



Home Office

# Leave outside the Immigration Rules

Version 1.0

Guidance for decision makers considering leave outside the Immigration Rules, on the basis of compelling compassionate grounds (grounds that are not related to family and private life, medical or protection matters).

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# About this guidance

This guidance tells you about the when it may be appropriate to exercise discretion to grant leave outside the Immigration Rules (LOTR) on the basis of compelling compassionate grounds (other than family and private life, medical, asylum or protection grounds). This guidance applies to decision makers considering entry clearance, leave to remain and indefinite leave to remain applications.

The circumstances in which someone may be granted leave LOTR are covered either by this guidance, or separate guidance relating to European Convention on Human Rights (ECHR) Article 3 medical, Discretionary Leave, or where there is an existing published concession.

Applications relating to LOTR on Article 8 family and private life grounds must instead refer to the 5-year or 10-year partner, parent and private life guidance.

Applications relating to Article 3 medical grounds must instead refer to the discretionary leave guidance.

## 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 Family Policy.

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.

## Publication

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

- version **1.0**
- published for Home Office staff on **27 February 2018**

## Changes from last version of this guidance

Updated to clarify the separation from asylum / protection, discretionary leave, family and private life policies on exceptional circumstances.  
Placed into new template.

### Related content

Article 8 family and private life (deportation cases) guidance

General grounds for refusal

[Contents](#)

**Related external links**

[Article 8 family and private life guidance](#)

[Discretionary leave guidance](#)

[Considering Human Rights claims](#)

[European Convention on Human Rights \(ECHR\) Article 3 medical](#)

[Family life \(as a partner or parent\): 5-year routes](#)

[Family life \(as a partner or parent\) and private life: 10-year routes](#)

# Introduction

This page tells you about the background, important principles, reasons to grant leave outside the rules (LOTR), documentary evidence and LOTR in respect of children and those with children.

[Background](#)

[Important principles](#)

[Reasons to grant LOTR](#)

[Documentary evidence](#)

[In respect of children and those with children](#)

## Background

The Immigration Rules are designed to provide for the vast majority of those wishing to enter or remain in the UK however, the Secretary of State has the power to grant leave on a discretionary basis outside the Immigration Rules from the residual discretion under the [Immigration Act 1971](#).

From 1 April 2003 to 9 July 2012 the majority of applications which fell outside the Immigration Rules in the UK were considered within the discretionary leave (DL) criteria, which (along with humanitarian protection) replaced exceptional leave to enter or remain (ELTE or ELTR). This included cases on family, private life, medical and other European Convention on Human Rights (ECHR) grounds.

On 9 July 2012 and 10 August 2017, legislation was changed to bring the majority of family and private life cases under [part 7 paragraph 276ADE\(1\)](#) and [Appendix FM](#) of the Immigration Rules. In relation to family and private life cases, there will be a consideration of any exceptional circumstances that apply – for family life cases this is built into Appendix FM of the Immigration Rules and for private life cases this consideration is done outside of the Immigration Rules.

In all family and private life cases, the decision maker will consider whether the Immigration Rules are otherwise met and if not, will go on to consider whether there are exceptional circumstances which would render refusal a breach of ECHR Article 8 because it would result in unjustifiably harsh consequences for the applicant or their family. Each application is considered on its merits and on a case-by-case basis taking into account the individual circumstances.

LOTR on compelling compassionate grounds may be granted where the decision maker decides that the specific circumstances of the case includes exceptional circumstances. These circumstances will mean that a refusal would result in unjustifiably harsh consequences for the applicant or their family, but which do not render refusal a breach of ECHR Article 8, Article 3, refugee convention or other obligations.

Not all LOTR is granted for the same reason and discretion is applied in different ways depending on the circumstances of the claim and the applicant's

circumstances. There are separate pieces of guidance for deciding cases raising factors relevant to exceptional circumstances, DL and compelling compassionate grounds.

## Important principles

A grant of LOTR should be rare. Discretion should be used sparingly where there are factors that warrant a grant of leave despite the requirements of the Immigration Rules or specific policies having not been met. Factors raised in their application must mean it would not be proportionate to expect the person to remain outside of the UK or to leave the UK.

The Immigration Rules have been written with clear objectives and applicants are expected to make an application for leave to enter or remain in the UK on an appropriate route under the relevant Immigration Rules and meet the requirements of the category under which they are applying – including paying any fees due. Considerations of whether to grant LOTR should not undermine the objectives of the rules or create a parallel regime for those who do not meet them.

Where you consider LOTR, you must have regard to [part 9 grounds for refusal within the Immigration Rules](#) and refer to the general grounds for refusal guidance.

The period of LOTR granted should be of a duration that is suitable to accommodate or overcome the compassionate compelling grounds raised and no more than necessary based on the individual facts of a case. Most successful applicants would require leave for a specific, often short, one-off period. Indefinite leave to enter or remain can be granted outside the rules where the grounds are so exceptional that they warrant it. Such cases are likely to be extremely rare. The length of leave will depend on the circumstances of the case. Applicants who are granted LOTR are not considered to be on a route to settlement (indefinite leave to remain) unless leave is granted in a specific concessionary route to settlement.

