Home Office

Settlement for people on a protection route (refugee status / humanitarian protection)

Version 6.0

Contents

About this guidance

This guidance tells you how to consider applications for settlement on a protection route under Appendix Settlement Protection of the Immigration Rules. Those on a protection route are individuals with refugee status or humanitarian protection and their dependants.

This guidance provides specific instructions on the validity, suitability and eligibility requirements for applications on the route – both for main applicants and dependants. It also provides instructions on the considerations that you must make where an applicant does not qualify for settlement on a protection route.

This instruction must be read in conjunction with other key guidance products, in particular:

- Assessing Credibility and Refugee Status
- Refugee Leave
- Humanitarian Protection
- Family life (as a partner or parent), private life and exceptional circumstances
- Discretionary Leave
- Restricted Leave, Revocation of Refugee Status
- Revocation of Indefinite Leave to Remain

This instruction applies to all applications made on or after 6 October 2021.

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 Asylum 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 **6.0**
- published for Home Office staff on **27 January 2026**

Changes from last version of this guidance

Updated to include reference to VPRS cases under Safe return review.

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Purpose of guidance

Background

Those granted refugee status or humanitarian protection, along with any qualifying dependants included on the asylum claim, will usually be granted 5 years permission to stay. When their permission is due to expire, they must apply for further permission for themselves if they want to stay in the UK. Current policy permits those on a protection route to qualify for settlement (indefinite leave to remain) after completing 5 years permission to stay on the route, should they meet the requirements of Appendix Settlement Protection.

Settlement is a privilege, not an automatic right, and provides permission to stay in the UK permanently and freedom from immigration control for those who still require protection. However, as the need for protection may be temporary, a safe return review is carried out on every application for settlement on a protection route to determine and confirm the need is continuing. If there are, for example, significant improvements in country conditions or changes in personal circumstances that mean someone no longer needs protection, they may be expected to return to their country of origin or to apply to stay in the UK under other provisions of the Immigration Rules.

Settlement may also be refused to those on a protection route where the suitability requirements are not met. The rules outline specific circumstances where it will not be suitable to grant settlement, such as the behaviour of an applicant (this includes their criminality, character, conduct or associations). Where the suitability requirements are not met, but protection is still required, further permission to stay may be granted.

Policy objective

The policy objective when considering applications for settlement from individuals on a protection route is to:

- ensure that the UK's obligations under the Refugee Convention and European Convention on Human Rights (ECHR) are met where there is a continuing need for protection
- ensure that safe return reviews are conducted to consider whether there have been any changes in country conditions or personal circumstances so that only those who continue to need protection benefit from settlement on this route
- ensure that dependants continue to qualify as family members, by ensuring that a spouse is still in a genuine and subsisting relationship with the main applicant
- delay the path to settlement in the UK to those who have committed criminal offences or whose character, conduct or associations are considered not to be conducive to the public good, either permanently or for an appropriate period of time based on the severity of the crime
- ensure all decisions regarding settlement are decided consistently

Best interests of a child

Section 55 of the Borders, Citizenship and Immigration Act 2009 requires the Home Office to make arrangements for ensuring that immigration, asylum and nationality functions are discharged having regard to need to safeguard and promote the welfare of children who are in the UK.

You must comply with the section 55 duty when carrying out the actions set out in this instruction, in respect of children and those with children. You must follow the principles set out in the statutory guidance under section 55, Every Child Matters - Change for Children.

Settlement applications from children or parents with children included as dependants must be considered having regard to the section 55 duty. It is unlikely that the best interests of children will be a significant concern in cases where settlement is granted because there is a continuing need for protection. Where settlement is refused and further limited permission to stay granted due to criminality or character, conduct or associations, any dependants will normally be granted permission to stay in line. As they will still have access to all the benefits and privileges that come with protection permission, this is unlikely to have any adverse impact on best interests, but this still needs to be carefully considered in individual cases.

Where settlement is refused and no further limited protection permission is granted because there is no longer a need for protection or evidence has come to light that leads to revocation, careful consideration must be given to any child's best interests when deciding whether leave on another route may be appropriate. Best interests cannot override the public interest in denying the benefits of settlement and seeking to remove criminals, terrorists or extremists.

Where you are concerned about child welfare or protection issues that may involve safeguarding issues within the family unit, you must immediately contact the relevant safeguarding team within your operational unit, who will refer the case to the relevant local authority in accordance with guidance in making safeguarding referrals. In an emergency, you must refer the case to the police. You can ask the Office of the Children's Champion for advice on issues relating to children, including family court proceedings and complex cases.

