



Home Office

Administrative review: Frontier Workers

Version 1.0

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About this guidance

This guidance tells the Administrative Review team about administrative reviews under the [Citizens' Rights \(Frontier Workers\) \(EU Exit\) Regulations 2020](#) ("the Frontier Workers Regulations"). References in this guidance to regulations means those regulations.

This guidance does not apply to administrative review of decisions taken at the border, see: Administrative review: dealing with applications.

For further information on the EU Settlement Scheme see: [EU Settlement Scheme caseworker guidance](#).

For more information on Frontier Workers see: Frontier worker permit scheme guidance.

For guidance on administrative reviews brought against other immigration decisions see: [Administrative Review guidance](#).

Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors then you can email appeals, litigation and administrative review policy.

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email the Guidance, Rules and Forms team.

Publication

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

- version **1.0**
- published for Home Office staff on **29 March 2021**

Changes from last version of this guidance

This is new guidance.

Related content

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Overview of administrative review for frontier workers

This section tells the Administrative Review Unit about administrative reviews for frontier workers.

Right to an administrative review

Frontier workers have a right of administrative review under the [Frontier Workers Regulations](#), which is different to other types of administrative review which are provided for by the Immigration Rules. However, although frontier workers administrative reviews are provided for in regulations rather than the Rules, they are very similar to administrative reviews under Appendix AR(EU).

Where a frontier worker has received an eligible decision, they will be able to apply for an administrative review of the decision. For more information see: [Decisions which are eligible for administrative review](#).

Grounds for seeking an administrative review

Where the applicant has received an eligible decision, they can apply for an administrative review if they think:

- the original decision-maker failed to apply, or incorrectly applied, the Frontier Worker Regulations
- the original decision-maker failed to apply, or incorrectly applied, the published guidance in relation to the application
- there is information or evidence that was not before the original decision-maker which shows that the applicant is a frontier worker

How to apply for an administrative review

The Frontier Worker Regulations set out how a person must apply for an administrative review.

Applicants must apply online using the form at [Apply for an administrative review of the decision on your application](#). The application for administrative review may be made in the UK or overseas.

Application fees

Administrative reviews for frontier workers are currently free of charge. Alternatively, applicants can apply again for a frontier worker permit for free if they wish.

From 6 April an application for an administrative review will cost £80. With one exception, this fee will be refunded in full where the administrative review is successful.

The fee will not be refunded both the following apply:

- the application was successful based on new evidence
- there was no error by the caseworker in the original decision

New evidence is evidence or information that was not before the person who made the eligible decision.

For further information see: [Refunds](#).

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Validity of an application for administrative review under the Frontier Workers Regulations

This section tells the Administrative Review Unit how to consider whether an application for administrative review under the Frontier Worker Regulations is valid.

An application for administrative review will only be valid where it meets the requirements set out in regulation 22 of the Frontier Workers Regulations.

These requirements are that the application:

- must be made online using the specified form
- must be made within the relevant time limit
- must be accompanied by:
 - the appropriate fee (at present there is no fee)
 - a valid identity document

For these purposes, a valid identity document means either a valid passport or a valid national identity card issued by a European Economic Area (EEA) state. A passport or national identity card will be valid where:

- it is genuine
- it is the applicant's own
- it has not expired or been cancelled or invalidated at the point it is provided

You must check that the application for administrative review meets all the relevant requirements and, if it does not, you must reject it as invalid.

How the application is made

An application for administrative review of an eligible decision must be made online using the relevant online application process in accordance with regulation 22(1)(a).

If this requirement is not met, you must reject the application under regulation 22(2) with reference to regulation 21(1)(a).

The application for administrative review may be made regardless of whether the applicant is in the UK or overseas.

Decisions which are eligible for administrative review

Under regulation 21(1) the application for administrative review must be made in respect of an 'eligible decision'.

Regulation 21(2) sets out the two types of eligible decision. These are decisions to:

- refuse to issue or renew a frontier worker permit on the grounds the person is not a frontier worker
- revoke a frontier worker permit before the person enters the UK, or at the border, on the grounds they are not a frontier worker

The applicant will be informed in the notice of the decision if they can apply for an administrative review. You must check the relevant casework system to ensure that the person has had an eligible decision.

