



Home Office

Suitability: Exclusion and deportation

Version 2.0

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About this guidance

This section tells you about use of this guidance in considering whether to refuse or cancel an application for entry clearance, permission to enter or permission to stay in the UK where:

- the Secretary of State has personally directed that the person be excluded from the UK
- the person is the subject of an exclusion order under the Immigration (European Economic Area) Regulations 2016 (EEA Regulations 2016), as saved
- the person is the subject of a deportation order or a decision to make a deportation order

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 Migrant Criminality Policy team.

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

Publication

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

- version **2.0**
- published for Home Office staff on **16 January 2024**

Changes from last version of this guidance

Minor updates to reflect the introduction of Electronic Travel Authorisations (ETAs).

Related content

[Contents](#)

Introduction

This section tells you about deportation and exclusion.

Deportation

Deportation is the removal of a foreign national from the UK in accordance with a deportation order (DO). A foreign national can be deported from the UK:

- on the ground it is conducive to the public good (conducive grounds) under:
 - section 3(5)(a) of the [Immigration Act 1971](#) (1971 Act)
 - section 32 of the [UK Borders Act 2007](#) (2007 Act)
 - regulation 27A of the EEA Regulations 2016, as amended and saved by:
 - [the Citizens' Rights \(Application Deadline and Temporary Protection\) \(EU Exit\) Regulations 2020](#) (Grace Period Regulations 2020)
 - the [Immigration and Social Security Co-ordination \(EU Withdrawal\) Act 2020 \(Consequential, Saving, Transitional and Transitory Provisions\) \(EU Exit\) Regulations 2020](#) (Consequential Regulations 2020)
- under section 3(5)(b) of the 1971 Act if they are the family member of a person who has been ordered to be deported or has been deported
- under section 3(6) of the 1971 Act if a court has recommended their deportation following a conviction punishable with imprisonment
- on EU public policy, public security or public health grounds under:
 - regulation 23(6)(b) of the EEA Regulations 2016, as saved
 - regulation 15(1)(b) of [the Citizens' Rights \(Frontier Workers\) \(EU Exit\) Regulations 2020](#) (Frontier Workers Regulations 2020)

Further information about the circumstances when it is appropriate to make a deportation order can be found in:

- guidance on conducive decisions
- guidance on public policy, public security and public health decisions

Deportation orders made before 2 October 2000

Section 10 of the Immigration and Asylum Act 1999 (1999 Act) provides for the administrative removal of a person from the UK where they:

- require leave but do not have it (such as overstayers, illegal entrants and those refused leave at a port of entry)
- are found to have breached a restriction or condition of their visa or limited leave
- seek or obtain leave by deception

Before the commencement of section 10 of the 1999 Act on 2 October 2020, a deportation order could be made on the basis a person had overstayed their limited leave or had breached a condition attached to their limited leave.

The effect of a deportation order

A deportation order requires a person to leave the UK and prohibits them from lawfully entering the UK while it remains in force. Entering in breach of a deportation order is a criminal offence under section 24(1)(a) of the 1971 Act.

Leave to enter or remain in the UK (including indefinite leave) granted before the deportation order is made or while it is in force is invalidated (except where the deportation order is made under the 2007 Act while an in-country appeal is pending).

A deportation order remains in force until it is revoked by the Secretary of State, unless:

- the subject becomes a British citizen
- a time-limited deportation order made under the EEA Regulations 2016, as saved, expires
- the deportation order was made against a child of a person subject to a deportation order, and that child is now 18 years old or over
- the deportation order was made against the spouse or partner of a person subject to a deportation order and the marriage or civil partnership has ended
- the deportation order was made against a family member of a person subject to a deportation order made on conducive grounds and the deportation order made against that person ceases to have effect

An extant deportation order must be revoked before leave can be granted. Any leave granted in error or through deception to a person who is subject to a deportation order will be invalid.

The expiry of a deportation order upon reaching its time-limit or a decision to revoke a deportation order does not restore any leave the person subject to the deportation order had before the deportation order was made.

When a deportation order can be revoked

A person who is subject to a deportation order can apply to the Home Office for revocation of the order. Such an application must be made from outside of the UK after the person has been deported. Requests to revoke a deportation order have no explicit format and can be made as part of an entry clearance application or made directly to the Home Office.

Requests to revoke a deportation order made under the 1971 Act or 2007 Act will be considered in accordance with [paragraphs 390 to 392 of the Immigration Rules](#). For guidance on revocation of deportation orders made under the 1971 Act or 2007 Act see Post-departure action, exclusion and DO revocation (sharepoint.com).

