



Home Office

# Service providers from Switzerland

Version 1.0

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# About this guidance

This guidance tells you how, from 1 December 2020, to consider applications made to the Service Providers from Switzerland (SPS) route, contained in [Appendix SPS to the Immigration Rules](#). The SPS route provides a basis, consistent with the 2019 UK-Switzerland [Citizens' Rights Agreement](#) (CRA), for eligible service providers to apply for entry clearance that they will require to execute pre-existing contracts in either their name (if self-employed) or on behalf of their employer or company, from the end of the transition period, which is 11pm Greenwich Mean Time (GMT) on 31 December 2020. The CRA has effect in UK law through the European Union (Withdrawal Agreement) Act 2020.

This guidance for caseworkers has been developed to support consideration of applications made to the route.

## 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 European Migration and Citizens' Rights Unit.

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 **01 December 2020**

## Changes from last version of this guidance

This is the first version of this guidance.

### Related content

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# Who can apply

The Service Provider from Switzerland route was launched on 1 December 2020. A person seeking to enter the UK as a Service Provider from Switzerland must have a right of entry under Article 23 of the [UK-Switzerland Citizens' Rights Agreement](#).

A person who is exempt from immigration control, for example foreign diplomats, consular staff and members of certain international organisations, cannot be granted leave to enter or remain under the Immigration Act 1971 and therefore, if they make an application to the Service Provider from Switzerland route, this must be treated as void.

A person who is a British citizen, including a British citizen with dual nationality, has the right of abode in the UK, cannot be granted leave to enter or remain under the Immigration Act 1971 and therefore, if they make an application to the Service Providers from Switzerland route, this must be treated as void. Certain current Commonwealth citizens also have the right of abode in the UK and cannot be granted leave to enter or remain under the Immigration Act 1971. Therefore, if they make an application to the Service Providers from Switzerland route, this must likewise be treated as void. Further information on the right of abode in the UK can be found in the right of abode guidance.

## Irish citizens

An Irish citizen is a person who is an Irish citizen as a matter of Irish law. Irish citizens enjoy a status in the UK that is not reliant on the UK's membership of the EU or the [Free Movement of Persons Agreement](#) (FMOPA) between the EU and Switzerland. Under the Common Travel Area arrangements, they will continue to be able to come to the UK without permission once free movement ends, including to work, except in a very limited number of circumstances (where subject to a deportation order, exclusion decision or international travel ban).

This means that Irish citizens do not need to apply for entry clearance under the route, although they can choose to make an application should they wish to do so.

### Related content

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# Valid applications

This section tells you how to check an application is valid under SPS 1.1 to 1.3 of [Appendix Service Providers from Switzerland of the Immigration Rules](#). You must check all of the following:

- it has been made using the required application process
- the required proof of identity and nationality has been provided
- the required biometrics have been provided
- the applicant must be aged 18 or over on the date of application

## Required application process:

Applicants must apply from outside the UK by using the relevant online application form ('Service Providers from Switzerland') and must follow the process set out in the online application form for:

- providing the required proof of identity and nationality
- providing a copy of the eligible contract or contracts
- providing written confirmation that travel is required to the UK to execute the contract
- providing evidence that the contract had commenced before 11pm Greenwich Mean Time (GMT) 31 December 2025
- (where required) providing a copy of valid Swiss residence permit or work permit

Other than for proof of their identity and nationality, where original documents need to be supplied, applicants will need to submit a scanned digital image of any required evidence, as there are no facilities to accept documents in hard copy.

Please consult any relevant operational instructions in place as a result of coronavirus (COVID-19) in conjunction with this guidance.

## Cost of application

There is no fee for an application under the Service Providers from Switzerland route although there may be associated fees charged by commercial partners at visa application centres, from which this route is not exempt.

Applicants under the scheme are not required to pay the immigration health surcharge, since the grants of leave to enter (LTE) for the route are always less than 6 months.

## Required proof of identity and nationality

For a Swiss national, proof of identity and nationality will be either their valid passport or valid national identity card. For any other national, this will be their valid passport. There may be limited circumstances where you can agree to accept

alternative evidence of identity and nationality where the applicant is unable to obtain or produce the required document due to circumstances beyond their control.

[European Economic Area \(EEA\)](#) nationals who do not hold a passport are not eligible to apply using an identity card as it is open to them to apply for a passport.

'Valid' in this context means that the document is genuine and has not expired or been cancelled or invalidated at the point it is provided. If, by the date the application is submitted or considered, the document is no longer valid the application will be invalid and can be rejected.

Some countries have extended the validity period of their identity documents in response to the COVID-19 situation, and you may in these circumstances accept such a passport or national identity card as an alternative evidence of identity and nationality.

The table below sets out which countries have made changes, which documents they apply to, and the impact on the expiry date. You should always check the most up to date situation with regard to validity extensions of identity documents.

Country	Document	Changes to expiry date
Bulgaria	Passport and national identity card	Any document expiring between 13 March 2020 and 31 October 2020 is to be treated as having no expiry date.
Croatia	Passport and national identity card	Any document expiring on or after 13 March 2020 is to be treated as having no expiry date.
Hungary	Passport and national identity card	Any document expiring on or after 11 March 2020 is to be treated as having no expiry date.
Romania	Passport and national identity card	Any document expiring on or after 16 March 2020 is to be treated as having no expiry date.