Guidance on administrative reviews for revocation of a frontier worker permit at the border can be found in the Administrative review: dealing with applications guidance.

Decisions which are not eligible for administrative review

The only decisions which have a right to an administrative review are [eligible decisions](#).

There is no right to an administrative review where the application for a frontier worker permit has been rejected as invalid under regulation 22(2).

If the application for administrative review is not made against an eligible decision, you must reject it as invalid under regulation 22(2) with reference to regulation 21(1).

Time limit for making an application for administrative review

Under regulation 22(1)(b) an application for administrative review must be made within 28 calendar days of the date the decision is sent. The only exception is where the person is detained under the Immigration Acts on the date of the eligible decision, in which case under regulation 22(5) they will have 7 days from the date of the eligible decision to apply for an administrative review.

For the purposes of calculating the period during which the person must apply, the first day is the day after the decision was sent for non-detained cases, and the day after the date of the decision for detained cases.

Where the applicant is entitled to apply for administrative review of a new decision made as a result of a successful application for administrative review, the time limit is calculated from the date the new decision is issued (for non-detained cases) or the date of the eligible decision (for detained cases). See [Further application for administrative review](#).

Where an application is submitted after the deadline you should normally reject it as invalid. However, you have discretion to accept the application as valid and you must consider whether to do so on the facts of the case.

Relevant factors will include why the applicant missed the deadline. For example, where an applicant could not make an in-time application because they were

admitted to hospital as an emergency, but they made their application as soon as they left hospital, it would be appropriate to treat the application as valid.

You may want to seek further information from the applicant before making your decision, but you are not required to do so.

If the application is made after the deadline and you do not decide to exercise discretion, you must reject the application under regulation 22(2), with reference to either regulation 22(1)(b) or 22(5).

An application for administrative review of an eligible decision can only be made once

Under regulation 21(5) a person can only apply for an administrative review of an eligible decision once.

Under regulation 21(6) if you withdraw the original decision and issue a new eligible decision the applicant may apply for an administrative review of the new decision.

You must therefore check to make sure that this is the first administrative review of an eligible decision. If it is not, you must reject the application as invalid under regulation 21(5).

The only exception is where an application for administrative review of an eligible decision was rejected as invalid and there is still time to make a valid application for administrative review before the deadline set out in regulation 22(1)(b) or 22(5). In this situation the applicant may apply again.

Rejecting an application for administrative review

To reject an application for administrative review as invalid you must:

- complete the 'Rejection' notice template and send it to the applicant
- explain in the notice why you are rejecting the administrative review application
- if necessary, update the relevant database with the date the application was received
- update the relevant database with the date the application was rejected

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Considering the administrative review

This section tells the Administrative Review Unit how to consider an administrative review where the application is valid.

Independence of the review

To ensure independence and transparency of the review process, administrative reviews are carried out by a separate team that is independent from the team that made the original decision.

If you are given an administrative review case to consider and you were the original decision maker or reviewer, you must refer the case to your manager, so it can be re-allocated to another caseworker.

You must never carry out an administrative review of a decision on a case that you:

- originally considered
- were involved in considering
- previously reviewed

Full reconsideration

For all administrative review applications under the Frontier Worker Regulations you must conduct a full reconsideration of the decision and decide whether the original decision was:

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

You should consider whether:

- the original decision-maker failed to apply, or incorrectly applied, the Frontier Worker Regulations
- the original decision-maker failed to apply, or incorrectly applied, the published guidance on the frontier worker route
- information or evidence that was not before the original decision-maker has been provided which shows that the applicant qualifies for a frontier worker permit

For guidance on the requirements of the frontier worker route see the Frontier worker permit scheme guidance.

New information and evidence

Applicants are permitted to submit new information or evidence with their administrative review application. Where they do, you must consider whether it shows that the applicant qualifies for a frontier worker permit (whether or not they

qualified at the date of the original decision). If it does, you must withdraw the original decision and make a new decision.

Requesting additional information or evidence

You may also request additional information or evidence if you think it is necessary for you to make your decision. You should give the applicant a reasonable timeframe, normally at least 14 calendar days, to provide it, but what is reasonable will depend on the circumstances of the case.

