



Home Office

# Applications for leave to remain; validation, variation and withdrawal

Version 1.0

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# About this guidance

This guidance is for decision makers and describes how to decide whether an application for leave to remain in the UK is valid, and what to do if it is not. It also describes how an applicant can vary and withdraw an application and how to calculate the date of 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 Admin 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 **1.0**
- published for Home Office staff on **6 April 2017**

## Changes from last version of this guidance

New guidance which replaces the Specified Forms and Applications guidance in its entirety.

### Related content

[Contents](#)

# What is a valid application?

An application for leave to remain in the UK is valid when the requirements of paragraph 34 of the [Immigration Rules](#) are met, or where one of the exceptions set out in paragraph 34 apply. The requirements must be met by each applicant. For example, if the main applicant meets the validation requirements, but a dependent on the same application does not, the main applicant's application is valid, and the dependant's application can be rejected as invalid.

## Requirement: a specified application form

Paragraph 34(1) of the rules sets out that the application must be made on a specified application form. There is a specified form for all types of application for leave to remain. An application form is specified when it is posted on the visa and immigration pages of the GOV.UK website. It may be an online or a paper form. Some application routes have both paper and online forms, some only online, and some only paper.

The application form must be specified for the immigration category under which the applicant is applying.

When applying on a paper form, an applicant must normally use a current version of the paper specified application form. However; where the applicant submits an application on a previous version of an application form, this will be treated as made on a specified form so long as, at the date the application is, the version they use:

- is no more than 21 days out of date
- was previously specified for the immigration category under which the applicant is applying

Paper forms are marked with the version number and the date they are valid from.

An application made on a previous version of a specified application form must still meet the other requirements of paragraph 34 of the rules. This includes paying the correct fee specified by the fee regulations on the date of application, not the fee stated on the previous version of the form which may be different.

For information on how to calculate the date of application see: [Date of application: original application](#).

If an applicant submits a form containing pages from more than one version, you must check all of the information requirements of the current version are met. If it contains all the information required, you can accept the application form.

If an applicant has not applied on the correct specified form, you may write to them telling them the correct form and give them 10 working days to submit that form. If they do not do this, you should normally reject the application as invalid using the notice of invalidity template: ICD 4946 on Doc Gen.

If the applicant does respond to the request and complete the correct form, the date of application is the date the earlier incorrect form was submitted.

## Mandatory sections of the application form

[Paragraph 34 of the rules](#) sets out that all mandatory sections of the application form must be completed.

If an applicant has not completed the mandatory sections correctly, you may write to them and give them 10 working days to correct the errors or omissions. If they do not respond correcting all the errors or omissions within 10 days, you should normally reject the application as invalid using the notice of invalidity template: ICD 4946 on Doc Gen.

An application must not be rejected as invalid if an applicant fails to complete non-mandatory sections of the application form.

You can use discretion and accept the application as valid if a mandatory section of the form is not completed but the applicant provides the required information elsewhere in the application. For example:

- an applicant does not enter a required passport number on the form but provides a passport
- a UK-born dependant does not answer each question in the 'immigration history' section of a form

## Requirement: Fee payment

The online and paper applications explain how to pay the application fee. Each applicant must pay any relevant fee for their application in full and according to the process set out on the form. The fee to be paid is the one in place on the date the application is submitted (for information on how to calculate the date of application see: [Date of application: original application](#)). If the fee changes after this date and whilst an application is being considered, this does not make the application invalid.

The Fees Regulations are here:

- [Immigration and Nationality \(Fees\) Regulations 2016](#)
- [The Immigration and Nationality \(Fees\) Regulations 2017](#)

If an applicant has not paid the correct fee, you must write to them and give them 10 working days to rectify their mistake and provide instructions on how to pay the correct fee. If they do not do this, you must reject the application as invalid using the notice of invalidity template: ICD 4946 on Doc Gen.

You must include all the evidence you can to support the decision that the applicant has not paid the correct fee. Evidence of payment pages are kept for 18 months by the Home Office and so reasons for failure to obtain payment can be investigated by referring to those pages. You should note on CID how you know that the applicant has not paid the fee. However; the reasons a payment is declined are only available to the account holder and so it is not always possible for the Home Office to say why

a payment was not received, only that it was not paid. This was the approach set out by the Upper tribunal in [Mitchell \(Basnet revisited\) \[2015\]](#) which clarified Basnet.

