

# Reconsiderations

## Reconsiderations

### About this guidance

<a href="#">About this guidance</a> <a href="#">What is an acceptable reconsideration request</a> <a href="#">What is not an acceptable reconsideration request</a> <a href="#">Requirements for new reconsideration requests</a> <a href="#">Legacy reconsideration requests</a> <a href="#">Pre-sift for legacy reconsideration requests</a> <a href="#">Applicant's status after submitting a reconsideration request</a> <a href="#">Reconsideration request – initial checks</a> <a href="#">Considering a reconsideration</a> <a href="#">Reconsiderations – decisions</a> <a href="#">Reconsiderations and appeals</a> <a href="#">Reconsiderations – pre-action protocol cases and judicial review claims</a>	<p>This guidance tells caseworkers what to do when an applicant believes a relevant Home Office temporary or permanent migration decision is incorrect and asks for it to be reconsidered.</p> <p>This guidance covers reconsideration and legacy reconsideration requests for:</p> <ul style="list-style-type: none"><li>immigration decisions for limited or indefinite leave to remain made:<ul style="list-style-type: none"><li>by postal application, or</li><li>at a public enquiry office (PEO)</li></ul></li><li>transfer of conditions (TOC)</li><li>no time limit (NTL).</li></ul> <p>This guidance applies to:</p> <ul style="list-style-type: none"><li>reconsideration requests sent to the Home Office on or after 13 November 2012 about decisions on cases in the above categories. It explains:<ul style="list-style-type: none"><li>which decisions can be reconsidered</li><li>the process that applicants must follow if they wish to request a reconsideration, and</li><li>how to process the requests</li></ul></li><li>legacy reconsideration requests sent to the UK Border Agency (UKBA) before 13 November 2012 that have not yet been sent a substantive response.</li></ul> <p>For more information on which requests are covered by the legacy policy and how to process them, see link on left: Legacy reconsideration requests.</p> <p><b>What this guidance does not cover</b></p> <p>This guidance does not apply to:</p> <ul style="list-style-type: none"><li>reconsideration requests sent to the UKBA before 13 November 2012, unless they are covered by the legacy section of this policy</li></ul>	<p><b>In this section</b></p> <p><a href="#">Changes to this guidance</a> <a href="#">Contact Information owner</a></p> <p>Links to staff intranet removed</p>
--	--	--

	<ul style="list-style-type: none"> <li>• entry clearance in any category</li> <li>• refusal of human rights or asylum applications (including decisions on protection-based claims under article 3 of the European Convention on Human Rights)</li> <li>• European Economic Area (EEA) nationals and their family members</li> <li>• Bulgarian and Romanian nationals</li> <li>• Turkish European Community Association Agreement (ECAA)</li> <li>• nationality</li> <li>• port decisions</li> <li>• curtailment decisions</li> <li>• enforcement decisions</li> <li>• representations against removal made to a local immigration team.</li> </ul> <p>For more information on what is a valid reconsideration request, see link on left: requirements for new reconsideration requests.</p> <p>Any case considered (or reconsidered on or after 9 July 2012) must have any article 8 family and/or private life claim, raised in the original application, considered under the current provisions of the Immigration Rules regardless of the date of application. This is in line with the transitional provisions relating to applications submitted before 9 July 2012. For more information see the related link.</p> <p>Changes to this guidance - This page lists the changes to this guidance, with the most recent at the top.</p> <p>Contacts - This page explains who to contact for more help or advice.</p> <p>Information owners - This page tells you about this version of the document and who owns it.</p>	
--	--	--