## Reasons to grant LOTR

Compelling compassionate factors are, broadly speaking, exceptional circumstances which mean that a refusal of entry clearance or leave to remain would result in unjustifiably harsh consequences for the applicant or their family, but which do not render refusal a breach of ECHR Article 8, refugee convention or obligations. An example might be where an applicant or relevant family member has experienced personal tragedy and there is a specific event to take place or action to be taken in the UK as a result, but which does not in itself render refusal an ECHR breach.

Where the Immigration Rules are not met, and where there are no exceptional circumstances that warrant a grant of leave under Article 8, Article 3 medical or discretionary leave policies, there may be other factors that when taken into account along with the compelling compassionate grounds raised in an individual case, warrant a grant of LOTR. Factors, in the UK or overseas, can be raised in a LOTR application. The decision maker must consider whether the application raises

compelling compassionate factors which mean that the Home Office should grant LOTR. Such factors may include:

- emergency or unexpected events
- a crisis, disaster or accident that could not have been anticipated

LOTR will not be granted where it is considered reasonable to expect the applicant to leave the UK despite such factors. Factors, in the UK or overseas, can be raised in a LOTR application. These factors can arise in any application type.

## Documentary evidence

Applicants seeking LOTR must provide documentary evidence to support their claim.

Where an applicant seeks to remain to overcome a personal tragedy, they must provide evidence of the reasons that they must remain in the UK, and for how long. Attendance at a funeral, or to give evidence in an inquiry if the timings do not allow for them to leave and return in sufficient time to attend in-person are examples which may justify a short period of LOTR.

Where an applicant wishes to include a medical circumstance as a compelling compassionate ground relating to them or a dependant, they must submit satisfactory medical evidence from a medical practitioner who is qualified in the appropriate field. Such evidence must include details of the relevant medical circumstance and why it requires a period of leave on compelling compassionate grounds. However, where the applicant seeks to rely on medical grounds as the basis of their claim, they should make an application in accordance with Discretionary leave guidance.

## In respect of children and those with children

The application of this guidance must take into account the circumstances of each case and the impact on children, or on those with children, in the UK. [Section 55 of the Borders, Citizenship and Immigration Act 2009](#) places an obligation on the Secretary of State to take account of the need to safeguard and promote the welfare of children in the UK when carrying out immigration, asylum and nationality functions.

In practice, this requires a consideration to be made of the best interests of the child in every decision that has an impact on that child. This is particularly important where the decision may result in the child having to leave the UK, where there are obvious factors that adversely affect the child, or where a parent caring for the child asks us to take particular circumstances into account. All decisions must demonstrate that the child's best interests have been considered as a primary, but not necessarily the only, consideration. Caseworkers must be vigilant that a child may be at risk of harm and be prepared to refer cases immediately to a relevant safeguarding agency where child protection issues arise.

### Related content

[Contents](#)

**Related external links**

[General grounds for refusal](#)

[Article 8](#)

[Article 3 medical \(human rights claims on medical grounds\)](#)

[Discretionary leave](#)



# Process

This page tells you about the process to follow in considering leave outside the rules (LOTR) in entry clearance and leave to remain applications.

[Applying overseas for LOTR](#)

[Applying in the UK for LOTR](#)

[Authorisation of an overseas application](#)

[Granting LOTR](#)

[Periods and conditions of LOTR](#)

[Refusing LOTR](#)

[Right of appeal](#)

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[Further leave](#)

## Applying overseas for LOTR

Applicants overseas must apply on the [application form](#) for the route which most closely matches their circumstances and pay the [relevant fees and charges](#). Any compelling compassionate factors they wish to be considered, including any documentary evidence, must be raised within the application for entry clearance on their chosen route. Any dependants of the main applicant seeking a grant of LOTR at the same time, must be included on the form and pay the [relevant fees and charges](#).

## Applying in the UK for LOTR

Applicants in the UK must apply on the [application form](#) for the route which most closely matches their circumstances and pay the [relevant fees and charges](#). Any compelling compassionate factors they wish to be considered, including any documentary evidence, must be raised within the application on their chosen route for it to be considered, if the requirements for leave on their chosen route are not met.

If an applicant in the UK wishes to be considered solely outside the Immigration Rules, they should apply using the [further leave \(human rights other\) \(FLR \(HRO\)\)](#) application form or [further leave \(Immigration Rules\) \(FLR\(IR\)\) form](#). Applicants should indicate that they are applying for other purposes not covered by other application forms and should provide details, including any relevant documentary evidence explaining in more detail why they are seeking LOTR on compelling compassionate grounds.