**Related content**

[Contents](#)

# Payment of fees

## Retention of an administration fee

From 18 March 2016, new fees regulations allow the Home Office to retain an administration fee when rejecting an application as invalid. This applies to applications submitted on or after 18 March 2016. It applies to all charged in country applications for leave to remain where a fee has been paid but where the application contains errors or is missing information and is therefore rejected as invalid.

An administration fee cannot be retained if an application is void, withdrawn (where we refund the fee paid) or the applicant has died.

Where the fee has been paid but the application is invalid, the caseworker must reject the application and process a refund for the application minus £25 per person included in the application form.

If an incorrect fee has been paid and the application is rejected as invalid, an administration fee must be retained against the incorrect fee.

## Dependants and 'part payments'

Paper and online application forms provide guidance on whether a dependant can apply on the same form at the main applicant or on a separate form. For example, for all PBS applications, dependants of a PBS applicant must apply on a PBS dependant form, rather than the PBS applicant's form. Some dependants who apply on the PBS dependant form at the same time as the PBS migrant applicant can pay a lower fee than if they applied separately.

If you receive an application from a main applicant which claims to include dependants but the dependent application forms are missing, input the main applicant onto CID but do not add the dependant's details until you have written to request the forms within 10 days and their forms are received.

If the applicant includes any dependants on their application form who are not permitted to apply on the same form, you must write to them and give them 10 days to submit the correct application form. You must treat the main applicant and any permitted dependants applications as made.

The table below gives you examples of what to do if only part of the fee is paid and tells you how to process them.

Applications made	Action to take
An application route where the dependant can apply on the same form as the main applicant.  The main applicant has: <ul style="list-style-type: none"><li>included dependants on their</li></ul>	The only valid application is that of the main applicant. You must notify the applicants, including the dependants, in writing that the dependants' applications are not valid and give them 10 days to pay the fees for the dependants. If they do not do this, consider the main

Applications made	Action to take
<p>application form</p> <ul style="list-style-type: none"> <li>only paid the fee sufficient to cover the main applicant</li> </ul>	<p>applicant's application and reject the dependant's applications</p>
<p>An application route where the dependant cannot apply on the same form as the main applicant.</p> <p>The main applicant has:</p> <ul style="list-style-type: none"> <li>named dependants on their application form</li> <li>only paid the fee for the main applicant</li> <li>not submitted any dependant application forms</li> </ul>	<p>The only possible valid application is the main applicant's. You must notify the applicant in writing that no dependant applications have been received and that each dependant must complete a separate dependant form and pay the appropriate fee.</p>
<p>The main applicant has:</p> <ul style="list-style-type: none"> <li>named dependants on their PBS application form</li> <li>only paid the main applicant's fee</li> <li>submitted a dependant form for each family member</li> </ul>	<p>You must:</p> <ul style="list-style-type: none"> <li>notify the main applicant to request the dependant fees are paid within 10 days of the date on the request letter</li> <li>if the fee is received within the deadline, consider the main applicant's and the dependant's application</li> <li>if the dependants fee is not received within the deadline: <ul style="list-style-type: none"> <li>reject the dependant applications</li> <li>inform the main applicant and dependents that separate dependant applications will need to be made</li> </ul> </li> </ul>
<p>The main applicant has submitted an application which requires dependants to submit their application on a separate form, and has:</p> <ul style="list-style-type: none"> <li>named dependants on their application form</li> <li>paid the correct fee, including the additional fee for each dependant included with their application</li> <li>submitted completed dependants application forms</li> <li>not met the validation requirements</li> </ul>	<p>You must:</p> <ul style="list-style-type: none"> <li>write to the main applicant, to request the missing information is sent within 10 days of the date of the request letter</li> <li>if the information is received within the deadline: <ul style="list-style-type: none"> <li>issue biometric enrolment letters</li> <li>consider the application as normal</li> </ul> </li> <li>if the information is not received within the deadline:</li> </ul>

