



Home Office

# Lapsing leave and returning residents

Version 8.0

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# About this guidance

This guidance tells Border Force officers about lapsing leave and entry at the border, and decision makers how to consider returning resident applications.

## 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 Settlement 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.

## Publication

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

- version **8.0**
- published for Home Office staff on **16 January 2024**

## Changes from last version of this guidance

Reflecting amendments to the Immigration Rules allowing those with lapsed settled status under the EU Settlement Scheme to apply to resume their settlement in the UK by applying for entry clearance as a returning resident.

There is also a minor change providing more detail about the refusal of leave to enter where there are doubts about whether a person's settled status has lapsed.

### Related content

[Contents](#)

# Lapsing leave

This page provides Border Force officers and decision makers with information about lapsing leave. Lapsing leave provisions are set-out in Article 13 of [the Immigration \(Leave to Enter and Remain\) Order 2000 \(legislation.gov.uk\)](#) (LTERO).

## Lapsed temporary leave

The leave of a person whose stay in the UK is subject to a time limit will lapse on them:

- going to a country or territory outside the common travel area if the leave was given for a period of 6 months or less or conferred by a visit visa
- remaining outside the UK for a continuous period of more than 2 years (where that leave has not already expired)

A person whose temporary leave has lapsed cannot apply to resume that leave as a returning resident, or return using that leave which would still have been valid, had it not lapsed.

## Lapsed settlement

When a person holds settlement (indefinite leave to enter or remain) they are only permitted to be outside the UK and the Islands for a particular period of time or under certain circumstances before their settled status lapses through the operation of law. The preamble to [Appendix Returning Resident](#) sets out these periods, which reflects the LTERO. The periods are:

- more than 5 years, if they previously had settlement in the UK under the EU Settlement Scheme
- more than 4 years, if they previously had settlement in the UK under the EUSS as a Swiss national or a family member of a Swiss national
- otherwise more than 2 years

The LTERO sets out some exceptions which prevent a person's leave from lapsing for the following people:

- a partner or child accompanying a member of HM Armed Forces overseas
- a partner or child accompanying a permanent member of the British Council, Foreign, Commonwealth and Development Office, or Home Office overseas

A person whose settlement has lapsed and who now wants to return and settle in the UK must apply for entry clearance to return to the UK. Where that application is as a returning resident, it will be assessed by a decision maker under Appendix Returning Resident to the rules.

## Entry at the border

This section tells Border Force officers how to check whether a person presenting themselves at the border with evidence of a previous grant of settlement still holds that status and can be admitted or if that status has lapsed.

## Settlement

To check whether a person's settlement has lapsed, evidence of a person's settled status in the UK is normally found in their passport, on an immigration status document or a biometric residence permit (BRP). These documents may include the following:

- indefinite leave to enter (ILE) endorsement or BRP
- indefinite leave to remain (ILR) endorsement or BRP
- no time limit endorsement or BRP
- returning resident visa
- open date stamp in passport after ILE or ILR has been granted

If such evidence cannot be provided, a person's settled status may still be confirmed through:

- records on systems, databases, or paper files that show settlement has been granted
- other proof the applicant was settled in the UK on or before 1 January 1973 and this status has not been lost or revoked

A person can apply to have their settled status confirmed by making a [No Time Limit](#) (NTL) application.

## Absence within the permitted period

A person who has been absent from the UK within the permitted period set out in the section on [Lapsed settlement](#) will retain their settlement. It is usually possible to check absences from the UK through entry and (old) embarkation stamps (endorsed by Immigration Officers).

## Granting entry at the border

A passenger should be granted entry at the border where they:

- can provide evidence they have been granted settlement
- have been outside the UK within the permitted period

Passengers who meet the above requirements, should have their passport endorsed with an open date stamp. This does not grant any form of leave but is simply evidence of the person's arrival in the UK.

Where it is likely, but it is not clear, that they qualify, they may be given immigration bail and asked to provide evidence of their claimed residency or that they have applied for a biometric residence permit by making a [No Time Limit application](#).

Passengers who had settlement and who have not been away for more than the permitted period, occasionally seek entry as visitors. You must not grant entry as a visitor in this instance. Instead, you should endorse their passport with an open date stamp which confirms they continue to hold settlement.

## Refusing entry to the UK

If you have doubts that the passenger still has settled status, they should be further examined, and a decision made to either refuse leave to enter (under paragraph 9.18A.1 of [Part 9 of the Immigration Rules](#)) or to readmit the passenger. It is no longer acceptable to land the passenger as a visitor in these circumstances.

## Refusing entry for medical reasons

A person who has been absent from the UK for less than 2 years and continues to hold settled status, cannot be refused entry on medical grounds. They may however be referred to the Port Medical Inspector if they are intending to stay for more than 6 months (this is in accordance with [paragraph 36 of the Immigration Rules](#)). If recommended by the Port Medical Inspector, you may admit the passenger with a notice to report to the medical office of Environmental Health as explained in paragraph 38 of the Immigration Rules.