Where the applicant is not subject to a fee exemption or concession, they must pay the relevant fees and charges. If the application is on the family and private life form, it can be accompanied with an [appendix 1 fee waiver application](#).

If an applicant in the UK wishes to be considered for a grant of indefinite leave to remain (ILR) outside the Immigration Rules, they should apply on [form SET\(O\)](#) and pay the relevant fees and charges. Applications for ILR are not covered by the fee

waiver policy. ILR applications need to be accompanied by the correct fee to be considered as valid.

## Authorisation of an overseas application

Where an Entry Clearance officer considers that an application for entry clearance raises compelling compassionate grounds, they must refer the application to the Referred Casework Unit (RCU) for consideration.

In making a referral to RCU, the Entry Clearance officer must include all the relevant information and evidence available to them and a recommendation and their reasons for this.

## Granting LOTR

Reasons for refusal under the relevant Immigration Rules should be included in the LOTR grant letter. The primary reasons for granting LOTR on compelling compassionate grounds should also be set out briefly. The letter must be clear that LOTR is being granted on compelling compassionate grounds, including where medical circumstances have formed part of the reason for the grant of leave under this policy to distinguish the grant of LOTR from a grant outside the rules on a discretionary basis following an Article 3 medical consideration.

## Periods and conditions of LOTR

Most grants of LOTR will be for a single short period of limited leave to enter or remain. There may be cases where a longer period of leave outside the rules is considered appropriate, because there are other particularly compelling or compassionate reasons to grant leave for a longer period.

The onus is on the applicant to evidence the factors that warrant a period of LOTR and should set out the period of leave required or requested in their application.

Conditions for limited leave should be no recourse to public funds, no work and no study. Any deviation from this should be rare and only where there is sufficient evidence to show why such conditions should not be applied.

Applicants seeking ILR outside the Immigration Rules should provide details as to why they should be granted ILR rather than limited leave. ILR is a privilege, not an automatic entitlement. Unless there are truly exceptional reasons, the expectation is that applicants should start a route to ILR and serve a probationary period of limited leave before being eligible to apply for ILR. However, there may be an exceptionally unusual case where ILR is the only viable option, because a short period of leave is not appropriate because there are the most exceptional compelling compassionate grounds.

All factors raised that relate to exceptional circumstances and compelling compassionate grounds, must be addressed in the decision letter.

## Refusing LOTR

Reasons for refusal under the relevant Immigration Rules where relevant, along with reason for refusal outside the rules must be included in the decision letter. These reasons must explain what factors the applicant raised and what evidence has been taken into account, before going on to explain why they do not warrant a grant of leave. You must explain why discretion has not been exercised to grant leave outside the rules in each application on a case-by-case basis. [See refusal wordings.](#)

## Right of appeal

Where a human rights claim has not been decided as part of the consideration, applicants who apply for a grant of leave outside the Immigration Rules and are refused will not have a right of appeal against the decision or an administrative review of the decision.

## Deferring

There may be factors raised which will be sufficiently short lived, that it is proportionate to refuse the application or claim on and give an undertaking not to remove the individual or expect them to leave the UK voluntarily until the circumstances have changed. Where it is considered that the person can leave the UK within a short time of the date of decision, it will normally be appropriate to refuse the application or claim outright, not grant a period of LOTR and defer removal until such time as it is possible.

## Further leave

When a grant of LOTR expires, the applicant is expected to leave the UK unless they are seeking to apply under a category of the Immigration Rules. LOTR is not intended to be a route to remain in the UK, but instead provides a period of leave sufficient to overcome a compelling compassionate ground.

If the applicant wishes to seek further LOTR, they must make an appropriate application. The fact that leave was previously granted is no guarantee that further LOTR will be granted. Every case will be considered on its merits taking into account the individual facts of the case.

### Related content

[Contents](#)

# Refusal wordings

This section sets out suggested wordings for decision makers to use in a refusal letter. The following wordings are examples. They do not constitute an exhaustive list of possible refusal paragraphs.

Refusal reason	Suggested wording
<b>No exceptional circumstances raised</b>	<p>It has also been considered whether your application raises any exceptional circumstances which might warrant a grant of leave to the United Kingdom outside the requirements of the Immigration Rules on compelling compassionate grounds.</p> <p>You have not raised any such exceptional circumstances, so it has been decided that your application does not fall for a grant of leave outside the rules.</p>
<b>Exceptional circumstances raised – implicitly or explicitly</b>	<p>It has also been considered whether the particular circumstances set out in your application constitute exceptional circumstances which might warrant a grant of leave to the UK outside the requirements of the Immigration Rules on compelling compassionate grounds.</p> <p>In support of your claim you state <b>[insert details of circumstances raised]</b>. You have submitted <b>[insert details of any evidence submitted]</b>.</p> <p>This has been carefully considered, but your application does not fall for a grant of leave outside the rules because <b>[set out reasons why the circumstances are not considered exceptional – include consideration of ILR where such grounds are raised]</b>.</p>

## Related content

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