Applications made	Action to take
<p>set out in paragraph 34 and the exceptions do not apply</p>	<ul style="list-style-type: none"> <li>○ reject the main application</li> <li>○ if any of the dependants have not meet the validation requirements, reject the dependant applications</li> </ul>
<p>The main applicant has submitted an application which requires dependants to submit their application on a separate form, and has:</p> <ul style="list-style-type: none"> <li>● named dependants on their application form</li> <li>● paid the correct fee, including the additional fee for each dependant included with their application</li> <li>● not submitted separate dependant forms</li> </ul>	<p>You must:</p> <ul style="list-style-type: none"> <li>● write to the main applicant to request they submit the missing form or forms within 10 days, if you receive the dependant forms within the deadline, issue the biometric enrolment letters</li> <li>● if you do not receive the forms in time: <ul style="list-style-type: none"> <li>○ reject the dependant applications and refund the appropriate fee</li> <li>○ issue a biometric letter for the main applicant</li> </ul> </li> </ul>
<p>The main applicant has submitted an application which requires dependants to submit their application on a separate form, and has:</p> <ul style="list-style-type: none"> <li>● named dependants on their application form</li> <li>● submitted incomplete dependant forms</li> <li>● paid the additional fee for each dependant</li> </ul>	<p>You must:</p> <ul style="list-style-type: none"> <li>● write to the main applicant to request the missing section of the dependant forms within 10 days</li> <li>● if you receive the completed dependant forms within the deadline, issue the biometric enrolment letters</li> <li>● if you do not receive the completed forms in time: <ul style="list-style-type: none"> <li>○ reject the dependant application and refund the appropriate fee</li> </ul> </li> </ul>

## Fee waiver or fee exemption and validation

Some applicants can apply for a fee waiver or qualify for a fee exemption. The most common is the fee waiver for particular human rights based applications. For guidance on fee waivers for these applications see: [Fee Waiver For FLR\(FP\) and FLR\(O\) Forms](#).

If an applicant has made an in time application, that is, before their current leave has expired, and has made an application for a fee waiver at the same time which is rejected, you must write to them and give them 10 working days to pay the application fee. If they do not respond within that deadline, you must reject the application for leave as invalid using the notice of invalidity template: ICD 4946 on Doc Gen.

If an applicant has made an out of time application accompanied by an application for a fee waiver but they fail to qualify for a fee waiver, you do not need to write to them to give them 10 working days to pay the fee. Instead, you must inform them that their application for leave has been rejected as invalid.

The table below sets out what to do if an applicant has paid the fee in full for one applicant, but has applied for a fee waiver in respect of other applicant(s), for further detailed guidance, see: [Fee Waiver For FLR\(FP\) and FLR\(O\) Forms](#).

Applications made	Action to take
<p>The main applicant has submitted an application which either requires dependants to submit their application on a separate form or allows the dependants to submit their application on the same form and has:</p> <ul style="list-style-type: none"> <li>• completed the main application form and any dependant application forms as relevant</li> <li>• part-paid the fee, for example only paid for the main applicant</li> <li>• applied for a fee waiver for portion of the fee not paid</li> </ul>	<p>You must:</p> <ul style="list-style-type: none"> <li>• consider whether the main application is valid under paragraph 34</li> <li>• consider the fee waiver applications in respect of the dependants</li> <li>• if granted, consider the dependant applications as well as the main applicant's application</li> <li>• if rejected, and application was made out of time, reject dependant applications at the same time as rejecting the fee waiver application</li> <li>• if rejected and application was in time, reject the fee waiver application and give the dependent applicants 10 days to pay the fee before rejecting the application</li> </ul>

### Requirement: Immigration Health Charge payment

The Immigration Health Charge (IHC) was introduced on 6 April 2015. All applications submitted on or after this date, including applications to vary those made before 6 April 2015, must include payment of the IHC unless the applicant is exempt.

If an applicant applies for entry clearance which will take effect as limited leave for more than 6 months, they are required to pay the IHC as part of their application (unless exempt); they must do so in accordance with the process set out in [Pay for UK healthcare as part of your immigration application](#).

Applicants who have paid the IHC (or are exempt from it) can access the NHS.

The IHC is refunded to the applicant if an application for leave to enter or remain is:

- refused
- rejected
- withdrawn

- void

Those exempt from the IHS include, but are not limited to, those seeking asylum and humanitarian protection. Those applicants who qualify for a fee waiver are also exempt from paying the IHC. For a full list see the [Immigration \(Health Charge\) Order 2015](#).

To check the correct IHC has been paid and retained, check the amount paid on the GCID 'Case Payment' screen. You must also check the notes to verify a refund request or other fee issues have not been submitted to the charging support team.

For more information, see:

- [Immigration \(Health Charge\) Order 2015](#)
- [Immigration Health Surcharge Guidance](#)
- [Immigration and Nationality \(Fees\) Regulations 2016](#)

If an applicant (including a dependant applicant) has not paid the correct IHC, you may write to them and give them 10 working days to pay correctly. If they do not respond, you should normally reject the application as invalid using the notice of invalidity template: ICD 4946 on Doc Gen.