For further information on the important principles to take into account, see the Section 55 children's duty guidance.

Our statutory duty to children means you must demonstrate:

- fair treatment which meets the same standard a British child would receive
- the child's best interests being a primary, although not the only, consideration
- no discrimination of any kind
- timely processing of applications
- identification of those who might be at risk from harm

You must keep this duty in mind throughout the process.

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Relevant legislation

The Immigration Rules

The provisions relating to consideration of applications for settlement on a protection route are set out in Appendix Settlement Protection (STP) of the Immigration Rules. The specific Immigration Rules that are relevant are:

- STP 1-5 which set out the validity, suitability and eligibility requirements for main applicants (those with refugee status or humanitarian protection) applying for settlement on a protection route
- STP 6-11 which set out the validity, suitability and eligibility requirements for dependants (those granted permission to stay in-line with an individual with refugee status or humanitarian protection) applying for settlement on a protection route

Other relevant Immigration Rules include:

- Paragraphs 339A to 339AC, which set out the circumstances under which a grant of refugee status under Paragraph 334 will be revoked or not renewed
- Paragraphs 339G to 339GD, which set out the circumstances under which a grant of humanitarian protection under Paragraph 339C will be revoked or not renewed
- Paragraphs 352A to 352FJ, which set out the criteria for persons seeking leave to enter or remain as the child, spouse or partner of a refugee or beneficiary of humanitarian protection (Refugee Family Reunion)
- Paragraph 34, which set out the requirements for a valid application for leave to remain, including the requirement for applications to be made using a specified form

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Settlement protection applications

All applications must be made on the correct application form, SET (Protection Route) (SET-P), which is available on the GOV.UK website (see validity requirements for settlement on a protection route).

Applications made early

Applications should be made in the last month of an individual's permission to stay. You should generally not consider an application until the individual has served 5 years permission to stay on the protection route. However, where an application is made significantly earlier (over three months of permission to stay remaining), you should consider it in-line with your operational unit's service standard.

Where an application is made significantly earlier, and you proceed to make a decision on the application, you must consider it in-line with the Refugee Leave policy, in particular the section on 'applications for longer periods of leave'. Where you decide that there are no exceptional circumstances which would warrant a grant of settlement before the applicant has served 5 years with refugee status or humanitarian protection, you must refuse the settlement application with no right of appeal. You must demonstrate that you have considered the representations provided in support of an early grant of settlement.

Applications made after permission has expired

Where an application is received after the individual's permission to stay has expired, it is considered to be 'out of time'. Where an individual does not make an application for settlement before their leave expires, they become an overstayer. This means that they will not benefit from '3C leave' whilst their application is outstanding.

Protection status does not cease when permission to stay expires, but individuals no longer benefit from any conditions that accompanied their grant of leave on the protection route – such as permission to take up employment or access to mainstream benefits.

Where an application is made out of time, you must contact the applicant to understand the reasons for the delay. You must update case notes with any response received.

You must then go on to consider the application in-line with Appendix STP of the Immigration Rules and this guidance.

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Validity requirements for settlement on a protection route

The validity requirements for applications for settlement on a protection route are explained in STP1 of Appendix STP of the Immigration Rules, whilst the validity requirements for applications from a partner or child of a person on a protection route are explained in STP6 (see Dependants (partner / partners or child / children of a person with protection status) for guidance on the dependant-specific validity requirements).

In order for an application for settlement on a protection route to be considered, first, you must assess whether a valid application has been made.

Application form

Applicants may apply on their own application form – this includes dependants – or as a group application. For child applicants under the age of 18, a responsible adult may apply on their behalf. It will depend on what form they are taken to as they follow the guidance on GOV.UK - Indefinite leave to remain (permission to stay as a refugee, humanitarian protection, discretionary or section 67 leave).

All applications must be made on the correct application form, SET (Protection Route) (SET-P), which is available on the GOV.UK website. If any mandatory section of the form has not been completed, or an attempt is made to make an application in another way (such as by telephone or email), an application must be rejected as invalid without consideration. For exceptions, see the section on ‘Discretion’.

Biometrics

The applicant must have enrolled any required biometrics in order to make a valid application. The applicant is informed of this requirement to enrol biometrics within 45 working days when they make an application on form SET-P. Biometrics are required for the purposes of the Biometric Residence Permit should an applicant qualify for permission to stay in the UK.

Should an applicant not have enrolled their biometrics within 45 working days, you must send the applicant a biometric enrolment reminder letter.