## Reconsiderations

### Changes to this guidance

<a href="#">About this guidance</a> <a href="#">What is an acceptable reconsideration request</a> <a href="#">What is not an acceptable reconsideration request</a> <a href="#">Requirements for new reconsideration requests</a> <a href="#">Legacy reconsideration requests</a> <a href="#">Pre-sift for legacy reconsideration requests</a> <a href="#">Applicant's status after submitting a reconsideration request</a> <a href="#">Reconsideration request – initial checks</a> <a href="#">Considering a reconsideration</a> <a href="#">Reconsiderations – decisions</a> <a href="#">Reconsiderations and appeals</a> <a href="#">Reconsiderations – pre-action protocol cases and judicial review claims</a>	<p>This page lists the changes to this reconsiderations guidance, with the most recent at the top.</p> <table><tr><th>Date of the change</th><th>Details of the change</th></tr><tr><td>9 July 2013</td><td><p>Change request:</p><ul style="list-style-type: none"><li>• What is an acceptable reconsideration request:<ul style="list-style-type: none"><li>○ sub-heading 'When is a reconsideration request acceptable?', second paragraph, second bullet point and sub-bullet points have been amended</li></ul></li><li>• Requirements for new reconsideration requests:<ul style="list-style-type: none"><li>○ this page has been amended to be clearer</li></ul></li><li>• Pre-sift for legacy reconsideration requests:<ul style="list-style-type: none"><li>○ sub-heading 'Rejecting the legacy requests', third bullet point has been amended</li></ul></li><li>• Reconsideration request – initial checks:<ul style="list-style-type: none"><li>○ this page has been amended</li></ul></li><li>• Considering a reconsideration:<ul style="list-style-type: none"><li>○ sub-heading 'Considering the request', second bullet point has been amended</li><li>○ fourth bullet point has been amended</li><li>○ new sub-heading 'Errors in the original decision'</li></ul></li><li>• Considering a reconsideration – evidence</li></ul></td></tr></table>	Date of the change	Details of the change	9 July 2013	<p>Change request:</p> <ul style="list-style-type: none"><li>• What is an acceptable reconsideration request:<ul style="list-style-type: none"><li>○ sub-heading 'When is a reconsideration request acceptable?', second paragraph, second bullet point and sub-bullet points have been amended</li></ul></li><li>• Requirements for new reconsideration requests:<ul style="list-style-type: none"><li>○ this page has been amended to be clearer</li></ul></li><li>• Pre-sift for legacy reconsideration requests:<ul style="list-style-type: none"><li>○ sub-heading 'Rejecting the legacy requests', third bullet point has been amended</li></ul></li><li>• Reconsideration request – initial checks:<ul style="list-style-type: none"><li>○ this page has been amended</li></ul></li><li>• Considering a reconsideration:<ul style="list-style-type: none"><li>○ sub-heading 'Considering the request', second bullet point has been amended</li><li>○ fourth bullet point has been amended</li><li>○ new sub-heading 'Errors in the original decision'</li></ul></li><li>• Considering a reconsideration – evidence</li></ul>	<b>Related links</b>  <a href="#">What is an acceptable reconsideration request</a>  <a href="#">Requirements for new reconsideration requests</a>  <a href="#">Pre-sift for legacy reconsideration requests</a>  <a href="#">Reconsideration request – initial checks</a>  <a href="#">Considering a reconsideration</a>  <a href="#">Considering a reconsideration – evidence and information</a>  <a href="#">Reconsiderations – change the decision</a>  <a href="#">Reconsiderations – changing the reason(s) for refusal</a>
Date of the change	Details of the change					
9 July 2013	<p>Change request:</p> <ul style="list-style-type: none"><li>• What is an acceptable reconsideration request:<ul style="list-style-type: none"><li>○ sub-heading 'When is a reconsideration request acceptable?', second paragraph, second bullet point and sub-bullet points have been amended</li></ul></li><li>• Requirements for new reconsideration requests:<ul style="list-style-type: none"><li>○ this page has been amended to be clearer</li></ul></li><li>• Pre-sift for legacy reconsideration requests:<ul style="list-style-type: none"><li>○ sub-heading 'Rejecting the legacy requests', third bullet point has been amended</li></ul></li><li>• Reconsideration request – initial checks:<ul style="list-style-type: none"><li>○ this page has been amended</li></ul></li><li>• Considering a reconsideration:<ul style="list-style-type: none"><li>○ sub-heading 'Considering the request', second bullet point has been amended</li><li>○ fourth bullet point has been amended</li><li>○ new sub-heading 'Errors in the original decision'</li></ul></li><li>• Considering a reconsideration – evidence</li></ul>					

		<p>and information:</p> <ul style="list-style-type: none"> <li>○ the page has been amended</li> <li>• Reconsiderations – human rights claims and asylum: <ul style="list-style-type: none"> <li>○ this page has been deleted</li> </ul> </li> <li>• Reconsiderations – change the decision: <ul style="list-style-type: none"> <li>○ sub-heading ‘Reverse the original decision’, third, fourth and fifth paragraphs are new</li> </ul> </li> <li>• Reconsiderations – changing the reason(s) for refusal: <ul style="list-style-type: none"> <li>○ sub-heading ‘If you withdraw the original decision and make a new decision when there is a pending appeal’ has been changed to ‘Decisions with a pending appeal’</li> </ul> </li> <li>• Reconsiderations and appeals: <ul style="list-style-type: none"> <li>○ this page has been amended</li> </ul> </li> <li>• Minor housekeeping changes.</li> </ul>	<p><a href="#">Reconsiderations and appeals</a></p> <p><b>In this section</b></p> <p><a href="#">Contact</a></p> <p><a href="#">Information owner</a></p> <p>Links to staff intranet removed</p>
	29 May 2013	<p>Six month review by the modernised guidance team:</p> <ul style="list-style-type: none"> <li>• No changes, other than replacing references to ‘UK Border Agency’ with ‘Home Office’.</li> </ul>	
		<p>For previous changes you will need to access the archived guidance. See related link: Reconsiderations - archive</p>	