## Requirement: Proof of identity

The application form includes guidance for applicants on what they can submit as proof of identity to meet the requirements set out in [paragraph 34 of the rules](#).

Paragraph 34 sets out that an applicant must provide, in order of preference:

- a valid passport
- a valid national identity card - ( this option is not available for PBS applicants)
- their most recent passport - this is the last one they held that has expired
- their most recent national identity card - this is the last one they held
- a valid travel document; this means a document, other than a passport or nationality identity card, which has been issued by the government of the UK or another state and which enables travel from one state to another

A passport, national identity card or travel document will not be valid if:

- it has been cancelled
- it has expired
- it was not issued by the government or authority by which it purports to have been issued
- it has been altered in some way

## Exceptions to the requirement to provide proof of identity

These exceptions are set out in [paragraph 34\(5\)\(c\)\(i\)-\(vii\)](#) of the rules.

If the Home Office has the applicant's proof of identity on the date of application, then the applicant obviously cannot provide it and you must not reject their application as invalid on this basis.

If the applicant's proof of identity has been lost or stolen, the applicant should have contacted the relevant authorities to request a replacement. Where an applicant has not done this and so does not have a replacement or an alternative listed under paragraph 34(5)(b) to submit as part of their application, then you can ask them to provide the reason why they have not sought to replace their proof of identity.

Where the applicant states their proof of identity has been stolen, they must provide a crime reference number with their application.

Paragraph 34(6)(c)(vii) of the rules sets out that an applicant can provide a good reason beyond their control why they cannot provide any proof of identity. Reasons may include the following (this list is not exhaustive):

- there is no longer a functioning national authority to approach and provide a new document, or because there is no Embassy or consular service in the UK
- there is a national authority to apply for a document but they have run out of documents
- the applicant has made an application for a replacement document but the issuing authority was not able to provide it before the application was made
- the applicant cannot obtain a document for reasons of national or personal security
- the national authority has unreasonably refused to provide a document, for example:
  - if the national authority will only provide a passport if they apply in person but there is no provision to apply in person in the UK
  - if the national authority puts unreasonable barriers in place for the applicant

Paragraph 34(6) of the Rules states that you can ask the applicant to provide alternative satisfactory evidence of their identity and nationality. For example this could be a:

- birth certificate
- driving licence
- national health card
- national service document

If an applicant has not provided proof of identity in the timescale specified on the application form, and no exception applies, you may write to them and give them 10 working days to provide proof of their identity. If they do not respond, you should normally reject the application as invalid using the approved notice of invalidity template: ICD 4946 on Doc Gen.

## **Requirement: Passport photographs**

Applicants must provide 2 passport sized photographs. The photographs must meet the mandatory format requirements set out in the application form and

accompanying guidance. For further advice on passport photographs, see: [Rules for passport photos](#).

You must use the template found on: [Rules for passport photos](#). This allows you to decide whether the passport photo follows the guidelines on position of the face and the eyes.

If an applicant has not provided 2 passport photographs in the required format, and none of the exceptions below apply, you may write to them and give them 10 working days to provide the photographs. If they do not respond, you should normally reject the application as invalid using the approved notice of invalidity templates.

### Exceptions to the requirement to provide photographs

An applicant must provide photographs with their application unless there are exceptional reasons for not doing so. For example, you may exercise discretion if they provide written evidence from a doctor or appropriate medical professional that they are terminally ill or are temporarily incapable of providing them because of a serious accident or illness.

### Photographs of children aged 5 and under

Young children can be difficult to photograph, so some exceptions to the mandatory format requirements apply to children aged 5 and under. The photograph must show a clear image that is a true likeness of the child, however; they do not need to have a neutral expression or to look directly at the camera but they must face forward and meet all other format requirements.

Babies under one year old do not need to have their eyes open even though this is preferable. All other format requirements must be met. If the baby's head needs to be supported, the supporting hand must not be in the picture.

### Photographs of partner of settled persons in the armed forces

Special considerations apply to the provision of photographs when a person is applying on a SET(M) form and their spouse or partner sponsor is currently serving overseas in the armed forces

If the sponsor's unit confirms the period of service and that the sponsor is unable to provide a recent photograph because they are outside the UK you can use discretion and accept an application without a photograph of the sponsor.