## Alternative evidence of identity and nationality

If the applicant provides a valid passport from a country that is not recognised by the UK (such as the Turkish Republic of Northern Cyprus), you may accept this as evidence of their identity and nationality providing there are no indications to the contrary. In these circumstances you must discuss the case with a senior caseworker who may refer to the European Migration and Citizens' Rights Unit for further advice.

## Required biometrics

Under the Immigration (Provision of Physical Data) Regulations 2006 (as amended), all applicants are required to provide a passport-style facial photograph of themselves (within the meaning of “biometric information” in section 15 of the UK Borders Act 2007), and their fingerprints as part of the required application process.

## Minimum age requirement

Applicants need to be a minimum of 18 years old at the date of application in order for the application to be valid. Applications from individuals who are under 18 at the date of application should be rejected as invalid.

## Treating an application as void

An application must be treated as void where:

- the applicant is a British citizen (including a dual British citizen)
- the applicant is exempt from immigration control (see [‘who can apply’](#))
- the applicant dies before their application is decided

### Related content

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# Withdrawing an application

An applicant may withdraw their application at any time after it has been submitted but (in the case of valid applications) the request must be submitted before a decision has been made on the application and the decision recorded on the caseworking system.

## Multiple applications

There may be occasions where an applicant has made more than one application to the route at the same, or similar times. For example, they may have submitted an online application without key evidence attached, and then submitted a subsequent application which included the evidence required.

Where this is the case, you must contact the applicant and explain to them that only one application can be considered at a time and notify them that they have 10 working days to withdraw any duplicate or invalid applications. Where the applicant fails to do so, you must reject any invalid applications. Where there are both valid and invalid applications, you must reject the invalid applications and consider the valid application in the normal way. Where there are multiple valid applications, you must consider the most recent valid application in the normal way.

## Requesting to withdraw an application

An applicant can withdraw their application by following the online guidance on [how to cancel a visa, immigration or citizenship application](#).

If the request is ambiguous, you must confirm the withdrawal request with the applicant.

A request for withdrawal must be made by the applicant named on the application form. You may consider extenuating circumstances on a case by case basis (for example if the applicant is incapacitated) and, where necessary, may accept a request for withdrawal from the person or organisation named on the application form as their employer. In this circumstance, the request for withdrawal will only be valid if both of the following apply:

- explanation is given why the applicant is unable to withdraw the application themselves
- the request for withdrawal is made by the Head of Human Resources, or where that role does not exist, by the most senior individual who holds responsibility for human resource matters

## Withdrawn applications

The case of *Qadeer v Secretary of State for the Home Department* [\[2015\] EWHC 505 \(Admin\)](#) clarified that the Secretary of State does not have to agree to withdraw an application and may still consider and decide the application even where that

might lead to a refusal. For example, where there is a suspicion that deception has been used by the applicant if they have submitted fraudulent documents in support of their application.

If you do not think that it is appropriate to agree to a request to withdraw an application, you must discuss this with your senior caseworker.

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# Assess an application

This section tells you how to consider the eligibility requirements for the route, which are set out at [Appendix Service Providers from Switzerland](#) SPS 4.1 to 5.1.

A person must meet the following requirements to be eligible for entry clearance as a Service Provider from Switzerland:

- The applicant (if self-employed) or company (if employed) must have a written contract with a UK business which was signed and commenced before 11pm Greenwich Mean Time (GMT) on 31 December 2020
- all applicants must have provided written confirmation from their employer (or self-certification if self-employed) stating they are required to travel to the UK to execute the contract or contracts
- when working for an employer, all applicants must be habitually employed in Switzerland
- if the applicant is a non-Swiss national, they must be legally integrated into the regular Swiss labour market
- for applicants working on behalf on an employer, the Swiss company named in the contract must not have already used its 90 day per calendar year work limit (for applications in that calendar year)

## 90 days per calendar year

A 'calendar year' is defined in [Part 6 of the Immigration Rules](#) as the period beginning on 1 January and ending on 31 December.

## Assess companies, employers and self-employed applicants

SPS 4.6 requires any employer or company to meet all the following criteria in order to be eligible to send staff under this route. They must:

- be a company or employer formed in accordance with the laws of Switzerland
- have their registered office, central administration or principal place of business in the territory of Switzerland
- remain active and trading

You should conduct checks to verify the above requirements are met – this can include checking the [Swiss Official Gazette of Commerce](#), which shows notifications and publications from across the cantons on issues such as debt enforcement and bankruptcy of businesses. If necessary, you may request copies of official correspondence (such as tax returns) to verify the Swiss employer or company's eligibility.

Where the UK contracting party is a limited company, you should check that it is a valid, trading business through checking systems such as [Companies House](#). If the

UK contracting party is no longer trading, then the applicant cannot meet the requirement of SPS 4.7 (that they are required to travel to the UK for the purpose of providing a service under an eligible contract concluded between themselves if self-employed, or their employer, and a client in the UK), and the application should be refused (unless there are additional eligible contracts with other UK companies in place).

You should check eligibility systematically for each application, even when multiple applicants are applying from the same company (in particular to ensure the company or employer remains active and trading).

The company wishing to send staff to the UK to execute an eligible contract must be established in Switzerland. A Swiss company with offices in multiple countries is only eligible to send staff from its offices based in the territory of Switzerland. For example, a company with its headquarters in Switzerland cannot send staff from an office based in New York. Such applications should be refused on eligibility grounds under SPS 4.6.