## Reconsiderations

### What is an acceptable reconsideration request

<a href="#">About this guidance</a> <a href="#">What is an acceptable reconsideration request</a> <a href="#">What is not an acceptable reconsideration request</a> <a href="#">Requirements for new reconsideration requests</a> <a href="#">Legacy reconsideration requests</a> <a href="#">Pre-sift for legacy reconsideration requests</a> <a href="#">Applicant's status after submitting a reconsideration request</a> <a href="#">Reconsideration request – initial checks</a> <a href="#">Considering a reconsideration</a> <a href="#">Reconsiderations – decisions</a> <a href="#">Reconsiderations and appeals</a> <a href="#">Reconsiderations – pre-action protocol cases and judicial review claims</a>	<p>This page tells you what a reconsideration request is and how an applicant can request one.</p> <p><b>Definition of a reconsideration</b></p> <p>A reconsideration is a review by the Home Office of a decision made in the UK on an application for:</p> <ul style="list-style-type: none"><li>• further limited or indefinite leave to remain</li><li>• transfer of conditions (TOC), or</li><li>• no time limit (NTL).</li></ul> <p>They will usually be about a refusal decision but may also be about aspects of an approval, for example, the period of leave granted.</p> <p><b>When is a reconsideration request acceptable?</b></p> <p>The Home Office is not legally required to reconsider an immigration decision. When an applicant has a right of appeal, the correct method for them to challenge the decision is to lodge an appeal. Applicants refused without a right of appeal can either:</p> <ul style="list-style-type: none"><li>• challenge the decision through the judicial review process</li><li>• make a fresh application for limited or indefinite leave to remain, if they believe they can show they meet the requirements of the route under which they are applying, or</li><li>• in the case of refused TOC or NTL applications, submit a fresh application which addresses the reasons why the original application was refused.</li></ul> <p>The Home Office will therefore only reconsider applications, if:</p> <ul style="list-style-type: none"><li>• The reconsideration request was made on or after 13 November 2012, it relates to an application that was granted, and the applicant believes the type of leave granted or the expiry date of the leave is incorrect.</li><li>• The reconsideration request was made on or after 13 November 2012, it relates to an application that was refused and the applicant is either:<ul style="list-style-type: none"><li>○ providing new evidence to prove the date of application</li></ul></li></ul>	Links to staff intranet removed
--	--	---------------------------------

	<ul style="list-style-type: none"> <li>○ providing new evidence that documents submitted with the application are genuine, or</li> <li>○ identifying relevant material which was not available to the caseworker but was received by the Home Office before the decision date.</li> <li>• The reconsideration is a legacy request submitted before 13 November 2012 and there are still reasons to reconsider the decision.</li> <li>• The reconsideration request is about a case affected by the Alvi judgement. For information on how to deal with reconsideration requests based on the Alvi judgment, see related link.</li> </ul> <p>See links on left for information on:</p> <ul style="list-style-type: none"> <li>• what is not an acceptable reconsideration request,</li> <li>• the requirements a request must meet, and</li> <li>• legacy reconsideration requests</li> </ul>	
--	--	--

## Reconsiderations

### What is not an acceptable reconsideration request

<a href="#">About this guidance</a> <a href="#">What is an acceptable reconsideration request</a> <a href="#">What is not an acceptable reconsideration request</a> <a href="#">Requirements for new reconsideration requests</a> <a href="#">Legacy reconsideration requests</a> <a href="#">Pre-sift for legacy reconsideration requests</a> <a href="#">Applicant's status after submitting a reconsideration request</a> <a href="#">Reconsideration request – initial checks</a> <a href="#">Considering a reconsideration</a> <a href="#">Reconsiderations – decisions</a> <a href="#">Reconsiderations and appeals</a> <a href="#">Reconsiderations – pre-action protocol cases and judicial review claims</a>	<p>This page tells you which types of correspondence you must not accept as a reconsideration request.</p> <p><b>Verbal request</b></p> <p>If the migrant wants to challenge a decision which can be reconsidered in line with this guidance you must advise them to put their request in writing and send it to the team who made the original decision.</p> <p><b>Pre-action protocol letters</b></p> <p>If the applicant states their letter is:</p> <ul style="list-style-type: none"><li>• a 'letter before claim', or</li><li>• a 'pre-action protocol (PAP)',</li></ul> <p>you must treat it as a PAP. For more information on the PAP process, see link on left: Reconsiderations – pre-action protocol cases and judicial review claims.</p> <p><b>Request for clarification of reasons for refusal</b></p> <p>The caseworker who made the original decision (or another caseworker from the team, if they are unavailable) must:</p> <ul style="list-style-type: none"><li>• respond by letter, explaining and expanding on the reasons for refusal, and</li><li>• update CID notes as appropriate.</li></ul> <p><b>Complaint about the handling of the application</b></p> <p>You must handle complaints in line with the standard complaints handling procedures. For more information, see related link: How to complain.</p>	Links to staff intranet removed
--	--	---------------------------------



