



Home Office

## Requests for removal decisions

## Requests for removal decisions

### About this guidance

[About this guidance](#)

[Accepting a request for a removal decision](#)

[Responding to the PAP](#)

This guidance tells you what to do if you receive a written request for a removal decision which is being considered on or after 13 February 2012 from, or on behalf of, an applicant who has made an application for leave to remain which has been refused with no right of appeal.

This guidance also covers applications for leave under the European Community Association Agreement (ECAA) that have been refused with no right of appeal. You should note that when consideration of a removal decision involves an ECAA applicant who raises arguments relating to the European Convention on Human Rights (ECHR), these arguments must be considered before a removal decision can proceed.

It does not apply to cases where the person has been told they are liable to removal under section 10 of the Immigration and Asylum Act 1999 (as amended by the Immigration Act 2014) and they continue to be liable to removal under that power.

When an application for leave to remain from an applicant with no current leave is refused, for example, an overstayer or illegal entrant, the decision is not an appealable immigration decision for the purposes of section 82(2) of the Nationality, Immigration and Asylum Act 2002. There is no requirement to make a removal decision at the same time as refusing leave to remain in these cases, although this is common practice in asylum cases. The person is expected to leave the UK voluntarily when the application is refused.

While such an applicant is expected to leave the UK voluntarily they cannot be subject to enforced removal until a removal decision is served. This decision is an appealable immigration decision under section 82(2) of the Nationality, Immigration and Asylum Act 2002.

This guidance only applies if a person:

- made a valid 'out of time' application for leave to remain which was refused

### In this section

[Changes to this guidance](#)

[Contact](#)

[Information owner](#)

Links to staff intranet removed

- did not receive a removal decision when the application for leave to remain was refused
- failed to leave the UK voluntarily, and
- has requested that a removal decision be made via:
  - a written request, either from the person, their legal rep or their MP
  - a judicial review (JR),
  - a pre-action protocol (PAP), or
  - letter before action.

For more information about judicial reviews or PAPs, see related link: IDI chapter 27: Judicial review

Information on administrative removal decisions is in the enforcement instructions and guidance. See related links:

- 01 Illegal entrants
- 7 Service of notice of illegal entry: Procedures
- 50 Persons liable to administrative removal under Section 10
- 51 Administrative removal.

Changes to this guidance – This page tells you what has changed since the previous version of this guidance.

Contact – This page tells you who to contact for help if your senior caseworker or line manager can't answer your question.

Information owner – This page tells you about this version of the guidance and who owns it.

Safeguard and promote child welfare – This page explains your duty to safeguard and promote the welfare of children and tells you where to find more information.

## Requests for removal decisions

### Changes to this guidance

[About this guidance](#)

[Accepting a request for a removal decision](#)

[Responding to the PAP](#)

This page lists the changes to the 'Requests for removal decisions' guidance, with the most recent at the top.

Date of the change	Details of the change
20 October 2014	<p>Change request to:</p> <ul style="list-style-type: none"><li>• Allow requests for removal decisions to be made by other means than a pre-action protocol (PAP) or letter before claim.</li><li>• Clarify that the process does not apply to cases liable to removals under section 10 of the Immigration and Asylum Act 1999 (as amended by the Immigration Act 2014).</li></ul>
24 February 2014	<p>Six month review by the modernised guidance team:</p> <ul style="list-style-type: none"><li>• Minor housekeeping and plain English changes throughout.</li></ul>
	<p>For previous changes you will need to access the archived guidance. See related link: Request for removal decisions – archive.</p>

#### See also

[Contact](#)

[Information owner](#)

Links to staff intranet removed

## Requests for removal decisions

### Accepting a request for a removal decision

<a href="#">About this guidance</a>  <a href="#">Accepting a request for a removal decision</a>  <a href="#">Responding to the PAP</a>	<p>This page tells you when to grant a request for a removal decision.</p> <p>The Home Office is not required to routinely make a removal decision at the same time as refusing leave to remain from an applicant with no current leave.</p> <p>If a removal decision is not made and served alongside a decision to refuse of an out of time application for leave to remain, a removal decision will be made if the applicant later requests it and it is appropriate to do so.</p> <p>When making a decision to accept a request, you must consider:</p> <ul style="list-style-type: none"><li>• the need to promote the welfare of children who are in the UK</li><li>• any direct cost in supporting the applicant and dependants being met by the Home Office or a local authority (under section 21 of the National Assistance Act 1948 or section 17 of the Children Act 1989), and</li><li>• exceptional and compelling circumstances.</li></ul> <p>You should normally only make a removal decision when requested in the following cases:</p> <ul style="list-style-type: none"><li>• the refused application for leave to remain included a dependant child under 18 resident in the UK for three years or more</li><li>• the applicant has a dependant child under the age of 18 who is a British citizen</li><li>• the applicant is being supported by the Home Office or has provided evidence of being supported by a local authority (under section 21 of the National Assistance Act 1948 or section 17 of the Children Act 1989)</li><li>• there are other exceptional and compelling reasons to make a removal decision at this time, or</li><li>• where it is operationally expedient or appropriate to make a removal decision.</li></ul>	Links to staff intranet removed
----------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------