Should biometrics still not be enrolled after a further 10 working days, you must proceed to consider the application. If the application fails to meet any other validity requirements, then the application may be rejected as invalid. If the application meets all other validity requirements, then you must proceed to consider whether the applicant meets the suitability and eligibility requirements.

Should an applicant who has failed to enrol their biometrics qualify for settlement or further permission to stay, they will have to enrol their biometrics before a Biometric Residence Permit is provided.

Identity and nationality

The applicant must have satisfactorily established their identity and nationality. This is ordinarily done by providing official documents, such as their Biometric Residence Permit, Home Office Convention Travel Document or driving licence.

Present in the UK

The applicant must be present in the UK on the date of their application.

Protection status (refugee status / humanitarian protection)

In order to make a valid application for settlement on a protection route, the applicant must have, or have last been granted, permission as a refugee or humanitarian protection. This means that they have, at the date of application, or most recently had but no longer have due to expiration (they have become an overstayer), permission to stay under paragraph 339Q(i) (refugee status) or paragraph 339Q(ii) (humanitarian protection) of the Immigration Rules.

Rejecting applications

Apart from where biometrics have not been enrolled, should an applicant not have met the validity requirements set out in STP1 (and has not made a valid application as a dependant), then you must reject the application as invalid without consideration using the relevant template. For exceptions, see the section on 'Discretion'.

Although the rules do not specify a time limit for rejecting an application, this should be done as soon as possible. You must complete all validation checks before rejecting an application. This ensures that the applicant is not given the impression their application is valid in all other respects, if their application does not meet more than one requirement.

Discretion

You have discretion to accept the application as valid if the applicant has failed to meet a validity requirements due to exceptional circumstances – for example it may be appropriate to consider an application as valid where the applicant is stuck outside of the UK due to a pandemic. Discretion may also be used where a mandatory section of the form is not completed but the applicant provides the required information elsewhere in the application, for example they do not provide the BRP number on the form but provide the BRP. This is not an exhaustive explanation of when discretion can be used.

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Applications with criminality

Referring cases to FNORC or SCU

Where you establish that the applicant has made a valid application for settlement on a protection route (including as a partner or child), you must check whether the applicant has a criminal record. If the applicant does have a criminal record, and the case is not already being managed or the same criminality has not previously been considered by the Foreign National Offenders Return Command (FNORC), then you must consider referring the case to FNORC.

In some cases, there may be evidence to suggest that an applicant has extremist views and / or behaviours. Article 33(2) of the Refugee Convention provides an exception to the principle of non-refoulement to individuals who have been convicted of a particularly serious crime and constitute a danger to the community in the UK or there are reasonable grounds for regarding them as a danger to the security of the UK. Where there is any evidence of extremism, or any behaviours which may provide reasonable grounds to consider the applicant a danger to the security of the UK, you must refer the case to Special Cases Unit (SCU).

Whenever a case is referred and transferred to another operational unit, you must update Home Office records accordingly. If the case is being referred to another unit for consideration, then you must send a letter to the applicant which provides an update on the application.

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If it is unclear whether the criterion has been met, you must discuss the application with a Senior Caseworker.

Applicant that meets the deportation criteria

Where an applicant meets the deportation criteria, and the same criminality has not previously been considered by the FNORC, you must refer the case to FNORC.

Applicant subject to a previously enforced Deportation Order

Where an applicant has previously been removed from the UK under a Deportation Order (DO), an application may indicate that they have returned to the UK in breach of that DO. In this circumstance, you must refer the application to FNORC to clarify whether the DO has been revoked.

Cases where a Deportation Order has not been pursued

Where FNORC inform you that they do not wish to pursue a DO, you must continue to consider their application under Appendix STP of the Immigration Rules. See Suitability Criteria for settlement on a protection route below.

Cases where there are criminal charges pending

Where an applicant is subject to criminal prosecution and successful prosecution could mean that they do not meet the suitability criteria, you must keep the application on hold pending the outcome of the prosecution.

Where you are holding the application for the conclusion of criminal prosecutions, you must write to the applicant to inform them that their application will not be decided until the criminal proceedings are completed.

Fraudulent documents submitted

To assert that a document is a forgery shifts the burden of proof to you (rather than on the applicant). The fact that official documents in the country of origin are generally unreliable is not enough to establish that it is forged. However, if there are concerns about the authenticity of any document submitted in support of a settlement application, guidance must be sought from:

- the National Document Fraud Unit (NDFU)
- the relevant country officer in the Country Policy and Information Team (CPIT)
- an immigration officer who has received specialist training

Referrals to NDFU, CPIT or immigration staff must be made via a deputy chief caseworker in the first instance.