## Reconsiderations

### Requirements for new reconsideration requests

<a href="#">About this guidance</a> <a href="#">What is an acceptable reconsideration request</a> <a href="#">What is not an acceptable reconsideration request</a> <a href="#">Requirements for new reconsideration requests</a> <a href="#">Legacy reconsideration requests</a> <a href="#">Pre-sift for legacy reconsideration requests</a> <a href="#">Applicant's status after submitting a reconsideration request</a> <a href="#">Reconsideration request – initial checks</a> <a href="#">Considering a reconsideration</a> <a href="#">Reconsiderations – decisions</a> <a href="#">Reconsiderations and appeals</a> <a href="#">Reconsiderations – pre-action protocol cases and judicial review claims</a>	<p>This page tells you what the requirements are for accepting a new reconsideration request.</p> <p>A request to reconsider an immigration decision sent to the Home Office on or after 13 November 2012 will only be considered if it relates to:</p> <ul style="list-style-type: none"><li>• an approved application</li><li>• a refusal decision and the evidence impacts upon the decision and/or any subsequent appeal rights if it:<ul style="list-style-type: none"><li>○ provides new evidence which proves the date of application</li><li>○ provides new evidence that documents provided with the original application were genuine, or</li><li>○ identifies evidence which was received by the Home Office before the decision date but was not available to the caseworker at the point of decision</li></ul></li></ul> <p>The reconsideration request must:</p> <ul style="list-style-type: none"><li>• be submitted in writing</li><li>• be sent to the Home Office by the original applicant or their legal representative</li><li>• explain why the decision might be incorrect or inconsistent with existing policy, stating which of the following errors was made and why:<ul style="list-style-type: none"><li>○ the decision failed to take account of, or misinterpreted, relevant evidence submitted to the Home Office before the date of the decision, and/or</li><li>○ the decision was not in line with relevant law, policy or guidance.</li></ul></li></ul> <p>The applicant cannot submit:</p> <ul style="list-style-type: none"><li>• More than one request for reconsideration of the same decision.</li><li>• New evidence to support the qualifying requirements for their application if it will not be considered as part of the reconsideration process. This must be raised as part of a new application, unless:<ul style="list-style-type: none"><li>○ it proves the date of application</li></ul></li></ul>	Links to staff intranet removed
--	--	---------------------------------

	<ul style="list-style-type: none"> <li>○ the documents provided with the original application were genuine, or</li> <li>○ the applicant identifies relevant material which was not available to the caseworker but was received by the Home Office before the decision date, if this affects the decision and/or any subsequent appeal rights.</li> </ul> <p><b>Timescale for making a reconsideration request</b> For decisions made on or after 9 July 2013, the applicant must submit any reconsideration request within three months of the deemed date of receiving the decision.</p> <p>The deemed date of receiving decisions sent by post is two working days after the decision was posted.</p> <p><b>Effect of fresh application</b> For decisions made on or after 9 July 2013, if an applicant makes a reconsideration request and then submits a fresh application for limited or indefinite leave to remain, this will have the effect of withdrawing the reconsideration request.</p> <p>If the migrant makes a reconsideration request about a decision made on or after 9 July 2013 after making a new application, the request must be rejected.</p> <p>For more information on what can and cannot be treated as a reconsideration, see links on left:</p> <ul style="list-style-type: none"> <li>• What is an acceptable reconsideration request</li> <li>• What is not an acceptable reconsideration request.</li> </ul>	
--	---	--

## Reconsiderations

### Legacy reconsideration requests

<a href="#">About this guidance</a> <a href="#">What is an acceptable reconsideration request</a> <a href="#">What is not an acceptable reconsideration request</a> <a href="#">Requirements for new reconsideration requests</a> <a href="#">Legacy reconsideration requests</a> <a href="#">Pre-sift for legacy reconsideration requests</a> <a href="#">Applicant's status after submitting a reconsideration request</a> <a href="#">Reconsideration request – initial checks</a> <a href="#">Considering a reconsideration</a> <a href="#">Reconsiderations – decisions</a> <a href="#">Reconsiderations and appeals</a> <a href="#">Reconsiderations – pre-action protocol cases and judicial review claims</a>	<p>This page tells you how to process legacy reconsideration requests.</p> <p>A legacy reconsideration request is one sent to the Home Office (formerly the UK Border Agency) before 13 November 2012.</p> <p><b>What the legacy guidance applies to</b></p> <p>It applies to the following reconsideration requests:</p> <ul style="list-style-type: none"><li>• temporary and permanent migration general casework decisions for leave to remain made:<ul style="list-style-type: none"><li>○ by postal application, or</li><li>○ at a public enquiry office (PEO)</li></ul></li><li>• transfer of conditions (TOC), and</li><li>• no time limit (NTL) applications.</li></ul> <p><b>Requirements for legacy reconsideration requests</b></p> <p>The Home Office will reconsider these decisions once if:</p> <ul style="list-style-type: none"><li>• the request was sent before 13 November 2012</li><li>• the Home Office has not yet issued a substantive response to the request addressing the issues raised, and</li><li>• the applicant's immigration application or status has not yet been resolved in one of the following ways, they:<ul style="list-style-type: none"><li>○ have since been granted leave in another category</li><li>○ have left, been removed or deported from the UK</li><li>○ appealed and exhausted all their appeal rights</li><li>○ sought judicial review of the decision and permission was refused or the decision was upheld at the oral hearing.</li></ul></li></ul> <p><b>Decisions which are not covered by this legacy guidance</b></p> <p>The legacy guidance does not apply to:</p>	<p><b>Related link</b></p> <p><a href="#">Pre-sift for legacy reconsideration requests</a></p>
--	---	--