The photograph and documentation provided at the FLR(M) or visa application stage is sufficient in these circumstances. You can only exercise this discretion at the settlement stage, not when considering the initial application or further leave.

## Requirement: Consent for applicants who are under 18 years old

If the applicant is under the age of 18, and not a dependant on an adult's application, then their parent or guardian must provide their written consent to the application. This is a mandatory requirement set out in [paragraph 34\(8\) of the rules](#).

If an applicant who is under 18 does not provide this written consent with their application, you may write to them and give them 10 working days to provide it. If they do not respond, you should normally reject the application as invalid using the notice of invalidity template ICD 4946 on Doc Gen.

## Writing to the applicant to give them an opportunity to correct omissions or errors

[Paragraph 34B](#) sets out that, where an application contains errors and / or omissions, the Secretary of State may write out to an applicant and give them 10 working days to remedy the errors and / or omissions. If an applicant does not respond within 10 working days, you should normally reject the application as invalid using the notice of invalidity template: ICD 4946 on Doc Gen.

## Service of Notice of invalidity

In accordance with [Appendix SN](#) of the Immigration Rules, a notice of invalidity is deemed to be served on the applicant:

- if posted, 2 days after the date of posting of the letter
- if given by hand by an officer acting on behalf of the SSHD, on the date it is given

If you reject an application as invalid, you must:

- mark a paper application form as 'invalid' and sign and date this at the top of section 1 – if there is no section 1 on the form, sign and date the front page
- record the reasons you consider the form to be invalid in the case notes field of CID
- enter 'REJECT' into the CID outcome field

Please see table below for what to do with documents when an application is rejected:

Circumstances of the rejected application	Documents to retain	Documents to return
The applicant either: <ul style="list-style-type: none"><li>• applied out of time</li><li>• applied in time but leave has now expired</li><li>• is liable to removal</li></ul>	The applicant's: <ul style="list-style-type: none"><li>• passport</li><li>• travel document</li><li>• national identity card</li></ul>	Send the following to the applicant, or their legal representative, with the ICD.4946 covering letter: <ul style="list-style-type: none"><li>• the application form</li><li>• any photographs submitted</li></ul>

		<ul style="list-style-type: none"> <li>• supporting documents</li> </ul>
The applicant applied in time and the application was rejected but the applicant still has extant leave which isn't going to be curtailed	None	<p>You must return all documents to the applicant, including the:</p> <ul style="list-style-type: none"> <li>• passport</li> <li>• travel document</li> <li>• national identity card</li> </ul>

**Related content**

[Contents](#)

# How an applicant can submit an application

When applying on a paper version of the form, applicants must send the form to the address on the application form, or, for applications that can be made at a premium service centre, they can take the form with them and submit in person. For information on applications that can be made in person at a premium service centre see: [Visa premium service centres](#). A posted application must be sent by pre-paid post or by courier. **The postal address used must be that indicated on the application form.**

## Simultaneous applications

An applicant cannot submit simultaneous applications; only one form of leave can be granted at any time. If an applicant attempts to submit more than one application on the same day, you must normally write to them to explain that only one application can be decided at a time and to ask them to indicate which application they would like to be considered and which application(s) they would like to withdraw. If they do not respond, you must reject all applications as invalid. If they do respond, you must mark as withdrawn the application they have said they wish to be withdrawn, and return the fee they have paid for that application.

## Varying an application for leave to remain

An applicant can vary the purpose of an application at any time before a decision on the application is served. Any application submitted where a previous application has not yet been decided is a variation of that previous application - an applicant can only have one application outstanding at any one time. See [Variation of an application for leave- example scenarios](#).

Deemed date of service of a decision is as follows, if served:

- by post, 2 days after the date the letter is posted
- by email, on the date the email is sent
- in person, on the date it is served

If the applicant wishes to vary the purpose of their application, they must complete the specified form and meet all the requirements of [paragraph 34](#) of the Immigration Rules for the variation to be valid.

If an applicant writes to request a variation of an application but does not submit an application form, you should write back to them confirming that they must complete a specified form and tell them which form to use.

When an applicant varies their application they do not have to pay an additional fee unless the new application has a higher fee. If this is the case, when the applications are made online, the applicant will have paid 2 fees and you must refund the difference. If both applications, or the second application, are on paper, the applicant must pay the difference between the original fee and the new higher fee and you should write to them to tell them what the difference is.