If documents are found to be fraudulent, even if no criminal prosecution is pursued, this may be relevant to consideration of the applicant's continuing need of protection (revocation) and character or conduct (for the purposes of the application – suitability criteria).

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Suitability criteria for settlement on a protection route

This section applies to applications where there is evidence of criminality, but it is not of the severity to warrant revocation and / or exclusion under Part 11 of the Immigration Rules, with particular reference to paragraphs 339AA, 339AC and 339GB.

The suitability criteria (STP2 and STP7 of Appendix STP of the Immigration Rules) outlines the circumstances in which it would not be desirable to grant the applicant settlement.

You must note that:

- the sentence given not the actual time served is the relevant period
- all convictions (including spent convictions) count and the delay to settlement begins from the end of the latest sentence
- the amount of time passed since the end of the sentence as well as the sentence itself are relevant
- non-custodial sentences and out of court disposals must be taken into account
- evidence of persistent offending demonstrating a particular disregard for the law or offences causing serious harm by the applicant can lead to refusal

Sentences of 4 years or more imprisonment (STP 2.1.(a))

You must refuse applications from those convicted of an offence and sentenced to at least 4 years' imprisonment.

There is no time limit on how long you must take into account a conviction in this category.

Prison sentences between 12 months and 4 years (STP 2.1.(b))

You must refuse applications from those convicted of an offence and sentenced to between 12 months and 4 years imprisonment, unless 15 years or more (on the date of decision) have passed since the end of the sentence.

When calculating the end of the sentence, this means the entire sentence imposed, not just the time spent in prison. For instance, an applicant sentenced to 2 years imprisonment on 1 January 2021 will not be granted settlement until 1 January 2038 (15 years added to the end of the 2-year sentence imposed).

After this time period has elapsed, an applicant may be granted settlement under Appendix STP of the Immigration Rules (if they meet all other requirements).

Prison sentences of less than 12 months (STP 2.1.(c))

You must refuse applications from those who have been convicted of an offence and sentenced to less than 12 months imprisonment, unless 7 years or more (on the date of decision) have passed since the end of the sentence.

When calculating the end of the sentence, this means the entire sentence imposed, not just the time spent in prison. For example, an applicant who is sentenced to 9 months' imprisonment on 1 January 2021 will not be considered for settlement until 1 October 2028 (7 years added to the end of the 9-month sentence imposed).

Non-custodial sentences (STP 2.1.(d))

You must refuse applications from those who have been convicted of or admitted an offence for which they have received a non-custodial sentence or other out of court disposal recorded on their criminal record, unless 24 months or more (on the date of decision) have passed.

Particular disregard for the law (STP 2.1.(e))

You must refuse applications from those who are persistent offenders and have shown a particular disregard to the law in the UK. You should consider the nature, frequency and impact of the applicant's criminal convictions.

Causing serious harm (STP 2.1.(f))

You must refuse applications from those who have been convicted of an offence which, in the view of the Secretary of State, caused serious harm. This includes, but is not limited to, causing death or serious injury to an individual or group of individuals. A person does not need to be convicted for specifically causing a death or serious injury. A non-exhaustive list of examples include:

- manslaughter
- dangerous driving
- driving whilst under the influence of drink and / or drugs
- arson

You must look at the circumstances and consequences of the person's actions which caused them to be charged with an offence and the impact the offence had on the victim.

This will include (but is not limited to) the nature, extent, seriousness and impact of the person's offending as well as the following non-exhaustive list of factors.

Character, conduct or associations (STP 2.1.(g))

You must refuse applications where it would be conducive to the public good because of their conduct, character, associations or other reasons (including

convictions which do not fall within the other elements of the suitability criteria) or the fact they represent a threat to national security.

When considering whether to refuse settlement on the basis of an applicant's conduct, character or association, you must make a case-specific assessment.

This includes those who espouse extremist views or unacceptable behaviours that run counter to British values, but which are not of the severity required to revoke or exclude from protection status. You must refuse settlement where there is evidence of such views.

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Eligibility requirements for settlement on a protection route

Once you are satisfied that the application has met the validity requirements for settlement on a protection route, you must go on to consider whether the applicant meets the eligibility requirements – even where the applicant falls for refusal of settlement under the suitability requirements. This is because those who still require protection status, or qualify as a dependant, must be granted further permission to stay in the UK.