	<ul style="list-style-type: none"> <li>• Reconsideration requests sent on or after 13 November 2012.</li> <li>• Curtailment decisions.</li> <li>• Refusal of human rights or asylum applications (including decisions on protection-based claims under article 3 of the European Convention on Human Rights).</li> <li>• Port or enforcement decisions.</li> <li>• Nationality decisions.</li> <li>• Immigration decisions on applications made outside the UK.</li> </ul> <p>For more information on how to pre-sift legacy reconsideration requests, see link on left:  <a href="#">Pre-sift for legacy reconsideration requests.</a></p> <p>For more information on what is not a reconsideration request, see link on left.</p>	
--	---	--

## Reconsiderations

### Pre-sift for legacy reconsideration requests

<a href="#">About this guidance</a> <a href="#">What is an acceptable reconsideration request</a> <a href="#">What is not an acceptable reconsideration request</a> <a href="#">Requirements for new reconsideration requests</a> <a href="#">Legacy reconsideration requests</a> <a href="#">Pre-sift for legacy reconsideration requests</a> <a href="#">Applicant's status after submitting a reconsideration request</a> <a href="#">Reconsideration request – initial checks</a> <a href="#">Considering a reconsideration</a> <a href="#">Reconsiderations – decisions</a> <a href="#">Reconsiderations and appeals</a> <a href="#">Reconsiderations – pre-action protocol cases and judicial review claims</a>	<p>This page tells you how to pre-sift legacy reconsideration requests.</p> <p><b>Pre-sift process</b></p> <p>Review the applicant's immigration history on CID, by checking the:</p> <ul style="list-style-type: none"><li>• application screens</li><li>• case notes</li><li>• person notes</li><li>• the appeals screen, and</li><li>• the removals screen.</li></ul> <p><b>Rejecting the legacy request</b></p> <p>You must reject the reconsideration request if CID shows the applicant has:</p> <ul style="list-style-type: none"><li>• appealed and exhausted all their appeal rights</li><li>• sought judicial review of the decision and permission was refused or the decision was upheld at the oral hearing</li><li>• received one reconsideration decision and this is a second request, unless the Home Office (formerly the UK Border Agency) acknowledged the second request in writing and therefore gave a legitimate expectation that the decision would be reconsidered again</li><li>• left or been removed or deported from the UK</li><li>• requested the reconsideration of a decision not covered by the legacy policy.</li></ul> <p>If you reject the reconsideration request, you must:</p> <ul style="list-style-type: none"><li>• Inform the applicant or their legal representative by producing and completing an ICD.4562 'legacy reconsideration request sift rejection' letter, using DocGen:<ul style="list-style-type: none"><li>○ Do not return any documents on file unless the applicant is granted leave and there is a confirmed address recorded on CID. In all other cases keep the documents on file. For more information, see related link: Retention of valuable documents</li></ul></li></ul>	<p><b>Related links</b></p> <p><a href="#">Considering a reconsideration – evidence and information</a></p> <p>Links to staff intranet removed</p>
--	--	--

	<ul style="list-style-type: none"> <li>• Allocate case ownership to the relevant team so they can begin progressive enforcement action.</li> </ul> <p><b>Accepting the legacy request</b></p> <p>If you have not rejected the request, place the case in the workflow queue for reconsideration. For information on how to reconsider an application, see link on left: Considering a reconsideration.</p> <p>For more information on what can and cannot be treated as a reconsideration and the requirements for reconsiderations, see links on left:</p> <ul style="list-style-type: none"> <li>• What is an acceptable reconsideration request</li> <li>• What is not an acceptable reconsideration request.</li> </ul>	
--	---	--