## Sensitive cases

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### Official – sensitive: start of section

The information in this section has been removed as it is restricted for internal Home Office use.

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### Official – sensitive: end of section

## British citizens seeking entry

Any person who has been granted British citizenship cannot continue to seek entry into the UK by means of any previous grant of leave they may still be in possession of, such as a settlement vignette or stamp in their passport. This is because

settlement places conditions on their entry and, as a British citizen, they are no longer subject to time bound immigration control.

Once citizenship has been granted, the applicant has 3 months to attend a citizenship ceremony. They only become a citizen once they make an oath and pledge at the ceremony.

As such, a person's leave cannot be cancelled at the point of decision as there is then a time period of up to 3 months when the person is not a citizen and so would be in the UK without leave or proof of right to work or remain.

Although very unlikely, should an applicant who has been granted British citizenship but not attended their ceremony seek entry within the 3 months, then their leave by virtue of their settlement stamp or vignette would still be in force, so you must grant entry in line with that leave.

Where a person has become a British citizen and attended their ceremony but is still in possession of a settlement stamp or vignette in their passport, they may no longer use this as a means of entry to the UK. The applicant should instead now be in possession of a British passport or have a certificate of entitlement to the right of abode. You must then place a 'cancelled without prejudice' stamp across the settlement stamp or vignette and return to the passenger. They will then be allowed to pass through the primary control point.

#### **Related content**

[Contents](#)

# Applications for entry clearance as a returning resident

This page tells decision makers how to assess applications for entry clearance as a returning resident where a person has been absent from the UK and the Islands for more than the relevant period, or beyond the circumstances specified in the [Immigration \(Leave to Enter and Remain\) Order 2000](#) and their settled status has lapsed.

## Validity requirements for an application as a returning resident

The validity requirements for an application as a returning resident are that the applicant must:

- apply on the 'UKA/ROA/RR' form or (for applicants under the Windrush Scheme) the 'Windrush Scheme application (Overseas) form
- be outside the UK
- pay any required fee (no fee is required for the Windrush Scheme)
- provide any required biometrics
- establish their identity and nationality by providing a passport or other document

Where any of these requirements are not met the application is invalid and may be rejected without consideration of the application.

More information on validity requirements, and the process for considering whether to reject an invalid application, can be found in the Validation, variation and withdrawal of applications guidance.

## Suitability requirements for a returning resident

The suitability requirements for a returning resident are that the applicant must not fall for refusal under [Part 9 of the Immigration Rules – grounds for refusal](#). Also see the guidance on applying the grounds for refusal.

## Eligibility requirements for a returning resident

### Entry requirement for a returning resident

A person seeking to return to the UK as a returning resident must apply for and be granted an entry clearance as a returning resident before they arrive in the UK.

They must have previously been granted settlement in the UK, which has lapsed by operation of law due to their absence from the UK. There is no requirement for the person to have last left the UK with settlement status.



The applicant will also need to obtain a valid TB certificate if they have been continuously present in a country, or in multiple countries, listed in [Appendix Tuberculosis to the Immigration Rules](#) for 6 months or more, which includes a period (of any length) within the 6 months before the date of the application.

Information on how an applicant can obtain a TB certificate can be found in the [Tuberculosis tests for visa applicants guidance](#).

## **Intention to settle requirement for a returning resident**

You must be satisfied the applicant genuinely intends to return to the UK for the purposes of settlement. For example, a person applying for entry clearance as a returning resident and giving their immediate reasons for wanting to resume their settlement as house hunting or job hunting prior to returning to settle some months later, would demonstrate an intention to settle. Whereas, returning for a short time for a fixed-term job, study, or medical treatment would not.

Alternatively, evidence that might show the applicant does not genuinely intend to return to the UK for the purposes of settlement include:

- strong family ties outside the UK
- property outside the UK
- business ties outside the UK
- length of original residence and length of time spent outside the UK

You must look at all of the evidence together and each case must be considered on its individual merits.

## **Previous departure from UK requirement for a returning resident**

Unless they are applying under the Windrush Scheme, the applicant must not have received assistance from public funds towards the cost of leaving the UK. Applicants who wish to be considered under the Windrush Scheme should be referred to the information about the [Windrush Scheme on GOV.UK](#).

## **Strong ties to the UK requirement for a returning resident**

### **Strength of ties to the UK**

A person's ties to the UK may be evident in a number of ways. The nature of those ties, and the degree those ties have been maintained during a person's absence, will need to be considered when assessing whether a person should be readmitted as a returning resident. Such ties may include (but are not limited to):

- family ties
- property ties

- business ties
- length of original residence and length of time spent outside the UK

## Family ties

Where a person has close family ties in the UK which have been maintained during their absence, this will likely indicate strong ties to the UK. The more immediate the family members are, for example parents, partner, children, or grandchildren, the greater the strength those ties are likely to have. However, relationships with wider family members, such as cousins or nieces and nephews, may also be considered if those ties have been closely maintained.