There is no requirement for applicants to be resident in Switzerland – for example, an applicant who resides in France and commutes to work in Switzerland is eligible under the route (provided they are doing so legally under Swiss law). In such a scenario (and especially in relation to self-employed applicants) you should have evidence that the contracting business is established in Switzerland. You may request further evidence when required (for example, an office rental agreement, or tax correspondence).

Only Swiss nationals are able to apply to the route as self-employed service providers. To be eligible, they must be established in Switzerland and registered with the appropriate tax authority in the territory of Switzerland. You may request evidence of official correspondence to verify this if it is not provided with the original application. A Swiss national established outside of Switzerland, without a business or employer established in Switzerland, will not be eligible for the route.

## Assess eligibility of the contract

Under SPS 4.8, all applicants to this route must be seeking to enter the UK to execute a pre-existing contract or contracts. In Appendix SPS this is termed an 'eligible contract' and defined at SPS 4.8 as a contract which meets all of the following requirements:

- it is a written contract between a Swiss employer or company, and a UK employer or company (formed in accordance with UK companies law) or an individual established in the UK
- it is signed and dated on or before 11pm GMT on 31 December 2020
- the performance of the contract has started on or before 11pm GMT on 31 December 2020

The contract and signatures can be in electronic form, but without signatures and a clear signing date, the contract will not be eligible. You should contact the applicant if

the date is not legible due to problems with scanning or uploading the documents and allow them 10 working days to submit an alternative scanned copy. However, if the applicant is persistently unable to demonstrate the contract was signed (and commenced) before 31 December 2020, the application may be rejected on eligibility grounds. An applicant should be contacted twice before an application can be rejected in this way, and the reasons for the rejection should be clearly outlined in the refusal letter.

Where a contract is dated and signed but there is no indication of the time of signature, you should assume that the contract was signed during business hours unless there is evidence to the contrary.

The contract must be a recognisable formal contract for services, and provide sufficiently detailed information on:

- the identities of the contracting parties
- the individuals who have signed the contract and the capacity in which they signed it
- the tasks or services that will be provided
- the payment that the service provider or company will receive
- the terms and conditions
- the start and finish date of the contract

You do not need to conduct a forensic analysis of contracts submitted, but you should be satisfied they meet the necessary requirements. For example, an email exchange with no clear summarised outline of the information above, or explicit agreement on both sides will not be valid.

Historically, service providers from Switzerland have largely been able to provide services in the UK under free movement provisions. After 31 December 2020, the legal basis for provision of services will change, which includes the implementation of the 90 day per calendar year restriction. If the submitted contract appears to commit the employer, company or self-employed individual to providing services for more than 90 days per calendar year (for example daily ground handling services at an airport), you should contact the applicant to seek more clarification as to how they intend to execute the contract without breaching the conditions of the route. If no explanation is given after a minimum of 3 attempts to secure further explanation, or the explanation is unsatisfactory, you may reject the application (although you should always discuss the case with a senior caseworker before doing so) and the reasons for rejection should be clearly outlined in the refusal letter. In the above example, where there is an evident commitment to more than 90 days service provision in the UK, a refusal should be issued under SPS 8.3 as no or unsatisfactory evidence of this responsibility would have been provided.

## **Assess performance of the contract before 11pm GMT on 31 December 2020**

The evidence required to demonstrate that the contract had commenced before 31 December 2020 should be proportionate to the length of time since 31 December

2020 (such as the longer the passage of time, the stronger the evidential requirements to demonstrate that the eligible contract had commenced). Relevant considerations will include whether:

- the eligible contract requires travel before a certain date
- the eligible contract requires frequent or regular travel
- different members of staff had been working on the contract in the interim period

In the third scenario, you should request the names of staff who had been previously working on the contract and confirm with systems records that they had been issued with entry clearance under this route. Where multiple individuals are cited, you should confirm the information of at least one staff member, but there is no requirement to verify every individual listed.

Subject to the specific terms of the contract, service providers should be able to evidence that they have travelled to the UK on at least one occasion to commence the contract. This can be evidenced through proof of travel or accommodation used whilst in the UK. Other evidence could include an individual having previously held a [Vander Elst visa or Swiss Posted Worker Certification](#) within the past 12 to 36 months where they can establish that the underlying contract is continuing. These are indicative examples, and you should consider the evidence presented on a case by case basis.

Exceptions to the expectation that an individual should evidence that there has been previous travel to the UK (in performance of the contract) should only be considered when the eligible contract is clear that regular or frequent travel is not required.

The approach to evidence should be as simple as circumstances allow. While there may be cases where the evidence presented is insufficient and further evidence needs to be requested, generally applicants should not be required to provide multiple forms of evidence to fulfil this eligibility requirement.

On an exceptional basis, and in recognition of disruption in international travel due to the global pandemic COVID-19, you may take a pragmatic approach when considering the threshold of evidence required to demonstrate that a contract was commenced before 11pm GMT on 31 December 2020, depending on when the relevant contract was signed.

## Contracts signed on or before 1 March 2020

For contracts signed before 1 March 2020, we would generally expect evidence that service providers have travelled to the UK on at least one occasion to commence the contract. This can be evidenced through proof of travel or accommodation used whilst in the UK.