## Reconsiderations

### Applicant's status after submitting a reconsideration request

<a href="#">About this guidance</a> <a href="#">What is an acceptable reconsideration request</a> <a href="#">What is not an acceptable reconsideration request</a> <a href="#">Requirements for new reconsideration requests</a> <a href="#">Legacy reconsideration requests</a> <a href="#">Pre-sift for legacy reconsideration requests</a> <a href="#">Applicant's status after submitting a reconsideration request</a> <a href="#">Reconsideration request – initial checks</a> <a href="#">Considering a reconsideration</a> <a href="#">Reconsiderations – decisions</a> <a href="#">Reconsiderations and appeals</a> <a href="#">Reconsiderations – pre-action protocol cases and judicial review claims</a>	<p>This page tells you what happens to an applicant's immigration status if they make a reconsideration request.</p> <p>If an applicant makes a reconsideration request, it does not:</p> <ul style="list-style-type: none"><li>• Give them 3C or 3D leave:<ul style="list-style-type: none"><li>○ A reconsideration request is not an application for variation of leave or an appeal so it does not extend the applicant's leave under section 3C or 3D of the Immigration Act 1971 whilst you are reconsidering the decision.</li><li>○ The decision made on a reconsideration does not itself trigger a right of appeal.</li></ul></li><li>• Stop the Home Office from taking any removal action while the reconsideration request is outstanding. Section 78 of the Nationality, Immigration and Asylum Act 2002 prevents removal when an appeal is pending but a reconsideration request is not a pending appeal for the purposes of section 78, so a migrant in this position is liable to removal.</li></ul> <p>For more information on the above legislation, see related links:</p> <ul style="list-style-type: none"><li>• 05.0 - Section 3C of the Immigration Act 1971 (As Amended)</li><li>• Nationality, Immigration and Asylum Act 2002.</li></ul> <p>For more information on reconsiderations and appeals, see link on left.</p>	Links to staff intranet removed
--	---	---------------------------------

## Reconsiderations

### Reconsideration request – initial checks

[About this guidance](#)  
[What is an acceptable reconsideration request](#)  
[What is not an acceptable reconsideration request](#)  
[Requirements for new reconsideration requests](#)  
[Legacy reconsideration requests](#)  
[Pre-sift for legacy reconsideration requests](#)  
[Applicant's status after submitting a reconsideration request](#)  
[Reconsideration request – initial checks](#)  
[Considering a reconsideration](#)  
[Reconsiderations – decisions](#)  
[Reconsiderations and appeals](#)  
[Reconsiderations – pre-action protocol cases and judicial review claims](#)

This page tells you what to check when you receive a valid reconsideration request from the applicant.

If you receive a new or legacy reconsideration request about an immigration decision covered by this guidance, you must check:

Check	Action
CID to confirm this is the applicant's first reconsideration request.	<ul style="list-style-type: none"><li>Reject the reconsideration request if the decision has already been reconsidered and send an appropriate letter to the applicant.</li><li>If the request is about a decision made on or after 9 July 2013, you must make sure the migrant has not made a subsequent application for limited or indefinite leave to remain.</li></ul>
The applicant's request is not a 'letter before claim' or 'pre-action protocol'.	Refer these requests to your senior caseworker or manager. For more information on what to do if the request is a pre-action protocol, see link on left: Reconsiderations – pre-action protocol cases and judicial review claims.
They have made their request in writing and stated the grounds for their reconsideration request.	If the request is not made in writing you must ask them to put the request in writing.
If the applicant changes their representative, or appoints one for the first time, before you accept the change	<ul style="list-style-type: none"><li>Accept the change of representative:<ul style="list-style-type: none"><li>You must update CID with the</li></ul></li></ul>

**Related links**  
[Considering a reconsideration – evidence and information](#)



	<p>of representative, you must check:</p> <ul style="list-style-type: none"> <li>• they have given us written authorisation for the representative to act on their behalf, and</li> <li>• any new representative the applicant nominates is regulated by: <ul style="list-style-type: none"> <li>○ the Office of the Immigration Service Commission (OISC), or</li> <li>○ an appropriate designated body.</li> </ul> </li> </ul>	<p>new contact details.</p> <ul style="list-style-type: none"> <li>• Reject representative changes because they are not appropriately regulated: <ul style="list-style-type: none"> <li>○ You must write to the applicant and their proposed representative informing them you cannot correspond with the new representative about the case.</li> </ul> </li> <li>• Rejecting the change of representative is not a reason for rejecting the reconsideration request.</li> </ul>	
	<p>You must not accept:</p> <ul style="list-style-type: none"> <li>• requests not made in writing</li> <li>• requests to reconsider refusal decisions made on or after 13 November 2012 unless they provide new evidence: <ul style="list-style-type: none"> <li>○ which proves the date of application</li> <li>○ that documents provided with the original application were genuine, or</li> <li>○ that identifies evidence which was received by the Home Office before the decision date but was not available to the caseworker at the point of decision, and this evidence impacts upon the decision and/or any subsequent appeal rights</li> </ul> </li> <li>• requests to reconsider decisions made on or after 9 July 2013, if they were sent more than three months after the deemed date of receiving the decision</li> <li>• requests to reconsider decisions made on or after 9 July 2013 if the applicant has subsequently submitted an application for limited or indefinite leave to remain</li> <li>• any legacy requests that do not meet the legacy pre-sift requirements</li> <li>• requests that only include or relate to new evidence, unless it: <ul style="list-style-type: none"> <li>○ proves the date of application, or</li> <li>○ that documents provided with the original application were genuine, where these matters impact upon the decision and/or any subsequent appeal rights</li> </ul> </li> </ul>		