Where a dependant is included as part of an original application that is later varied, they can be included in the variation application if that application allows dependants to be included. If not, and the dependants have not submitted an application in their own right, then you must write to the dependants on the application confirming that the original application has been varied, that they are not included in the variation application and that their original application has fallen away. You should tell the dependant that they should now make a separate application.

If a dependant was not included in the original application, they cannot be added to the variation application and instead must make a separate application and pay the appropriate fee.

A valid variation of purpose will look like a new application. You must check CID to see if an earlier application exists which has not yet been decided. This will tell you whether the new application is a variation of an existing application or a fresh application. If it is a fresh application you must consider whether it can be made. Guidance on applications made while a person is on section 3C can be found in the [3C guidance](#).

If an applicant submits an application to vary, but a decision has already been made on the original application, you must write to them and tell them that the application will be treated as a new application.

### **Date of application: original application**

The date of application for postal applications via Royal Mail, including Parcel Force, is the date of posting that is indicated on the tracking information, or if not tracked, on the postmark on the envelope.

The date of application for postal applications delivered by courier is the date it is delivered to the Home Office.

If the envelope in which the application was posted is missing, or if the postmark is illegible, you must take the date of posting to be at least one day before it is received. You must take the date of processing on the payment contractor's stream sheet as the date the application was received. If there is also accompanying correspondence with the application that matches the likely date of posting, and that date is earlier than postage date calculated using the above method, you must take this earlier date as the application date. If you are unsure, you must accept the probable date most favourable to the applicant.

The date of application for online applications is the date it is submitted via the online process.

This date of application applies even where the applicant subsequently chooses to, or is asked to, attend an in person appointment.

When applying online, an applicant can choose to make an appointment at a premium service centre to submit their proof of identity, passport photos and

supporting evidence in person. An applicant may also be requested by the Home Office to attend an appointment. Any appointment must be usually made and attended within 45 business days of submission of the application online.

The date of application for an in person application is the date it is submitted in person.

If you withdraw a decision to treat an application as invalid and instead accept it as valid, the date of application is the date the application was originally made.

If an application, or variation, was previously rejected as invalid under the Immigration Rules, and the applicant then submits a valid application, the date of application, or variation, is the date the valid application is submitted.

### **Date of application: application to vary**

Where an application is varied, the application date remains the date of the original application. This is relevant to whether an applicant has, or will have, 3C leave. For further information see: [Leave extended by section 3C \(and leave extended by section 3D in transitional cases\)](#).

However, for PBS applications, where a variation application is made in accordance with [paragraph 34E](#), then, for the purposes of assessment against the rules, the date on which the variation is made should be treated as the date of the application.

If a person is varying the purpose of an application and does not include photographs with the application form, but meets all other requirements of paragraph 34 and the variation is made no more than 90 days after the initial application, you should normally use discretion and accept the variation as valid if the applicant (and any dependants) have already submitted photographs with their initial application. If the initial application was submitted more than 90 days ago, you must request new photographs.

### **Variation of an application for leave – Example scenarios**

An application can only have one application outstanding at a time, except for one very specific exception as set out in example scenario 4 below. When an applicant submits an application for leave followed by another application for leave, the second application will either be a variation of the first application, or a new application. The examples below explain how this works.

#### **Example scenario 1**

An applicant submits application A in time. They then submit application B before application A has been decided, but after the applicant's leave has expired when the applicant transitioned to 3C leave.

As the applicant transitioned to 3C leave and a decision has not yet been made on application A, application B is automatically considered as a variation of application A. The date of application is the date application A was submitted.

#### **Example scenario 2**

An applicant submits application A in time. They then submit application B before application A has been decided, whilst they still have extant leave.

An applicant cannot be granted more than one type of leave at a time. Where 2 applications have been submitted whilst the applicant has extant leave, the second application will be considered as a variation of the first application.

### **Example scenario 3**

An applicant submits application A out of time. They then submit application B before application A has been decided.

An applicant cannot be granted more than one type of leave at a time. Where 2 applications have been submitted out of time, the second application will be considered as a variation of the first application.

### **Example scenario 4**

An applicant submits application A in time. They transition to 3C leave and application A is refused, and the decision is served with a right of appeal. The applicant then submits application B, whilst still on 3C leave (for example, before the time limit to appeal has ended)

In this scenario, if application B is a human rights claim or an asylum claim, application B must be considered. If application B is any other type of application, then it must be returned as void as there is no longer an application to vary. For further information on 3C leave see: [Leave extended by section 3C \(and leave extended by section 3D in transitional cases\)](#).