However, you can use your discretion to accept evidence of cancelled travel tickets from Switzerland to the UK or cancelled bookings of accommodation in the UK, provided such bookings were made in the year 2020.

## Contracts signed between 2 March 2020 and 31 December 2020

For contracts signed between 2 March 2020 and 31 December 2020, we would not routinely expect evidence that service providers had physically travelled to the UK in order to commence the contract before 31 December 2020.

As part of your consideration, you may accept evidence of cancelled travel tickets from Switzerland to the UK, cancelled bookings of accommodation in the UK, evidence of bookings for future travel, or where appropriate, evidence that the contract had begun to be executed remotely as an interim solution. Appropriate evidence of this could include a formal e-mail exchange between the contracting parties.

The onus will always be on the applicant to provide sufficiently compelling evidence to demonstrate that the contract commenced before the end of the transition period (see [examples](#)).

In the case of a company or employer, this could be evidence that they have other employees who are having their applications to the route considered or have already been issued with entry clearance under the route. A self-employed individual may also have employees undergoing the application process (or who have been executing the contract) or may have evidence that the contract commenced without travel being necessary, which you must consider on a case by case basis.

### Examples

To give some practical illustration of when a contract could be considered as 'commenced' by the necessary deadline, some examples are included below. These examples focus on only one aspect of eligibility, and do not take into account any travel difficulties or restrictions that may be or have been in place at the dates given as points of reference.

#### Example 1

Company A has a contract with Company B in the UK signed in February 2020. Under the terms of the contract, Company A needs to run a full analysis on Company's B's IT systems on an annual basis, for a period of 3 years. Company A sends Ms Berger to the UK in November 2020 for 10 days, to execute the contract under free movement rules. In October 2021, Ms Berger submits an application for entry clearance under this route. In this scenario, the company can only evidence having sent the applicant to the UK on one occasion, despite nearly 10 months passing since the 31 December 2020. However, previous travel is proportionate to the contracted work, and the contract should be accepted as commenced.



## Example 2

Company C has a contract with Company D in the UK signed in January 2020. Under the terms of the contract, Company C provides consultancy services on financial issues with undefined frequency, for a period of 2 years. Company C sends Mr Tam to the UK in November 2020 for a period of 5 days to execute the contract under free movement rules. In December 2021, Mr Tam applies for entry clearance under this route. In this scenario, it is unclear why there has been a significant gap in travel, and more information should be requested if no explanation has been given. If Company C states that they have been providing their consultancy services remotely in the interim period, this is a logical explanation for the type of service being provided, and – provided there are no underlying concerns – the contract should be accepted as commenced.

## Example 3

Company E has a contract with Company F in the UK signed in November 2020. Under the terms of the contract, Company E provides specialist audit services on a monthly basis, for a period of 5 years. An application for entry clearance is submitted by Ms Kim in June 2023. Ms Kim cannot demonstrate that she has ever travelled to the UK to execute the contract before, but states that the contract had been previously executed by other staff in the company (she is not required to explain why). If further details are not provided, you should request the identity of the relevant staff members and confirm on relevant systems that they have held entry clearance under this route. If the information can be verified, then the contract should be considered as commenced.

Note: If the previous staff member(s) were of British or Irish nationality, they will not have held entry clearance under this route. In this case, Ms Kim should submit evidence of previous travel undertaken by her colleagues).

## Example 4

Mr Keller - a self-employed Swiss national - has a contract with Company G in the UK signed in August 2020. Under the terms of the contract, he commits to conducting checks on Company G's telecommunication systems when requested. An application for entry clearance is submitted in March 2022, but Mr Keller cannot demonstrate that he has travelled to the UK to execute the contract previously. When more information is requested, he states that initial execution of the contract was performed remotely due to travel restrictions, and then the contract was formally paused whilst he was on parental leave. In this scenario, Mr Keller will need to provide evidence of an agreement with Company G to pause (not cancel) the contract. Acceptable evidence could be in the form of an e-mail between the contracting parties. This situation would only be acceptable for self-employed individuals, as companies can be reasonably expected to send alternative employees.



## Example 5

Company H has a contract with Company I in the UK signed in December 2020. Under the terms of the contract, Company H provides weekly maintenance checks on Company I's private aircraft. In February 2023, Ms Lin submits an application for entry clearance. Ms Lin cannot demonstrate that she has ever travelled to the UK to provide the service before, nor can Company H provide any verifiable details of other staff members who have been executing the contract in the interim period. In this scenario, unless Company H can provide evidence that the contract was formally paused, the application should be refused, as there is no evidence that the contract was commenced before the end of the transition period, and regular travel is a feature of the underlying contract.

## Request further information

There may be cases where an applicant provides sufficient evidence of meeting most of the eligibility requirements but fails to provide evidence in one area.

For the purposes of deciding whether the applicant meets the eligibility requirements you must request that the applicant provides the required information or evidence if this is missing from their application.

Where you decide to request more information or evidence from the applicant, the request must specify a timeframe of 14 calendar days from the date of the request, after which you may consider and decide the application based on all the information and evidence before you.

## Written confirmation of the need to travel to the UK

Under SPS 4.7 and 4.9, all applicants are required to provide a written confirmation certifying that they are required to travel to the UK to execute the eligible contract. For self-employed individuals, SPS 4.10 provides that this requirement is fulfilled through a written self-certification. You must contact applicants who have submitted a written confirmation which does not meet all the requirements below and request the correct information.