In order to assess the eligibility, you must consider all available evidence by referring to:

- the information provided by the applicant with their application form
- the Immigration Officer's reports
- other information held on Home Office databases and files
- policy guidance and country of origin information

If necessary, where information cannot be obtained by writing to the applicant, you may consider arranging an interview to address any outstanding issues. Where an interview is required, this must be agreed in advance by a Deputy Chief Caseworker and must be conducted in accordance with the guidance set out in the Asylum Interview policy.

The eligibility requirements to be met for settlement on a protection route (with refugee status or humanitarian protection) are set out in STP3-4 of Appendix STP of the Immigration Rules.

Qualifying period (STP 3.1.)

The applicant must have spent a continuous period of 5 years in the UK with permission as a refugee status or humanitarian protection. This means that they have spent 5 years in the UK with permission to stay under paragraph 339Q(i) (refugee status) or paragraph 339Q(ii) (humanitarian protection).

The relevant document to prove this (usually the Biometric Residence Permit) should have been submitted with the application and this must be checked against information held by the Home Office to confirm the details.

For instructions on applications made before the applicant has spent a continuous period of 5 years on the protection route, refer to: Applications made early.

Continuing status requirement (STP 4.1.)

In order to qualify for settlement on a protection route, the applicant's refugee status or humanitarian protection must not have been revoked or renounced. This should

be evident from case notes, but you may also need to check the Home Office file for further details.

Refusing applications

If an applicant does not meet one or more of the eligibility requirements, they must be refused settlement. See Refusing Settlement for details on producing decision paperwork.

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Safe return review

Significant and non-temporary change in country situation

You must consider, utilising relevant country information reports, whether there have been any significant and non-temporary changes to the applicant's country situation such that a fear of persecution can no longer be regarded as well-founded or there is no longer a real risk of serious harm. You must carefully consider if changes are temporary, for example the overthrow of one political party in favour of another might only be transitory or the election of a new government may not automatically mean that there is no longer a risk of persecution or serious harm for the individual. The changes must be such that the reasons for the grant of protection status have ceased to exist.

In the case of stateless persons, the applicant must be able to return to their country of former habitual residence in safety for the purposes of permanent residency (this includes on a route to permanent residency).

Where an applicant arrived in the UK via the Vulnerable Persons Resettlement scheme (VPRS) after being referred as a Convention refugee by the UNHCR and was granted refugee or humanitarian protection leave to remain, the SSHD will proceed straight to considering a grant of indefinite leave to remain in the United Kingdom where the applicant meets the relevant validity and suitability requirements.

Changes in personal circumstances

There may be cases where changes in personal circumstances mean the original reasons for the grant of protection no longer exist and the individual could return to their country of origin in safety. This must be considered on a case by case basis in light of the evidence available. You must consider whether the grant of protection status was for more than one reason. For example, a woman may have been granted on the basis that she refused to agree to a forced marriage. If she is now married, she may still face a risk of persecution or serious harm if she has married without the consent of her family. They may also fall within another category of risk and as such, revocation of protection status would not be appropriate. A revocation referral on grounds that the protection need has ceased to exist should only be considered where there is no risk of persecution or serious harm on any grounds.

Return to country of origin or habitual residence

You must conduct checks to establish whether the individual has travelled back to their country of origin or country of former habitual residence without the knowledge of the Home Office. Information about the individual's travel history may be found in case notes, information provided with the settlement application, or the Immigration Officer's reports (on CID / Atlas or on file, if file is held).

It may be appropriate to revoke protection status where the applicant has returned to the country from which they sought protection:

- on several occasions
- for long periods of time
- without notifying the Home Office of compelling and compassionate circumstances for doing so

If the applicant notified the Home Office first or only went to the country from which they sought protection for a very short period, it is less likely that revocation would be appropriate. Individuals must not be penalised solely for travelling to a country neighbouring the country from which they sought protection. It must not be assumed that the individual went to the country from which they sought protection without sufficient evidence.

Applicant has obtained a national passport

You must ensure that all relevant checks have been conducted to establish whether the individual has obtained a passport from the national authorities of their country of origin or their country of former habitual residence. Where an individual has obtained a national passport or asked for their conditions of leave to be placed in it (a 'Transfer of Conditions' application), then you must consider whether a revocation referral is appropriate.

Evidence that the original grant may not have been correct

There may be evidence to suggest that the individual was never eligible for the status granted to them by the Home Office, for example they may have obtained their status by deception. In such cases consideration must be given to potential prosecution for obtaining leave by deception as well as revocation action.

Evidence that a dependant travelled home or obtained a national passport

Where a dependant granted leave in-line has obtained a national passport, the case must be referred to the Travel Documents Team to consider whether cancellation of any Home Office issued travel document is appropriate.

