Example 2

Mr C. DOB 29 April 1998 arrived in the UK in 2012 and claimed asylum. Mr C was granted 3 years discretionary leave (DL) as a minor. Following his grant of DL he submitted a TOC application in the identity Mr D, DOB 29 April 1993. The change in personal details means that the applicant would not have been a minor when gaining DL. It is reasonable to argue that the grant of leave was gained by deception and that the TOC application must be refused with the case being referred to SRU.

Example 3

Mrs E. DOB 01 December 1980 arrived in the UK in 2011 as a student. In 2013 Mrs E applied for an extension of her leave which was granted. Following this grant she submitted a TOC application in the identity Mrs F. DOB 12 January 1980. The change in personal details had no bearing on the previous grants of leave. It would be unreasonable to refuse the TOC application if the applicant can provide sufficient documentation to prove that 12 January 1980 is her real DOB.

Example 4

Mrs G DOB 17 September 1977 arrived in the UK in 1998 and claimed asylum. Mrs G's asylum application was refused in 2000 and she became 'appeals rights exhausted' (ARE) in April 2001. In 2003 the Home Office contacted Mrs G's national authorities to gain a travel document, this proved unsuccessful as the authorities did not recognise Mrs G, DOB 17 September 1977 as a national of theirs. In 2007 Mrs G gained 3 years DL on the basis of her family ties with the UK. Following this grant she applied for a TOC application in the identity Mrs H DOB 16 September 1977. It can be argued that the use of a false identity was material to the grant of DL in 2007 and that the TOC application should be refused.

This would be on the basis that had the Home Office been aware of her true identity they would have been able to gain a travel document from the relevant authorities to enforce removal from the UK. Therefore the only reason she was able to make her application for leave in 2007 was because the Home Office had been unable to remove in 2003. Seeking to remove in 2003 is crucial in refusing this TOC application. If there is no evidence that the Home Office sought to obtain the travel document the TOC application should be granted.

If the application needs further scrutiny or if you find exceptions, you must send a written referral to your senior caseworker for them to consider.

Other action before refusing a TOC due to a difference in claimed identities

If you are going to refuse an application for a TOC due to an issue about the applicant's claimed identity being different from that previously stated you must carry out thorough checks. You must request and check any Home Office files. These

checks must confirm whether they notified the Home Office of their correct details before being granted leave to remain.

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Applications from recognised refugees or beneficiaries of humanitarian protection

This page tells you how to consider a transfer of conditions application where the applicant seeks to amend their identity and they are a recognised refugee or beneficiary of humanitarian protection (HP).

If a recognised refugee or beneficiary of HP applies for a transfer of conditions to change their identity they should provide their national passport (if they have one) or their Home Office travel document (HOTD), if they have one. You should be able to tell from CID whether a HOTD has previously been issued. If one has been issued but not supplied with the application you must write to the applicant requesting that they provide this and hold the application until it is received.

You must also check the applicant's biometric information to see if they have ever been granted a visa to enter the UK. If there is a positive match you must check Home Office systems to identify the passport details. If this passport is not provided with the application you should request it.

After you have processed the application and issued a biometric residence permit (BRP) in the new identity, you must retain the national passport and HOTD. The grant letter should clearly state that the BRP has been granted in the new identity and the passport has been retained and any HOTD in the old details cancelled. If the applicant wishes to request the return of their passport in the future, they will need to surrender the BRP which confirms their new identity. The BRP in the new name will be cancelled and the applicant will need to apply for a replacement BRP.

The grant letter must also note that if the applicant subsequently gains British citizenship the passport will be returned to them. They will not be able to obtain a British passport in their new details, unless they align their other passports or identity cards to reflect their new details or seek to revoke their other nationalities so that they are unable to hold documents in more than one identity.

Following a transfer of conditions (TOC) grant, you must forward the travel document and a completed copy of the form to the travel documents section using the internal courier service.

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Transfer of conditions: change of nationality

This page tells you how to consider a transfer of conditions application where the applicant seeks to amend their nationality.

It is not uncommon for a person to change their nationality, or hold dual nationality. When considering an applicant's request to amend their nationality you must be satisfied that:

- it is a genuine change in circumstances
- the original decision to grant leave would not have been affected by this new information

If a refugee or beneficiary of humanitarian protection (HP) is seeking to change their nationality, [you must refer the case to the status review unit \(SRU\)](#) who will be able to determine whether the change affects the applicant's right to remain in the UK as a refugee or beneficiary of HP.