### **Example scenario 5**

An applicant submits application A (either in or out of time). Application A is refused and the decision is served, with a right to Administrative Review. The applicant then submits application B.

In this scenario, the submission of application B brings the administrative review period and therefore any period of 3C leave, to an end. Application B cannot be a variation of application A, because the decision on application A has already been decided. Application B should be considered as a new application.

## **Attempts to make multiple applications in a single form**

An application form can only be used for its specified purpose. Sometimes applicants try to make multiple applications as part of a single form, for example, they may raise human rights claims as part of an application for leave to remain as a student. This is not allowed and almost all of the application forms on GOV.UK and almost all of the paper forms include a message reminding applicants of this. This message is not included on specified forms for human rights routes. If you are unsure of whether the applicant would have seen this message, you can check with the Guidance, rules and forms team.

Where multiple issues are raised in an application form or an accompanying letter, you must write out to the person. This template explains again to the applicant that

they have raised issues that cannot be considered as part of that specified application. The template explains that the applicant can make a variation application to raise those issues, and which form they can use.

Where a further application is submitted before a decision is made on the existing application, it has the effect of varying the existing application. Where a further application is made after a decision has been made on the existing application, this must be treated as a new application. If no further application is submitted, consider the current application only in relation to those issues which can be raised on that specified form.

## Discretion

The exercise of any discretion must be authorised by an HEO or above.

## Fees

You must not accept an application or claim as valid if a specified fee is not paid and no corresponding exception or fee waiver is applicable. The requirements for the payment of fees are set out in the relevant fees regulations and the Fees and Income Planning Team can advise if needed. If an applicant has not paid the specified fee and is not eligible for a discretionary fee waiver, you may contact them, in writing, and give them the opportunity to pay the fee within 10 working days.

## Biometrics

You must not accept an application as valid if the applicant has not provided their biometric information and none of the exceptions apply. The requirement to provide biometrics and the exceptions are included in the [Immigration \(Biometric Registration\) Regulations 2008](#).

## Withdrawn applications

An applicant can withdraw their application by sending a written request. If the request is ambiguous, you must confirm the withdrawal request with the applicant. The date of withdrawal is the date the request is received by the Home Office, calculated in line with the information set out in [Date of application: original application](#).

The case of [Qadeer v SSHD](#) clarified that the SSHD does not have to agree to the withdrawal of an application but may consider and decide the application even where that might lead to a refusal.

The most common reason to refuse to accept a withdrawal request from an applicant and decide an application is where there is a suspicion that deception has been exercised by the applicant, for example if they have knowingly submitted fraudulent documents.

If a person requests the return of their passport to travel outside the common travel area (CTA) before a decision is made on their application for leave to remain, you must treat the application as withdrawn on the date that request is received by the

Home Office unless an exception applies. This is set out in [paragraph 34J of the Immigration Rules](#). The CTA includes the:

- UK
- Republic of Ireland
- Channel Islands
- Isle of Man

In all cases, you must ask the person to confirm their request for the return of their passport in writing. If urgent, you can only return the passport if you receive a fax or email. You must record the details in the case notes on CID. You must treat the application as withdrawn regardless of whether or not the applicant later travels. If biometrics have been submitted you must not refund the specified fee. The applicant has no right of appeal against the withdrawal.

Paragraph 34J does not apply to an applicant who applies as a Tier 2 or Tier 5 migrant and whose application is supported by a certificate of sponsorship from a premium sponsor. This exception is set out in [paragraph 34K of the Immigration Rules](#). These migrants can request their passport for travel purposes and their application will not be treated as withdrawn, although they will still need valid leave in order to re-enter the UK (see below).

You must not treat an application as withdrawn if the person:

- does not request the return of their passport and instead travels outside the CTA on another passport, an emergency travel document or illegally
- requests the return of their passport for purposes other than travel (or for travel within the CTA) – for example to open a bank account, take the Life in the UK Test or apply for an identity document not related to travelling outside the CTA

If a person, with an outstanding application, travels outside the CTA, the application does not give them any right to re-enter the UK to receive a decision on their application. They are liable to be refused entry, unless:

- they are allowed to re-enter the UK with a different type of leave
- their existing leave has not yet expired and is not cancelled at the border

If the person has transferred onto section 3C leave because they made an in-time application and their leave expired before they left the UK, their section 3C leave expires when they leave the UK.

If a person makes an application for further leave but then leaves the UK with extant leave and that leave expires whilst they are outside the UK, they will transition onto section 3C leave.