The nature of any contact will also need to be considered. For example, regular visits from, or to, the applicant from family members in the UK will help demonstrate the strength of those ties. Such contact does not, however, need to have been made physically in person, and strong ties can still be demonstrated where there has been regular contact through other means.

## Property and business ties

Ties may also be in the form of property or business interests. These may be, for example, where the applicant owns their own property in the UK or has an interest in an ongoing business venture within the UK. Ties on the basis of property or business interests alone are unlikely to demonstrate strong ties to the UK but can be used in conjunction with other factors.

## Length of original residence

Generally, the longer the period of original residence, the more likely it is that the applicant will have developed strong ties to the UK and can be admitted as a returning resident. It is important to consider the length of the original residence together with all other relevant factors. You must not refuse an application solely based on a short period of original residence, if the other evidence points to the applicant having strong ties to the UK.

The length of time spent outside the UK will be an important factor to consider when assessing whether a person can be readmitted as a returning resident. This must be assessed against all other factors, including the time spent in the UK before they left.

A person may leave the UK for a variety of reasons. This may include:

- to access health treatment overseas
- to care for family
- to retire
- for employment/self-employment
- study

In some cases, these reasons mean a person remains outside the UK for more than the permitted period, and so their settlement lapses. You must consider their

reasons for leaving and for now wishing to return to the UK. For example, a person may have left the UK to care for family members and now wishes to return to the UK to retire.

## Any other circumstances

Other more specific circumstances which would support an application are:

- travel and service overseas with a particular employer before return to the UK with the employer
- a prolonged period of study abroad by a person who wishes to re-join the family in UK on completion of studies
- prolonged medical treatment abroad of a kind not available in the UK
- unintended absences from the UK due to, for example, the COVID-19 pandemic

Additionally, there may be other compelling or compassionate circumstances not mentioned above which need to be considered. Each case must be considered on its individual merits.

Evidence to support an application may include:

- evidence of previous settled status - for those who were settled before 1 January 1973 when the Immigration Act 1971 came into force, this may not be evidenced through a vignette, biometric residence permit (BRP) or passport - other evidence, such as Doctor's records or school letters, may be taken into account
- details of any family in the UK and correspondence with them (to establish strong ties to the UK)
- evidence of property in the UK and/or any business interests (to establish strong ties to the UK)
- letters of enrolment/attendance at an education establishment if they have been studying outside the UK for long periods
- letter of employment where this has been reason for their absence from the UK
- a letter from a medical professional if their reason for their absence relates to caring for another person or for their own medical reasons

This list is not exhaustive and other evidence can be considered.

You must have regard to all relevant information provided and the responsibility lies with the applicant to satisfy you that they meet all the requirements. However, where there are minor errors or omissions in the application, you may request more information, or clarification, if this may make a material difference to your decision on the application.

If the applicant is interviewed, questions put to the applicant may sometimes lead to an indication that the claim to be a returning resident is a fraudulent one. It is expected that the applicant can display sufficient knowledge relevant to their claimed life in the UK.

## Parental consent requirement for a returning resident aged under 18

If the applicant is aged under 18 on the date of application, they must have written consent from both their parents, one parent (if they have sole legal responsibility for the applicant), or the applicant's legal guardian. The written consent must confirm support for the application itself, the applicant's living and care arrangements in the UK, and their travel to, and reception arrangements in the UK.

## Decision on an application as a returning resident

### Granting entry clearance

Where a person's leave has lapsed, and they satisfy the requirements in Appendix Returning Resident to the rules, they must be issued entry clearance, with indefinite leave to enter. If a person has a passport valid for 6 months or more on the date of decision, this will be granted on a visa valid for 90 days and endorsed with Indefinite leave to enter. A person must travel to and enter the UK during the validity of the visa, where their BRP will be available for collection from the nominated Post Office.

Where a person who has less than 6 months validity on their passport applies as a returning resident, this will be granted on a visa endorsed with indefinite leave to enter but which is only valid until their passport expires. In some cases, this may result in no BRP being produced. If they are in the UK without a valid BRP they should be advised to apply for no time limit (NTL).

Where a person's settlement has not lapsed but their passport has expired and they wish to have their indefinite leave vignette transferred into a new passport, they should be advised to apply for a 'Vignette Transfer', rather than as a returning resident. If they hold a BRP but this has been lost or stolen or is due to expire, they should apply for a 'Replacement BRP'.

### Endorsements

Endorsement Type: Settlement

Endorsement: RETURNING RESIDENT ILE

Duration: Other

Cat D endorsement: ILE Settlement: Indefinite Leave to Enter

Validity: From 7 days before intended travel date to expiry date of passport

### Refusing entry clearance

Where the applicant does not meet the requirements of Appendix Returning Resident of the rules, you must refuse entry clearance.

There is no right of appeal against the refusal of a returning resident visa. The applicant will have a right to an Administrative Review.

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