Deportation orders made by virtue of the EEA Regulations 2016:

- before 1 January 2021

- from 1 January 2021 in relation to persons with rights under the Grace Period Regulations 2020
- from 1 January 2021 by virtue of the Restrictions Regulations 2020

may be revoked under regulation 34 of the EEA Regulations 2016, as saved.

Deportation orders made by virtue of the Frontier Workers Regulations 2020 may be revoked under regulation 17 of those regulations.

For guidance on revocation of deportation orders made under the EEA Regulations 2016, as saved, or under the Frontier Workers Regulations 2020 see public policy, public security or public health decisions.

Where a deportation order is revoked, the person concerned cannot lawfully return to the UK unless they meet the relevant requirements for entry.

A deportation order must also be revoked following an allowed appeal (where the Home Office has confirmed it does not intend to challenge).

Exclusion

Exclusion from the UK is used to prevent a person from entering the UK. If the person is in the UK, deportation will normally be the appropriate course of action.

Exclusion is normally used in cases of national security, extremism, serious criminality, international crimes (war crimes, crimes against humanity or genocide), corruption and unacceptable behaviour.

A decision to exclude a person from the UK is made either by:

- **Exclusion decision:** a personal decision of the Secretary of State, on the ground that it is conducive to the public good and, where applicable, on the grounds of public policy, public security or public health
- **Exclusion order:** under regulation 23(5) of the EEA Regulations 2016:
 - on the grounds of public policy, public security or public health in accordance with [regulation 27](#) and [Schedule 1](#) of the EEA Regulations 2016
 - on conducive grounds in accordance with regulation 27A of those regulations

An exclusion order can only be made in respect of a person who is protected by the savings provisions in the Grace Period Regulations 2020. That is a person (or the relevant family member of a person) who has an outstanding application (or appeal against the refusal of an application) to the EU Settlement Scheme (EUSS), made on or before 30 June 2021 and was either:

- lawfully resident in the UK in accordance with the EEA Regulations 2016 by 23:00 GMT on 31 December 2020

- had acquired a right of permanent residence by that date (unless they have been absent from the UK for a continuous period of more than 5 years)

An exclusion decision or exclusion order remains in force until a person successfully applies to have it lifted, or the Secretary of State decides the exclusion decision or exclusion order no longer applies.

Electronic Travel Authorisation (ETA)

An ETA is an advance travel permission required by specified non-visa nationals when travelling to the UK as a visitor, transiting the UK, or as a Creative Worker seeking entry to the UK pursuant to paragraph [Appendix Temporary Work - Creative Worker at CRV 3.2](#). An ETA provides an individual with permission to travel to the UK and is not permission to enter or stay in the UK.

Part 9 of the Immigration Rules does not apply to applications for an ETA. Suitability considerations for ETAs must be considered under Appendix: Electronic Travel Authorisation. For further information see the Electronic Travel Authorisation guidance and refer only to the sections of this guidance that are specified in the Electronic Travel Authorisation guidance.

Related content

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Conducive deportation

Public policy, public security or public health decisions

Exclusion from the UK

Deportation orders

This section tells you how to consider an application where the applicant is the subject of a deportation order or deportation decision.

Refusing entry clearance or permission to enter

Paragraph 9.2.1(c) of the [Immigration Rules](#) provides that entry clearance, permission to enter or permission to stay must be refused where the applicant is the subject of a deportation order or a decision to make a deportation order.

Where the person has, as part of their entry clearance application, requested that the deportation order be revoked you must refer the case (as set out below) before considering their entry clearance application.

An application to revoke a deportation order made under the 1971 Act, 2007 Act, EEA Regulations 2016 or the Frontier Workers Regulations 2020 must be sent to the Foreign National Offender Returns Command (FNO RC).

An application to revoke a deportation order made before 1 October 2000 on non-criminal grounds or because of low-level criminality must be sent to the Central Support and Tracing Hub (CSTH).

Further guidance can be found at: [Transfer or refer a case](#)

Where a deportation order is revoked because the Secretary of State decides that deportation would breach Article 8 of the European Convention on Human Rights (ECHR), entry clearance or permission to enter or stay must be granted for a period of up to 30 months, subject to such conditions as the Secretary of State considers appropriate.

Where a deportation order is revoked for reasons other than Article 8, you must consider whether the person meets the requirements for entry clearance or permission under the route they are applying.

Where a decision is made to maintain the deportation order you must refuse entry clearance or permission under paragraph 9.2.1.(c).

Deportation orders made by the Crown Dependencies

A deportation order made by one of the Crown Dependencies (the Bailiwick of Jersey, the Bailiwick of Guernsey or the Isle of Man) is known as an Islands deportation order.