	<ul style="list-style-type: none"> <li>• a second reconsideration request, unless the Home Office has already given an undertaking to reconsider the case again</li> <li>• reconsideration requests relating to decisions not covered by this guidance.</li> </ul> <p>For more information on new evidence, see related link: <a href="#">Considering a reconsideration – evidence and information.</a></p> <p><b>Rejecting a reconsideration request</b></p> <p>If your initial checks confirm you cannot accept the reconsideration request, you must:</p> <ul style="list-style-type: none"> <li>• produce and complete the standard ICD.4563 ‘reconsideration request rejection’ letter, using DocGen, and send it to the applicant, or their representative if they have one, explaining you cannot reconsider the application, stating the reason(s) for rejection</li> <li>• update CID to record: <ul style="list-style-type: none"> <li>○ that the reconsideration request was received</li> <li>○ it was rejected, and</li> <li>○ the reason(s) for rejection.</li> </ul> </li> </ul> <p>Do not add a decision ‘Outcome to be Reconsidered by UKBA’ in the CID outcome field if you are rejecting the reconsideration request.</p> <p>For more information on what can and cannot be treated as a reconsideration, see links on left:</p> <ul style="list-style-type: none"> <li>• <a href="#">What is an acceptable reconsideration request</a></li> <li>• <a href="#">What is not an acceptable reconsideration request.</a></li> </ul>	
--	---	--

## Reconsiderations

### Considering a reconsideration

[About this guidance](#)  
[What is an acceptable reconsideration request](#)  
[What is not an acceptable reconsideration request](#)  
[Requirements for new reconsideration requests](#)  
[Legacy reconsideration requests](#)  
[Pre-sift for legacy reconsideration requests](#)  
[Applicant's status after submitting a reconsideration request](#)  
[Reconsideration request – initial checks](#)  
[Considering a reconsideration](#)  
[Reconsiderations – decisions](#)  
[Reconsiderations and appeals](#)  
[Reconsiderations – pre-action protocol cases and judicial review claims](#)

This section tells you what to consider and what is relevant information when reconsidering an immigration decision, when you receive a written reconsideration request.

#### Who processes the reconsideration

The reconsideration must:

- for new cases, be done by the team that originally granted the leave, unless this is no longer possible due to restructuring
- for legacy cases, be done by the team set up to process the legacy reconsideration requests
- be reviewed by a caseworker of at least the same grade as the caseworker who made the original decision but not by the same caseworker.

You must refer any complex or difficult cases to a more senior manager for advice.

#### Processing the reconsideration

When you reconsider an immigration decision, you must focus on considering the points the applicant has raised in the reconsideration request and satisfy yourself that the original decision was correct.

#### Checking the details of the request for new requests about granted applications

You must check the correct:

- period of leave was granted
- condition code was used
- applicant's details were on the grant of leave.

#### Checking the details of the request for legacy cases

You must check:

- the decision was lawful, and was:
  - made in line with the Immigration Rules and other relevant legislation

**In this section**  
[Considering a reconsideration – evidence and information](#)

**Related links**  
[Reconsiderations - changing the reason\(s\) for refusal](#)

Links to staff intranet removed

- consistent with any applicable policies in the relevant guidance and instructions
- consistent with the Home Office's duties under Section 55 of the Borders Citizenship and Immigration Act 2009 to make the best interests of any child affected by the decision a primary consideration
- all correctly submitted information and documentary evidence was taken into account and correctly assessed before the decision was made
- the decision was served on the correct letter or notice, and the applicant was notified correctly of any applicable appeal rights
- the decision was served correctly to the applicant's last known address or to their representative.

You must consider the case against the Immigration Rules, policy and guidance that applied at the time the application was decided.

### **Considering the request**

You must:

- only reconsider the specific aspects of the decision the applicant or representative challenges in their reconsideration request, unless it becomes clear the original decision contained errors the applicant or representative has not identified
- not include any new evidence or information provided, unless it proves:
  - the date of application, or
  - that documents provided with the original application were genuine, where these matters impact upon the decision and/or any subsequent appeal rights
- consider if the original decision was correct at the time it was made, not if any events that have occurred since the application was decided would make a fresh application likely to succeed
- tell the applicant they must make a new charged application, if they want to raise new facts or evidence in support of a grant of leave. For more information on new evidence, see related link: [Considering a reconsideration – evidence and information](#).