SPS 4.9 states that in order to be valid, the written confirmation needs to meet all the following requirements:

- be a letter (which can be electronic) from the employer or company
- be signed by a senior member of the organisation
- include the author's credentials
- include a copy of the eligible contract
- include details of why the applicant is required to travel to the UK to execute the eligible contract
- confirm the applicant has any necessary professional qualifications to allow them to execute the contract

- confirm that the employer or company has not already used the 90 day per calendar year limitation to execute this or any other eligible contract that they hold

In the case of self-employed individuals, applicants need to provide a letter of self-certification which meets all the requirements listed above, except for the first 2 bullet points. They must confirm that they (or any employees) have not used the 90 day per calendar year limitation for the year in which they are applying.

The minimum level of seniority required to author the written confirmation is that of a senior manager or the Head of Human Resources. For companies without these roles (or small companies) the written confirmation must come from the most senior member of staff who holds responsibilities for human resources.

The written confirmation does not need to be accompanied by other evidence (such as evidence of qualifications held) but if it is later established that the information contained is incorrect or untrue, the entry clearance may be cancelled under SPS 9.1(c).

## Habitual Employment

Under SPS 4.1 and 4.3, all applicants applying to the route as an employee must be 'habitually employed' in the territory of Switzerland. Applicants can demonstrate this requirement by submitting a copy of their employment contract – both permanent and fixed term employment contracts are acceptable.

Applicants must be directly employed by the eligible employer – individuals who are sub-contracted to the eligible employer (for example, through an employment agency) are not eligible under the route.

## Legal integration into the regular Swiss labour market

Under the terms of the UK-Switzerland [Citizens' Rights Agreement](#) service providers are required to be integrated into the regular labour market of Switzerland, and this is provided for in SPS 4.3. This requirement is met automatically for applicants who hold Swiss nationality.

Under SPS 4.5, as nationals of states which are party to the [Agreement on the Free Movement of Persons \(FMOPA\)](#), EEA applicants are not required to show evidence of permission to reside in Switzerland.

While Croatian nationals are still within a transitional period under the [FMOPA](#), they can evidence the integration requirement by presenting a copy of their valid work permit or residence card.

Applicants of any other nationality can evidence the integration requirement by presenting a copy of their valid Swiss residence card and work visa, and evidence that they have been working in the regular Swiss labour market for an extended period. This could include through a minimum of 12-months' worth of pay slips, a

formal work contract demonstrating they had been employed by their employer for a minimum of 12 months, or evidence of having held a valid Swiss residence permit for 12 months or longer.

The difference in evidence required is due to the underlying rights of EEA citizens who through the [FMOPA](#) have an automatic right to work and reside in Switzerland.

#### **Related content**

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# 90 day per calendar year work limit

Under the conditions of the route, services can be provided in the UK for a maximum of 90 days per calendar year – see [Appendix Service Providers from Switzerland SPS 8.2 and 8.3](#).

For example, a Swiss company holds 4 eligible contracts with different companies in the UK. The Swiss company has a total of 90 days work per calendar year that would need to be divided between the 4 separate contracts. The company would not have 360 days (4 x 90 days) per calendar year to provide services.

Likewise, the 90 days per calendar year falls to the contract holder, not each employee. If one employee works the company's full allocation of 90 days per calendar year, no other work can be done on the contract in the UK for the rest of the calendar year (whether by the original employee or a different employee who has not yet travelled).

Self-employed applicants will be the contract holders and the 90 day per calendar year allocation remains the same as above. They cannot increase their allocation through sending an employee to execute the contract in their stead.

However, it is possible for multiple employees to work 90 days per calendar year, provided they all work on the same days. For example, a company could send 100 employees to work simultaneously on a contract in the UK and they would be acting lawfully, provided all employees work on the same dates and the total number of dates worked does not exceed 90 days.

The 90 days per calendar year limit accumulates across all members of staff, and SPS 8.3 places responsibility on the employer or company posting staff to the UK to ensure that the total work on any and all eligible contracts does not exceed 90 days per calendar year (including weekends and bank holidays), irrespective of the number of staff granted permission under this route.

When considering an application you should ensure that the [written confirmation](#) explicitly confirms that the annual work limitation has not been met or exceeded.

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## Genuineness requirements

The applicant must be a genuine Service Provider from Switzerland. Before granting any application under this route, you must be satisfied that any applicant meets all the genuineness and intentions requirements in SPS 6.1 and 6.2. There is no need for applicants to actively provide evidence of meeting these requirements, but you must consider whether wider evidence provided suggests that they will not be met.

## Genuineness requirements

You must be satisfied that the applicant:

- will not remain in the UK after the end of their permission
- will not live in the UK for extended periods through frequent and successive visits, or make the UK their main home
- is genuinely seeking entry as a Service Provider from Switzerland

## Intentions requirements

You must be satisfied that the applicant does not have the intention of travelling to the UK in order to pursue any of the following:

### **Access non-emergency medical treatment.**

Service Providers from Switzerland are not eligible for free of charge treatment on the National Health Service (NHS), unless an exemption from charge applies in law, and therefore may be billed for any NHS treatment received in the UK if that treatment is not exempt from charges.

Swiss and European Economic Area (EEA) nationals using this route are eligible to use their European Health Insurance Card, should they have one.