	<p>A higher executive officer (HEO), senior case worker (SCW) or above must agree a decision to serve a removal decision on the basis of exceptional and compelling reasons.</p> <p>You must not accept a request for a removal decision where the person has been informed of the liability to removal under section 10 of the Immigration and Asylum Act 1999 (as amended by the Immigration Act 2014) and they continue to be liable to removal under that power, as these cases do not require a removal decision in order to be removed from the UK.</p>	
--	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--

Archiving

## Requests for removal decisions

### Responding to the Pre-action protocol (PAP)

<a href="#">About this guidance</a>  <a href="#">Accepting a request for a removal decision</a>  <a href="#">Responding to the PAP</a>	<p>This page tells you how to respond to correspondence, a judicial review (JR), a pre-action protocol (PAP) or letter before action which contains a request for a removal decision.</p> <p><b>Criteria Met</b></p> <p>If one or more of the criteria for making a removal decision are met and the applicant has not submitted the IS.76 form (Statement of Additional Grounds), the bio data form and any relevant documents, you must send them the criteria met letter, enclosing the IS.76 form (Statement of Additional Grounds) and the bio data form. See related links for a copy of the letter template and forms.</p> <p>On receipt of the completed IS.76 form, the bio data form and any other required documents you must first review the initial decision to refuse leave to remain and consider if the decision should be maintained.</p> <p>If the original refusal decision was incorrect or made on incorrect grounds a new decision must be made and either leave granted or a new refusal decision served on the applicant.</p> <p>If you decide that the initial refusal decision was correct you must consider all the available information to determine whether it is appropriate to make a removal decision. If removal is not appropriate the migrant should be granted leave accordingly.</p> <p>If removal is appropriate a removal decision must be made and should, whenever possible, be made and served within three months of the date that the returned IS.76 form and accompanying documents were received by the Home Office. For guidance on making and serving administrative removal decisions see related links:</p> <ul style="list-style-type: none"><li>• 01 Illegal entrants</li><li>• 7 Service of notice of illegal entry: Procedures</li><li>• 50 Persons liable to administrative removal under Section 10</li><li>• 51 Administrative removal.</li></ul>	Links to staff intranet removed
----------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------

	<p><b>Criteria Not Met</b></p> <p>If the 'criteria met' process (above) does not apply you must send the applicant the criteria not met letter. See related links for a copy of the letter.</p> <p>When you have completed the response, you must send the file to off site storage or an immigration, compliance and engagement (ICE) team, depending on local arrangements.</p>	
--	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--

Archive



## Requests for removal decisions

### Contact

<p><a href="#">About this guidance</a></p> <p><a href="#">Accepting a request for a removal decision</a></p> <p><a href="#">Responding to the PAP</a></p>	<p>This page explains who to contact for more help when you consider a request for removal decisions.</p> <p>If you have read this guidance and still need more help, you must first ask your senior caseworker or line manager.</p> <p>If the question is about the correct decision on an individual case and cannot be answered at that level, you may, through your HEO or above, email the relevant operational policy team.</p> <p>If the question is about the application of this policy and cannot be answered at that level, you may, through your HEO or above, email: IBPD Enforcement Policy (see related link).</p> <p>Changes to this guidance can only be made by the guidance, rules and forms team (GRaFT). If you think the content needs amending you must contact the enforcement policy team who will ask the GRaFT to update the guidance, if appropriate.</p> <p>The GRaFT will accept direct feedback on broken links, missing information or the format, style and navigability of this guidance. You can send these using the link: Email: Guidance, rules and forms team.</p>	<p><b>Related links</b></p> <p><a href="#">Changes to this guidance</a></p> <p><a href="#">Information owner</a></p> <p>Links to staff intranet removed</p>
-----------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------

## Requests for removal decisions

### Information owner

[About this guidance](#)

[Accepting a request for a removal decision](#)

[Responding to the PAP](#)

This page tells you about this version of the 'Requests for removal decisions' guidance and who owns it.

Version	6.0
Valid from date	20 October 2014
Policy owner	Enforcement Policy
Cleared by director	Kristian Armstrong
Director's role	Director, IBPD
Clearance date	10 February 2012
This version approved for publication by	Kristian Armstrong
Approver's role	Head of Criminality and Enforcement Policy
Approval date	14 October 2014

Changes to this guidance can only be made by the guidance, forms and rules team (GRaFT). If you think the policy content needs amending, you must contact the IBPD enforcement policy team (see related link), who will ask the GRaFT to update the guidance, if appropriate.

The GRaFT will accept direct feedback on broken links, missing information or the format, style and navigability of this guidance. You can send these using the link: Email: Guidance, rules and forms team.

### Related links

[Changes to this guidance](#)

[Contact](#)

Links to staff intranet removed