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Grant or refuse a transfer of conditions

This page tells you how to grant or refuse a transfer of conditions (TOC) application.

Issuing a transfer of conditions

If the applicant meets the requirements for a transfer of conditions, you must issue an endorsement for the same period and on the same code of conditions as the applicant's previous leave. There is a guide to help you select the correct case type to produce a biometric residence permit (BRP) holding the same conditions of leave when replacing a UK residence permit or BRP. For more information, see BRP replacement cards.

New endorsements are issued on a biometric residence permit (BRP). For more information, see: Biometric information: introduction.

You must send the applicant an ICD.4014 letter (on document generator (Doc Gen) on CID) to tell them they have been granted leave.

Specific CID codes are available for recognised refugees or beneficiaries of humanitarian protection (HP). If you are granting a TOC to a person who is a recognised refugee or beneficiary of HP, you should use the following codes.

- TOC - REFUGEE
- TOC - HUMANITARIAN PROTECTION

Refusing a transfer of conditions

You must refuse a transfer of conditions application if the applicant:

- has not given enough evidence of their existing leave
- submitted false documentation (a referral must be made to Immigration Enforcement)
- does not have any existing leave to transfer
- gained existing leave by deception (a referral must be made to the [Curtailment team](#))

You must send the applicant an ICD1100 letter (on Doc Gen on CID) to tell them they have been refused. You must explain the reasons the application falls for refusal and that there is no statutory right of appeal against your decision. This is because the refusal of a transfer of conditions is not an immigration decision to section 82(2) of the Nationality, Immigration and Asylum Act 2002, which sets out appeal rights.

Refusing an application as a result of an identity dispute

You must record the outcome and set a special conditions marker 'Identity dispute' on CID. You must clearly annotate the notes section to say a full Home Office file search has been conducted. This prevents caseworkers repeating a search if the Home Office receives a reconsideration request or judicial review (JR).

You must then forward the case to the Curtailment team who will take action to revoke any extant leave.

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Curtailment team referrals

This page tells you how to refer a case to the Curtailment team.

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Status review unit (SRU) referrals

This page tells you how to refer a case to the status review unit (SRU).

You must follow this process when referring a transfer of conditions (TOC) application to the SRU.

Cancellation or cessation of refugee status or revocation of humanitarian protection

The 1951 Convention on the Status of Refugees includes clauses for when cessation of refugee status may be appropriate, including circumstances where a refugee voluntarily re-establishes themselves in the country where they previously feared persecution.

Although the 1951 Convention contains no specific provisions for cancellation of refugee status, the United Nations High Commissioner for Refugees (UNHCR) handbook envisages circumstances where it would be appropriate to do so.

Paragraph 117 offers the following examples of when cancellation might be appropriate, namely where:

- refugee status was obtained by misrepresentation of material facts
- the refugee possesses another nationality
- the exclusion causes would have applied had all the relevant facts been known

For current policy and guidance see: Cancellation, cessation and revocation of refugee status

Relevant guidance is also contained in the Settlement protection policy instruction.

The Immigration Rules also provide for revocation of humanitarian protection (HP) in specified circumstances.

If you identify a case where cancellation or cessation of refugee status or revocation of humanitarian protection, may be appropriate, complete the form and email it to the status review unit. You must consult the relevant policy guidance prior to referring a case.

Supporting evidence is required in order to pursue cancellation or cessation of refugee status or revocation of humanitarian protection. Copies of, or descriptions of, any supporting evidence must be submitted to SRU along with the completed referral form.

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Transfer of conditions: dependants

This page tells you which dependants may be included with the main applicant in a transfer of conditions application, and the requirements they must meet.

Applicants can include the following dependants on their application form, their:

- spouse
- civil partner
- unmarried partner
- same-sex partner
- children who are under the age of 18

Children aged 18 or over cannot be included as dependants and must apply separately. You must reject the application for a child aged over 18 who is included as a dependant.

For more information, see Specified application forms and procedures.

You must consider each dependant in the same way as the main applicant and be satisfied each person has existing leave before granting a transfer of conditions.

You must make sure the biometric residence permit (BRP) card details the correct permit type and conditions. For instructions see section: [Grant or refuse Transfer of Conditions.](#)

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