### **Get married or form a civil partnership or give notice of marriage or civil partnership.**

Service Providers from Switzerland cannot get married or form a civil partnership in the UK or give notice to do so. Where an individual intends to do so, they should apply for an entry clearance endorsed for a marriage or civil partnership visit.

### **Related content**

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# Suitability

[Appendix Service Providers from Switzerland](#) SPS 2.1 to 2.4 provides that suitability (based on the applicant's conduct) is to be assessed depending on when the conduct took place:

- conduct before the end of the transition period at 11pm Greenwich Mean Time (GMT) on 31 December 2020 is to be assessed according to the EU public policy, public security and public health test, as set out in the Immigration (European Economic Area) Regulations 2016 (EEA Regulations 2016)
- any conduct thereafter (including any criminal convictions relating to it) is to be considered under the UK criminality thresholds

The same consideration applies to all applicants to this route, irrespective of nationality.

## Suitability assessment

SPS 2.1 to 2.4 set out the basis on which an application under Appendix Service Providers from Switzerland will or may be refused on suitability grounds. Where an application falls to be refused on suitability grounds, or an entry clearance falls to be cancelled or curtailed, it must be done with reference to the relevant paragraph of Appendix Service Providers from Switzerland to the Immigration Rules and not under the [Part 9: Grounds for Refusal](#).

The assessment of suitability must be conducted on a case by case basis and be based on the applicant's personal conduct and circumstances in the UK and overseas, including whether they have any relevant prior criminal convictions, and whether they have been open and honest in their application. Applicants are required to provide information about previous criminal convictions in the UK and overseas and are only required to declare past criminal convictions which appear in their criminal record in accordance with the law of the State of conviction at the time of the application. There is no requirement to declare penalties for offences which are not recorded on their criminal records, for example fixed penalty notices for speeding. A sentence of imprisonment does not include a suspended sentence (unless a court subsequently orders that the sentence or any part of it, of whatever length, is to take effect).

Applicants are also required, as in other immigration applications, to declare whether they have any been involved in any terrorist related activities, war crimes, crimes against humanity or genocide. Applications are subject to a check against the Police National Computer (PNC), the Warnings Index (WI) and the Ident dataset.

UK Visas and Immigration must conduct an initial assessment of suitability to establish whether the application is to be referred to Immigration Enforcement (IE) for full case by case consideration of the individual's conduct, under either:

- the public policy, public security or public health test, as set out in the EEA Regulations 2016, where the conduct was committed (which refers to the date which the conduct or offence took place, not the date of any subsequent conviction or sentence) before 11pm GMT on 31 December 2020 - further information on making a decision under the public policy, public security or public health test is available in the EEA decision on grounds of public policy and public security guidance
- on the grounds that the presence of the applicant in the UK is not conducive to the public good, where the conduct was committed after 11pm GMT on 31 December 2020

Guidance on making a decision under the UK criminality threshold will be available in Appendix EU suitability guidance from 1 January 2021.

Caseworkers can, where appropriate, consider evidence of criminality that they encounter on the PNC or WI even if that evidence was not declared by the applicant. The initial suitability assessment should be conducted from information provided by the applicant and obtained from the PNC and WI.

## Mandatory grounds for refusal

Under SPS 2.1 an application must be refused on suitability grounds, where at the date of decision either of the following apply:

- the applicant is subject to a deportation order or a decision to make a deportation order
- the applicant is subject to an exclusion order or exclusion decision

Where a refusal on this basis relates to conduct before 11pm GMT on 31 December 2020, you must be satisfied that the order or decision is justified on the grounds of public policy, public security or public health in accordance with regulation 27 of the [EEA Regulations 2016](#).

Further information on making a decision under the public policy, public security or public health test is available in the EEA decisions on grounds of public policy and public security guidance.

## False and misleading information

Under SPS 2.3(a) you may refuse an application on grounds of suitability if, at the date of decision, you are satisfied that it is proportionate to do so because both of the following apply:

- in relation to the application and whether or not to the applicant's knowledge, false or misleading information, representations or documents have been submitted (including false or misleading information submitted to any person to obtain a document used in support of the application)
- the information, representation or documentation is material to the decision whether or not to grant the application



When considering whether to refuse on the basis of SPS 2.3(a), you must examine whether the deception is material to the decision whether or not to grant the applicant entry clearance. This is where the false or misleading information, representation or documentation concerns the applicant's ability to meet the requirements.

Where false information, representations or documents have been submitted, whether or not to the applicant's knowledge, which are material to the decision whether or not to grant the applicant entry clearance, the decision-maker may refuse the application on the basis of paragraph SPS 2.3(a), provided that it is proportionate to do so.

You must not refuse an application on the basis of false or misleading information, representations or documents, or of non-disclosure of material facts, unless you are satisfied that dishonesty or deception is involved. The interpretation of 'false or misleading' requires deliberate dishonesty or deception to be used in an application although not necessarily by the applicant. An allegation of dishonesty or deception must not be made unless there is evidence to support the allegation. Relevant evidence of deliberate dishonesty or deception may include, for example, discrepancies in the information provided by the applicant at various times, discrepancies between that information and information available from other sources, such as other government departments, and intelligence reports on the veracity of documents submitted.

You must not decide that an application falls to be refused under paragraph SPS 2.3(a) without first notifying the applicant in writing that you are thinking of refusing the application based on false or misleading information, representations or documents and setting out exactly what the allegation is in this regard, including making clear that it is your view that there has been dishonesty or deception. You must give the applicant a reasonable period (14 calendar days) in which to respond to the notification sent by letter or given in an interview.