Referring cases

If one or more of the scenarios in this section applies, the case must be referred to the Status Review Unit (SRU) (or relevant unit) to consider whether it is appropriate to revoke protection status, in accordance with the published Home Office policy instructions on:

- Revocation of Refugee Status
- Exclusion (Article 1F) and Article 33(2)
- Humanitarian Protection

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Informing the applicant that the case requires further consideration

If the case requires further consideration, and you are unable to make a decision in-line with your operational unit's service standard, then you must send a letter to the applicant which provides an update on the application.

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Dependants (partner / partners or child / children of a person with protection status)

This section applies to dependants who were:

- granted leave in-line with a main claimant who was granted refugee status or humanitarian protection in accordance with the definition of dependants set out in Paragraph 349 of the Immigration Rules
- born in the UK after their parent / parents grant of refugee status or humanitarian protection and granted leave in-line
- family members granted leave in-line under the family reunion policy having met the requirements of Paragraphs 352A to 352G of the Immigration Rules

All dependants may apply on their own SET-P application form or as part of a group application. A responsible adult may apply on behalf of a child under the age of 18.

'Partner' and 'child' is defined in the introductory section of the Immigration Rules.

Validity requirements (STP 6.)

In order to make a valid application for settlement on a protection route as a dependant, the applicant must have or have last been granted permission to stay in the UK as a partner or child of a person with protection status under the dependants policy (paragraph 349 of the Immigration Rules) or permission to stay in the UK as a partner or child of a person granted protection status under the family reunion policy (paragraph 352A-352G of the Immigration Rules). This means that a dependant who makes an out of time application can still meet the STP 6.4. requirement as long as their last grant of permission to stay in the UK was as a dependant of an individual with protection status.

The only exception to this requirement is where the applicant is a child who was born in the UK while their parent had protection status. Such applicants can apply for settlement on a protection route even if they have not previously been granted permission to stay as a dependent child.

Parents with protection status are expected to make applications, as a responsible adult, on behalf of all their children born in the UK since their original grant of protection status. If you receive a request to grant settlement to a child who has not had an application made on their behalf by their parent, you must write to the child / their responsible adult and request a valid application to be made.

For guidance on how to consider the other validity requirements for applications from dependants for settlement on a protection route (including application form (STP 6.1.), biometrics, establishing identity and nationality, and presence in the UK (STP

6.2.); and for guidance on where to reject applications as invalid, refer to: validity requirements for settlement on a protection route.

Suitability requirements (STP 7.)

For guidance on how to consider whether a dependant has met the suitability requirements for settlement on a protection route, refer to: Suitability requirements for settlement on a protection route.

Eligibility requirements

Relationship requirements for a partner (STP 8.)

Where an applicant has applied for settlement as a partner of a person with protection status, the person must:

- be being granted settlement at the same time
- already be settled on the protection route, and the applicant must have had permission to stay as the individual's partner when they were granted settlement

In order to grant settlement to a partner on the protection route, you must also be satisfied that the relationship between the applicant and the person with protection status remains genuine and subsisting.

The applicant and the person with protection status must also intend to continue to live together as partners in the UK. The burden of proof is on the applicant to evidence that they meet this requirement. Evidence may include documents such as utility bills and mortgage / recent documentation.

Relationship requirement for a child (STP 9.)

Where an applicant has applied for settlement as a child of a person with protection status, the person must:

- be being granted settlement at the same time
- already be settled on the protection route, and the applicant must have had permission to stay as the person's child or was born in the UK while the person had permission to stay on a protection route

If the applicant was born in the UK while the person had permission to stay on a protection route, they must provide a full UK birth certificate as evidence. The birth certificate must show the name of the person (their parent) with protection status.

There may be instances where despite a child being born before the person with protection status makes their application for settlement, they do not make an application on the behalf of their child until after they have been granted settlement. This may occur for a variety of reasons, for example a genuine oversight or because

the parent was awaiting the birth certificate. Such delays must not be held against the applicant.

Age requirement for a child (STP 10.)

A child applying for settlement on a protection route must be under the age of 18, unless they were last granted permission to stay as a dependant of a person on a protection route. This means that their most recent grant of permission to stay must have been as a dependant of a person on a protection route. For example, if an applicant was granted permission to stay as a dependant of a person with refugee status when they were 17-years old, they will be over-18 when they apply for settlement. Such individuals still qualify for settlement on a protection route (as a child) under Appendix STP of the Immigration Rules (if they meet the other requirements).