If a person has transitioned onto section 3C leave and withdraws their application, 3C only comes to an end on the date the application is withdrawn.

The implications of a request received from an applicant to withdraw their application are varied, depending on when the request is received:

**Request to withdraw an application that is not yet valid – applicant has extant leave at time of request to withdraw**

If a migrant with extant leave requests the withdrawal of their application before they have fulfilled the validation requirements, you must notify them using ICD.5142, that their application has been withdrawn but that, at the point of withdrawal, the application was not yet valid. The applicant's extant leave will continue. You must refund the application fee

**Request to withdraw an in time application which is not yet valid – applicant's leave has expired at time of request to withdraw**

If a migrant makes an in time application and requests withdrawal of the application before they have fulfilled the validation requirements but after their original leave has expired, you must notify them using ICD.5142, that their application has been withdrawn, that at the point of withdrawal, the application was not valid under paragraph 34 of the Immigration Rules and that, therefore, their leave expired on the date their previous grant of leave had come to an end. You must refund their fee.

**Request to withdraw an in time valid application where the applicant has extant leave**

If a migrant wishes to withdraw their application, you must notify them using ICD.5142, to say that their application had been validated and has now been withdrawn as requested and that their extant leave will continue. You do not need to refund the fee.

**Request to withdraw an in time valid application where the applicant's leave has expired and they had transitioned to 3C leave**

If all validation requirements have been met but the migrant still wishes to withdraw their application, you must notify them using ICD.5142, to say that their application has been withdrawn as requested and that their leave ended on the date the application was withdrawn. You do not need to refund the fee.

## **Applications made from outside the UK**

A person can make an application to vary their continuing leave from outside the UK. [Paragraph 33A of the Immigration Rules](#) confirms this. Although such an application can be made from abroad, paragraph 33A is clear that the Secretary of State is not obliged to consider such an application. However, if the applicant leaves the UK with extant leave, makes an application to extend that leave from abroad before their leave expires, they transition onto section 3C leave and will have 3C leave indefinitely if we do not decide the application.

## **Overstayers who make an application and then leave the UK**

Where Home Office records indicate that an applicant for leave to remain who has no valid leave has left the UK, the outstanding application must be voided. The applicant's passport must be returned to their Embassy. You must retain all documents provided in support of the application.

You must notify the applicant of this outcome using ICD.5057 on Doc Gen.

## What is a void application?

An application is void when the Home Office cannot process it. For example:

- an application for limited leave to remain from a person who already has indefinite leave to remain
- an application for leave to remain as a Tier 4 student from a person who is on 3C leave pending an appeal
- an application for leave to remain from a person who is outside the UK without continuing leave

A dependant's application where the main applicant withdraws their application or varies their application to a route that does not allow for dependants.

### Related content

[Contents](#)

# Postal strikes

You must consider how an official postal strike affects:

- an applicant's ability to post their application and related correspondence
- the time it takes for an applicant to receive decisions made or correspondence sent by the Home Office

## Letters and packages posted immediately before or during strikes

Letters and packages posted immediately before or during strikes may have postmarks dated some days later and applicants may be unable to post their applications during a strike.

If a postmark is dated within 2 days, excluding Sundays and bank or public holidays, of the end of any national post strike, you can consider the application was submitted on the last full collection day before the strike. If a Global email is issued to Home Office staff following a postal strike to advise which dates you can accept, follow the instructions in the email.

## Evidence the application was made after the last full collection day before the strike started

If there is evidence to suggest the application was posted after the last full collection day before the start of a strike, you must ask your manager if you can consider the date of the correspondence as the application date.

Evidence can include:

- the application form was signed after the last collection date
- supporting evidence, such as letters or bank statements dated after the last collection day

## Requesting further information

If you have requested more information from an applicant, you must allow the applicant more time to provide the information if their ability to submit the evidence is affected by the strike action. This must be equivalent to the number of strike days plus an additional 3 days. You must only consider rejecting or refusing the case on the non-production of information or evidence after this time has passed.

If the evidence does not clearly identify the date of postage and if the delivery time was affected by a strike, you must give the benefit of doubt to the applicant.

## Unofficial strikes

If there is evidence to suggest the posting of an application, related correspondence or the receipt of a decision may have been affected by unofficial strike action, you must consult your manager with a view to applying the principles that apply during an official strike. You must give the benefit of doubt to the applicant.

**Related content**  
[Contents](#)