## Other discretionary grounds for refusal

Under SPS 2.3(b), (c), (d) and (e) an application to this route may be refused on the grounds of suitability where any of the following apply at the date of the decision:

- the applicant is the subject of an Islands deportation order
- the applicant is the subject of an Islands exclusion decision.
- on grounds of public policy, public security or public health (for conduct committed before 11pm GMT on 31 December 2020)
- on the grounds that the presence of the applicant in the UK is not conducive to the public good (for conduct committed after 11pm GMT on 31 December 2020)

Where a decision to refuse on this basis relates to conduct on or before 11pm GMT on 31 December 2020, you must be satisfied that the order or decision is justified on



the grounds of public policy, public security or public health in accordance with the [EEA regulations 2016](#).

Guidance on making a decision under the public policy, public security or public health test is available in the EEA decisions on grounds of public policy and public security guidance.

**Related content**

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# Conditions of leave

Under [Appendix Service Providers from Switzerland](#) SPS 8.4, leave granted under this route is subject to certain conditions as outlined below. Service Providers from Switzerland do not need to register with the police as the leave to enter issued under the route is never more than 90 days and it is not possible to switch into visit leave whilst in-country (which means stays of more than 6 months would be unlawful).

Under their conditions of leave, Service Providers from Switzerland must not:

- **work more than 90 days as a service provider in each calendar year**, more information can be found in the section '[90 days per calendar year work limit](#)'
- **conduct any work, other than that on the eligible contract** - this includes both self-employment and voluntary work - Service Providers from Switzerland may not be directly employed by the company to whom they are providing a service
- **study** - Service Providers from Switzerland must not study during their stay in the UK - where an individual is coming to undertake a period of study, they should apply under the Visitor or Student route
- **access public funds** - Service Providers from Switzerland are not entitled to public funds during their stay in the UK - further information on which benefits count as public funds can be found in the public funds guidance

## Related content

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# Calculating validity period of the entry clearance

Entry clearance as a Service Provider from Switzerland will allow for eligible individuals to enter the UK, provide the contracted service, and demonstrate their right to provide a service after 11pm GMT on 31 December 2020.

Under [Appendix Service Providers from Switzerland](#) SPS 8.1, the validity period of the entry clearance is dependent on the individual circumstances of the applicant and the underlying contract.

The validity period must always be whichever is the soonest of the options below:

- the end date of the eligible contract
- the end date of the employee's work contract (where such contract is a fixed term contract)
- the day preceding the expiry date of the person's permission to reside in Switzerland (where the applicant requires such permission) – see the section on '[Legal integration into the Swiss labour market](#)', which outlines that EEA and Swiss nationals do not need to show permission to reside in Switzerland (unless they are of a nationality subject to transitional measures under the [FMOPA](#))
- 31 December 2025

The entry clearance will grant 90 days leave to enter the UK from the date of entry, and holders may enter and leave the UK multiple times during the validity of the entry clearance. The route does not provide for dependants or family members.

The route only allows for 90 days work per calendar year, which applies irrespective of the number of pre-existing contracts or number of staff a company sends to execute such a contract (see: '[90 days per calendar year work limit](#)').

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# At the border

## Documentation

Service providers who are Swiss nationals may enter using either a valid passport or a valid national identity card. All other nationalities are required to use a valid passport, unless an alternative travel document was accepted as part of the application process.

Entry clearance as a Service Provider from Switzerland will be granted on a vignette with the endorsement category 3 - work. For Swiss nationals (only) who made their application using an identity card, the vignette will be issued on a 'Form for Affixing a Visa' (FAV). For all other nationals, the vignette should be issued in the relevant passport, unless an alternative travel document was accepted as part of the application process.

The entry clearance must have the expiry date recorded on the vignette and will be valid for one of the following periods (whichever is shorter):

- the end date of the eligible contract
- the end date of the employee's work contract (where such contract is a fixed term contract)
- the day preceding the expiry date of the person's permission to reside in Switzerland (where the applicant requires such permission)
- 31 December 2025

Upon entry to the UK, the entry clearance will grant leave to enter for a period of 90 days.

## Vignettes issued on a FAV

The vignette will contain the passport or national identity card number (within the 'passport number' field) and biographic details of the individual to whom it has been issued. Where an alternative travel document has been accepted, the relevant details will appear.

Where you are presented with a FAV, you must ensure that the number matches the identity document that the passenger is presenting, and that the biographic information refers to the same individual.

Where the identity document that the passenger is presenting does not match the identity document number on the vignette, you must seek to establish whether the passenger is the rightful holder of the vignette.

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Where you are satisfied that the passenger is the rightful holder of the vignette, you must let them proceed on that basis.

Where you are **not** satisfied that the passenger is the rightful holder of the vignette, you must refuse them entry as a Service Provider from Switzerland. You must then consider whether they qualify for entry in any other capacity under the Immigration Rules.

## Processing at the border

Service Providers from Switzerland who are nationals from the European Economic Area (EEA), Switzerland, Australia, Canada, Japan, New Zealand, Singapore, South Korea and the USA (B5JSSK) are entitled to use eGates provided that they are travelling on a valid biometric passport.