If the applicant does not respond to your request with the additional information or evidence within the given timescale you must make a decision based on the information and evidence available, unless the applicant has provided reasons why they cannot provide the information within the deadline. If the applicant has provided reasons you must consider whether to extend the deadline and, if so, what a reasonable deadline would be.

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Administrative review decisions

This section tells the Administrative Review Unit what to do once you have reconsidered the decision under review.

Types of decision

There are 2 decisions you can make following a review of the original decision:

- maintain the decision
- withdraw the decision and make a new decision

Maintain the decision

If, having reviewed the substantive decision (including any new information or evidence) you decide that it is correct for the reasons given, you must maintain it and inform the applicant of the outcome.

You must explain why the decision was correct, addressing any new information or evidence provided.

As you are maintaining the original decision, the applicant does not have a further right of administrative review.

Decision correct but contained errors

If, having reviewed the original decision (including any new information or evidence) you decide that the decision is correct **but** there were errors in the reasons for the decision, then you will need to decide whether to either:

- maintain the decision and correct the errors
- withdraw the original decision and make a new decision

Maintain the decision and correct the errors

Where the errors are not material and the original decision remains correct, or where some of the reasons for the decision were correct but others were incorrect, you may maintain the original decision but provide new reasons with the errors corrected or incorrect reasons removed.

You must make it clear which errors have been corrected or which reasons have been removed and why.

You must also make it clear that this does not change the original decision and therefore there is no further right to an administrative review.

Withdrawing the decision and issuing a new refusal decision

There are 2 situations where, because of errors in the original decision, you may need to withdraw it and make a new decision to refuse. These are:

- the decision was correct, but there are material reasons which are incorrect
- the decision was correct, but there are additional reasons for refusal (in this situation you must consider whether these new reasons are material and therefore need to be included in the refusal decision)

Where either of the above applies, you must withdraw the decision and make a new decision.

You should normally make the new decision. If you consider that the case should be referred back to the original decision-making team, you should discuss it with a senior caseworker.

Withdrawing the decision and issuing a frontier worker permit

Where you decide that the original decision to refuse to issue or renew a frontier worker permit was incorrect, you must withdraw the decision and issue a frontier worker permit.

Official sensitive: start of section

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

Official sensitive: end of section

Recording details of the review decision

It is important that you record the date the application is validated and the date a decision is made on the relevant casework system.

This makes sure there is a clear audit trail so that the applicant will not get a second administrative review unless they are entitled to one, and any future legal challenges to the decision or the administrative review can be defended.

Handling of case papers

You must keep the following information on file or as an electronic copy:

- the administrative review application
- any relevant case papers, for example letters responding to information requests

Although we do not generally ask applicants to submit original documents in support of their administrative review application, if they do send any they must be returned with the decision notice.

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Withdrawing an application for administrative review

This section tells the Administrative Review team Unit about when an application for administrative review is withdrawn.

An administrative review under the Frontier Worker Regulations is not treated as withdrawn if the applicant:

- requests their passport or identity document back so they can travel
- leaves the UK whilst their administrative review is pending

However, under regulation 22(4) an application for administrative review will be deemed to be withdrawn if the applicant submits another application for a frontier worker permit. The application will be treated as withdrawn on the date the further application for a frontier worker permit is made.

Additionally, under regulation 22(3) an applicant can withdraw their application for administrative review at any time before a decision is made. The request must be made in writing, either by post or email. The application will be treated as withdrawn on the date the request is received.

How to process the withdrawal of an administrative review

You must record the withdrawal as soon as possible. You must write to the applicant to tell them that their application has been withdrawn.

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Refunds

This section tells the Administrative Review team and staff in the Settlement Resolution Centre about when an application fee for administrative review must be refunded.

When to refund

The application fee must be refunded where:

- the application is rejected as invalid
- the decision on the application is withdrawn and a new decision is made (unless the review was successful solely because of new information or evidence which was not before the original decision maker)

Where a refund is due, the fee is normally to be refunded within 3 weeks of the date of the decision to issue a refund.

When not to refund

The application fee will not be refunded where:

- the application is withdrawn at the applicant's request
- the result of the review is that the original decision is maintained (even if errors are corrected)
- the application would have failed but for new information or evidence that was not before the original decision maker and there was no casework error in the initial decision.

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