Children born to parents with ILR

A child born in the UK after 1 January 1983 will be a British citizen if either parent is a British citizen or settled in the UK. The British Nationality Act 1981 specifies that a person will not be regarded as settled if they are exempt under certain provisions of the 1971 Act, or if they are in breach of the immigration laws. Therefore, most children born after their parents are settled are British by birth in accordance with the 1981 Act. If a settlement application is received from a settled person requesting that a UK born child is given leave in line, you must advise them that the child may be eligible for citizenship and that they should make the appropriate application.

Applicants with other forms of permission to stay

Applications may be received from individuals who have other (non-protection route) forms of permission to stay and wrongfully believe that they qualify for settlement on a protection route. For example, an individual who was granted leave outside the rules following a family reunion application may apply for settlement on a protection route. Such applications should be rejected as the validity requirements have not been met. Applicants should be directed to GOV.UK to find the correct application form.

Safeguarding

You must carefully consider the statutory duty to children under Section 55 of the Borders, Citizenship and Immigration Act 2009 when considering applications from children. Where there are child protection concerns, the case must be referred immediately to a senior caseworker for referral to the Vulnerable Minors Team - see guidance on referring a child to child welfare agencies or the police.

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Granting settlement

If the applicant meets the requirements of Appendix STP of the Immigration Rules, settlement must be granted.

For all applications decided on Atlas, decisions to grant settlement will be automatically notified. This means that you do not have to draft a decision letter to the applicant.

Documentation processing

Everyone granted settlement will receive a Biometric Residence Permit (BRP) or an alternative biometric immigration document to indicate their status in the UK.

Where the applicant has not enrolled biometrics but qualifies for settlement, you must inform them that they have been granted settlement in the UK but they will not be provided with a BRP until they enrol their biometrics.

Where you grant settlement, you must:

- check photographs of the applicant and ensure that they are scanned onto CID
- enter condition code 'ILR'
- prepare a copy of check-sheet ICD.3667 (applicant) or ICD.3674 (where applicant is represented) - these will be automatically generated by Doc Gen on case outcome
- enter the case outcome ('grant refugee i.l.r', 'grant hp i.l.r' or 'grant i.l.r (for dependants))
- choose the relevant statistics category
- serve the 'Grant ILR' letter to the applicant to inform them of their grant of settlement

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Refusing settlement

Where the applicant does not meet the requirements of Appendix STP of the Immigration Rules, they must be refused settlement.

For applications on Atlas which are rejected or refused, you must draft a decision letter, using the relevant template for the decision. You must use the templates uploaded on Atlas.

Considering further permission to stay

All valid applications for settlement on a protection route must also be considered as applications for further permission to stay where settlement is not being granted.

If you are not satisfied that all the suitability and eligibility requirements for settlement for a person on a protection route are met but you are satisfied that the applicant is still entitled to refugee status, humanitarian protection or permission to stay as a dependant under Part 11 of the Immigration Rules, you must grant the applicant a further period of permission to stay of at least 30 months.

There may be exceptional circumstances as to warrant a longer period of permission to stay. All applications where you are considering granting a longer period of permission to stay than 30 months must be discussed with a Senior Caseworker.

You must update CID with the relevant case outcome: either ‘Refuse ILR, Grant (Refugee) LTR’, ‘Refuse ILR, Grant (HP) LTR’ or ‘Refuse ILR, grant LTR’ (for dependants) with the relevant statistics category.

You must serve the ‘Refuse ILR Grant LTR’ letter to the applicant to inform them of their grant of further permission to stay.

No grounds for further permission to stay

Where you conclude that the applicant does not qualify for further permission to stay, you must refuse settlement outright.

You must update CID with the relevant case outcome: ‘Refuse ILR’ with the relevant statistics category.

You must serve the ‘Refuse ILR’ letter to the applicant to inform them that their application for settlement has been refused.

Appeal rights

Where the applicant still has refugee status or humanitarian protection, but settlement is refused and further permission to stay is granted, there is no right of appeal. The decision to refuse settlement is not an appealable decision under the Nationality, Immigration and Asylum Act 2002.

If the application is refused because the applicant's protection status has been revoked, the applicant has a right of appeal against the decision to revoke protection status under section 82(1)(c) of the Nationality Immigration and Asylum Act 2002 (as amended by section 15 of the Immigration Act 2014).

This right of appeal against the revocation of protection status exists even if another form of permission to stay is granted.

Standard paragraphs

You must use the following standard paragraphs where relevant. The examples are non-exhaustive, meaning that you may make decisions which warrant you to draft your own explanatory paragraphs. You must be clear as to the reason / reasons why settlement has been refused, referencing the rules as necessary. The following wordings are examples – they do not constitute an exhaustive list of possible refusal paragraphs and caseworkers may need to include additional information relevant to the consideration of the individual case. The notice must specify the particular paragraph or paragraphs of the Immigration Rules they have failed to meet and why.