An Islands deportation order automatically extends to the UK under the 1971 Act, thus prohibiting the subject from entering the UK, except where the person:

- is a British citizen

- has conduct committed before 23:00 GMT on 31 December 2020 and is protected under the Agreements or by the United Kingdom's domestic implementation of the Agreements
- is a non-British non-EEA national family member of a British citizen

The 'Agreements' refer to the [EU Withdrawal Agreement](#), the [EEA EFTA Separation Agreement](#) and the [Swiss Citizens' Rights Agreement](#).

For more information on those who are protected under the Agreements or by the United Kingdom's domestic implementation of the Agreements see public policy, public security and public health decisions.

If the person is the subject of an Islands deportation order and does not fall into one of the exceptions listed above, you must refuse entry clearance or permission under paragraph 9.2.1.(c).

If an Islands deportation order does not automatically extend to the UK, you must refer the case to FNO RC who will consider whether to extend the Islands deportation order to the UK. This applies where the person:

- is an Irish citizen
- is the non-British, non-Irish family member of a British citizen
- is in the UK having arrived with an EUSS Family Permit
- has EUSS leave to enter or remain in the UK, whether pre-settled or settled status
- is granted, or may be eligible for, entry clearance or leave under Appendix S2 Healthcare visitor of the Immigration Rules
- has been granted a frontier worker permit

For further information see guidance on the [Common Travel Area](#).

Under [paragraph 3\(5\) of Schedule 4 to the 1971 Act](#) a person who is the subject of an Islands deportation order may lawfully enter the UK for the purpose of travelling from the Island to a destination outside the UK. This may be necessary if for example there is no direct route from the Crown Dependency to the place the person is being deported to.

Deportation orders made by the Republic of Ireland

An Irish deportation order is not comparable to a UK deportation order and has no legal force in the UK. It is more akin to a form of administrative removal, and therefore does not always reflect upon the severity of the person's actions. If a person is subject to a deportation order made in the Republic of Ireland that does not have a direct effect in the UK, you must not automatically refuse entry clearance or permission under paragraph 9.2.1.(c).

You must examine the reason for the deportation order and consider the case on its merits. You must take all relevant information into consideration. If the person does not qualify for permission to enter, or should be refused on suitability grounds such

as criminality or being non-conducive to the public good you must refuse them under the relevant paragraph of the rules.

Official sensitive: do not disclose: start of section

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

Official sensitive: do not disclose: end of section

Related content

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Transfer or refer a case

Exclusion decisions and orders

This section tells you how to consider an application where the applicant is the subject of an exclusion decision or exclusion order.

Refusing entry clearance or permission

Exclusion is a mandatory ground for refusal under paragraph 9.2.1.(a) or 9.2.1.(b) and a mandatory ground for cancellation under paragraph 9.2.2. of the [Immigration Rules](#).

You must refuse the application where:

- the Secretary of State has personally directed that the applicant be excluded from the UK on non-conductive grounds
- the applicant is the subject of an exclusion order made under the [Immigration \(European Economic Area\) Regulations 2016](#)

This remains the case as long as the exclusion decision is still in force. An exclusion decision or an exclusion order remains in place indefinitely until it is revoked.

If a person who is currently excluded from the UK applies for entry clearance you must consider it as a request to have the exclusion revoked. You must refer the case to the unit originally responsible for the exclusion decision or exclusion order for them to consider the revocation request. The units responsible are Special Cases Unit (SCU) and FNO RC.

For further information on the revocation of exclusion decisions or orders refer to the Exclusion from the UK guidance.

Where an exclusion decision or an exclusion order is successfully revoked, the person must still meet the requirements of the [Immigration Rules](#) for entry to the UK.

Cancelling entry clearance or permission

Exclusion is a mandatory ground for cancellation under paragraph 9.2.2. of the Immigration Rules.

Where the Secretary of State has personally directed that the person be excluded from the UK or an exclusion order has been made, you must cancel entry clearance or permission to enter or stay held by that person.

Refusal and cancellation wording

Grounds	Rule	Wording
Refusal	9.2.1.	You have sought entry clearance/permission to enter/permission to stay in the United Kingdom but on [date] you were [deported/excluded] from the UK. Your [deportation order/exclusion decision] has not been revoked. I therefore refuse you entry clearance/permission to enter/permission to stay in the UK.
Cancellation (exclusion only)	9.2.2.	On [date] [the Home Secretary made a decision to exclude you from the UK/you were made the subject of an exclusion order under section 23(5) of the Immigration (European Economic Area) Regulations 2016]. A person who is excluded from the UK must have their permission to enter or remain in the UK cancelled. I therefore cancel your permission to enter/permission to stay in the UK.

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