Where an EEA, Swiss or B5JSSK national presents to an officer at a desk with a vignette, they do not require an entry stamp.

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## Number of entries and duration of stay

There is no limit to the number of times that a Service Provider from Switzerland may enter and leave the UK during the period for which they hold a valid permission.

The maximum period that an individual can spend in the UK as a Service Provider from Switzerland is a total of [90 days in any calendar year](#).

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## Grounds to cancel leave to enter

In all cases, before taking a decision to cancel leave to enter or entry clearance, you must be satisfied that the decision is proportionate.

Under SPS 9.1 you may cancel a person's leave as a Service Provider from Switzerland, if you consider it proportionate to do so, in any of the following circumstances:

- on grounds of public policy, public security or public health (in accordance with Regulation 27 of the EEA Regulations 2016) where the conduct justifying the decision took place on or before 11pm GMT on 31 December 2020
- on the grounds that the decision is conducive to the public good, where the conduct justifying the decision took place after 11pm GMT on 31 December 2020
- the cancellation is justified on grounds that (whether or not to the applicant's knowledge) false or misleading information, representations or documents were submitted (including false or misleading information submitted to any person to obtain a document used in support of the application) in relation to an application to this route, and the information, representation or documentation was material to the decision to grant the application under Appendix SPS
- the cancellation is justified on grounds that the person has breached a [condition of their leave](#), unless further leave was granted in the knowledge of the breach
- the cancellation is justified on grounds that the applicant or the eligible company or employer ceases to satisfy any of the following requirements:
  - the service provider is no longer self-employed in the territory of Switzerland, or habitually employed in the territory of Switzerland by an eligible employer or company
  - the service provider is no longer [legally integrated into the regular labour market of Switzerland](#)
  - the employer or company associated with the work contract is no longer considered to be [eligible under SPS 4.6](#).
  - the eligible employer, company or self-employed service provider has met or exceeded the [90 day per calendar year limitation](#)
- a further agreement on the movement of natural persons for the purposes of the supply of services has been concluded and applied between the UK and Switzerland.

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## Public policy, public security or public health

A decision to cancel leave to enter may be taken on grounds of public policy, public security or public health, in accordance with Regulation 27 of the EEA Regulations 2016. See EEA decisions on grounds of public policy and public security guidance for further information on how to consider these grounds.

This ground for cancellation applies where the conduct that is being relied on took place on or before 11pm GMT on 31 December 2020. You may additionally rely on conduct that took place after 11pm GMT on 31 December 2020 to support your decision that the relevant test is met.

## Conducive to the public good

A decision to cancel leave to enter may be taken where you are satisfied that it would be conducive to the public good to do so. See the Appendix EU suitability guidance for further information on how to apply this test, from 1 January 2021.

To apply this ground for cancellation you may only rely on conduct that occurred after 11pm GMT on 31 December 2020.

Where an individual has engaged in conduct that may justify cancellation both before and after 11pm GMT on 31 December 2020, you may either:

- consider the totality of their conduct under the [public policy, public security or public health](#) test
- consider only the conduct that occurred after 31 December 2020 under the conducive grounds test

## False or misleading information, representations or documents

Please note the earlier section on [false or misleading information](#). ‘False or misleading information, representations or documents’ means information, representations or documents provided with the intention to deceive. It may have been provided either by the individual themselves, or by a third party (which includes the [eligible company or employer](#)).

A false document includes:

- a genuine document which has been altered or tampered with
- a counterfeit document (one that is completely false)
- a genuine document which is being used by an imposter
- a genuine document which has been fraudulently obtained or issued
- a genuine document which contains a falsified or counterfeit visa or endorsement

It will normally be appropriate to have a document examined by a forgery officer before taking any decision on the basis that it is false.

The false or misleading information, representation or documentation is material if it would have affected the individual's ability to meet the requirements of Appendix SPS because discounting that information, representation or documentation would have meant that the individual would not have been granted the leave or entry clearance they were granted under Appendix SPS.

Where you are not satisfied that the deception was material to the decision to grant leave, you must not proceed to cancel that leave.

## Ceasing to meet requirements

You may cancel the entry clearance where an individual has breached the maximum stay of 90 days in any calendar year, or other eligibility requirement under SPS 4.1 to SPS 5.1.

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# Administrative Review

There is a right of administrative review under Appendix AR(EU) where either of the following apply:

- an application for entry clearance is refused on eligibility grounds
- a person is refused permission to enter when they hold entry clearance under [Appendix Service Providers from Switzerland](#) but there has been a change of circumstance since that entry clearance was granted which means that they no longer meet the eligibility requirements (for permission to enter)

In addition, there is a right of administrative review under Appendix AR where a person with entry clearance under Appendix SPS is refused permission to enter because, whether or not to the applicant's knowledge, false or misleading information, representations or documents were submitted (including false or misleading information submitted to any person to obtain a document used in support of the application) in relation to the entry clearance application, and the information, representation or documentation was material to the decision to grant the entry clearance.

An applicant can apply for an administrative review where they believe that the caseworker has made an error or not followed the published guidance, or where they have new information or evidence in support of their application.

A different caseworker in an independent team will conduct a full reconsideration of the decision, consider any new evidence or information submitted and decide whether the original decision was either:

- correct and should be maintained
- incorrect and should be withdrawn and a new decision made

Further guidance is available in the Administrative Review guidance.

## Refusal Notices

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