Suitability requirements

Criminal conviction and sentenced for at least 4 years

> You have applied for settlement on a protection route but due to your conviction of [offence] and sentence of a period of [length of sentence] on [insert date of conviction], I am satisfied that you do not meet the suitability requirements for settlement. This is because you have been convicted of a criminal offence which has resulted in a sentence of at least four years imprisonment.

Criminal conviction and sentenced for at least 12 months but less than 4 years in the last 15 years

> You have applied for settlement on a protection route but due to your conviction of [offence] and sentence of a period of [length of sentence] on [insert date of conviction], I am satisfied that you do not meet the suitability requirements for settlement. This is because you have been convicted of a criminal offence which has resulted in a sentence of at least 12 months but less than four years imprisonment in the last 15 years.

Criminal conviction and sentenced for a period of less than 12 months in the last 7 years

> You have applied for settlement on a protection route but due to your conviction of [offence] and sentence of a period of [length of sentence] on [insert date of conviction], I am satisfied that you do not meet the suitability requirements for settlement. This is because you have been convicted of a criminal offence which

has resulted in a sentence of at less than 12 months imprisonment in the last seven years.

Criminal conviction and non-custodial sentence or other out of court disposal recorded on their criminal record in the last 24 months

You have applied for settlement on a protection route but due to your conviction of [offence] for which you received [insert type of non-custodial sentence or other out of court disposal recorded] on [insert date of conviction], I am satisfied that you do not meet the suitability requirements for settlement. This is because you have been convicted of a criminal offence which has resulted in a non-custodial sentence or other out of court disposal recorded on your criminal record in the last 24 months.

Persistent offender who shows a particular disregard for the law

You have applied for settlement on a protection route but due to your convictions of [offences], I am satisfied that you do not meet the suitability requirements for settlement. This is because you have been convicted of criminal offences which evidence that you are a persistent offender who shows a particular disregard for the law.

Caused serious harm via criminal offence / offences

You have applied for settlement on a protection route but due to your conviction of [offence], I am satisfied that you do not meet the suitability requirements for settlement. This is because you have been convicted of a criminal offence which caused serious harm.

Conduct, character, associations, other reasons, or threat to national security

You have applied for settlement on a protection route but due to your [conduct, character, associations etc.], I am satisfied that you do not meet the suitability requirements for settlement. This is because it would not be conducive to the public good to grant you settlement.

Eligibility requirements

Residence permit not held for 5 years

You have applied for settlement on a protection route but as you have not spent a continuous period of five years in the UK with [refugee status / humanitarian protection], I am satisfied that you do not meet the eligibility requirements for settlement.

Protection status has been revoked or renounced UKRP has been revoked or not renewed

You have applied for settlement on a protection route but as your [refugee status / humanitarian protection] was [revoked / renounced] on [date], I am satisfied that you do not meet the eligibility requirements for settlement.

Relationship requirement as partner not met

You have applied for settlement on a protection route but as your partner with protection status is not already settled or being granted settlement at this time, I am satisfied that you do not meet the eligibility requirements for settlement.

Relationship not genuine and subsisting

You have applied for settlement on a protection route but I am not satisfied that your relationship is genuine and subsisting, therefore you do not meet the eligibility requirements for settlement.

Pair do not live together

You have applied for settlement on a protection route but I am not satisfied that you intend to continue to live together as partners in the UK, therefore you do not meet the eligibility requirements for settlement.

Relationship requirement as child not met

You have applied for settlement on a protection route but as your parent with protection status is not already settled or being granted settlement at this time, I am satisfied that you do not meet the eligibility requirements for settlement.

Birth certificate not provided

You have applied for settlement on a protection route but as you have not provided your full UK birth certificate, I am satisfied that you do not meet the eligibility requirements for settlement.

Age requirement as child not met

You have applied for settlement on a protection route but as you are over the age of 18 on the date of application, and were not last granted permission to stay as a dependent child, I am satisfied that you do not meet the eligibility requirements for settlement.

Grant of further permission to stay

Although your application for settlement has been refused, I have considered whether you qualify for further permission to stay on the protection route. I am

satisfied that you continue to qualify for permission to stay on the protection route, therefore I have granted you 30 months further permission to stay.

Your permission to stay in the UK expires on [date]. You must make a further application for permission to stay before [date] should you wish to remain in the UK.

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