### **Errors in the original decision**

If it becomes clear during the reconsideration that the original casework or decision contained errors which the applicant or representative has not identified, you must reconsider those aspects of the case. You must rectify any errors you find with the original

	<p>consideration or decision.</p> <p>For more information, see related link: Reconsiderations - changing the reason(s) for refusal.</p> <p><b>Reconsidering an approved case – curtailing leave</b>  If you find the original decision to grant the application was incorrect because the applicant did not meet the requirements of the relevant Immigration Rules when the decision was made, you must consider curtailing the incorrectly granted leave.</p> <p>You must also consider curtailment if the migrant’s circumstances have changed and they no longer meet the requirements or conditions under which leave was granted.</p> <p>It is essential that you discuss any possible curtailment action with a senior caseworker or manager before you consider if the proposed curtailment is proportionate. For more information on curtailment of leave, see related link.</p> <p>You must discuss the case with a senior caseworker or manager if you have doubts about:</p> <ul style="list-style-type: none"> <li>• whether a reconsideration request is valid, or</li> <li>• the correct outcome of a reconsideration request.</li> </ul> <p><b>The importance of your reconsideration</b>  By reconsidering the original decision at this stage, if the applicant goes on to challenge the decision with a letter before claim or judicial review the caseworker can use your reconsideration decision letter to assist in defending the decision.</p> <p>For more information on judicial reviews, see link on left: Reconsiderations - pre-action protocol cases and judicial review claims.</p>	
--	--	--

## Reconsiderations

### Considering a reconsideration – evidence and information

[About this guidance](#)  
[What is an acceptable reconsideration request](#)  
[What is not an acceptable reconsideration request](#)  
[Requirements for new reconsideration requests](#)  
[Legacy reconsideration requests](#)  
[Pre-sift for legacy reconsideration requests](#)  
[Applicant's status after submitting a reconsideration request](#)  
[Reconsideration request – initial checks](#)  
[Considering a reconsideration](#)  
[Reconsiderations – decisions](#)  
[Reconsiderations and appeals](#)  
[Reconsiderations – pre-action protocol cases and judicial review claims](#)

This page tells you what evidence and information you can take into account when reconsidering an immigration decision.

When you reconsider a decision you must only consider the evidence and information supplied:

- with the original application, or
- before the date of the decision

unless it is:

- provided within three months of the deemed date of receipt of the decision
- it proves the date of application, that documents provided with the original application were genuine, or that relevant documents were received by the Home Office before the decision date and were not considered, and
- these matters impact upon the decision and/or any subsequent appeal rights.

You must explain in the reconsideration decision letter that if they want the Home Office to consider new information outside of these criteria, they must submit a new valid application under the relevant Immigration Rules:

- on the correct specified form
- with the relevant fee if applicable.

This applies to all immigration applications, including non-protection related requests to be granted leave under article 3 and/or article 8 of the European Convention on Human Rights.

#### **Examples of new information**

You must not accept new information. Examples include:

- supporting documents not previously submitted

- revised application details
- information the Home Office has not seen or been told about before
- clarification of information previously given which contains new information
- new facts presented within the text of the reconsideration request letter.

You must check that none of the information provided with the request is new even if the applicant or their representative states there is no new or further evidence provided.

**Reconsideration request about the date of application**

You must consider taking account of information provided with a reconsideration request if it is about the date an application was submitted. For example, if the Home Office decided an original application was submitted out of time and the applicant has provided evidence, such as a post office receipt, that proves the application was sent before their leave expired.

If the application you are reconsidering was made out of time because a previous application was rejected, and the applicant or representative claims the rejection was incorrect, contact the team who rejected the application for a contribution if required. You can out find which team rejected the application on CID.

If the applicant or their representative is only challenging the rejection of an application and not the decision on any following application, this is dealt with by the charging support team and is outside the scope of this policy.

**Reconsideration request about whether evidence was genuine**

You must consider taking account of information submitted with a reconsideration request if the information is about whether original supporting evidence was genuine.

This applies if the original application was refused on the basis that one or more supporting documents were not genuine. If necessary, conduct further verification checks before making a final decision on the application.

**Reconsideration request about evidence received before the decision date**

If the applicant or their representative sent additional information that was received by the Home Office before the decision date, but which was not linked to the case in time for the caseworker to consider it, you may consider this evidence with the reconsideration request.

	You must not accept evidence that was not received until after the date of decision.	
--	--	--



## Reconsiderations

### Reconsiderations – decisions

<a href="#">About this guidance</a> <a href="#">What is an acceptable reconsideration request</a> <a href="#">What is not an acceptable reconsideration request</a> <a href="#">Requirements for new reconsideration requests</a> <a href="#">Legacy reconsideration requests</a> <a href="#">Pre-sift for legacy reconsideration requests</a> <a href="#">Applicant's status after submitting a reconsideration request</a> <a href="#">Reconsideration request – initial checks</a> <a href="#">Considering a reconsideration</a> <a href="#">Reconsiderations – decisions</a> <a href="#">Reconsiderations and appeals</a> <a href="#">Reconsiderations – pre-action protocol cases and judicial review claims</a>	<p>This section tells you what to do once you have reconsidered an immigration decision.</p> <p><b>Recording details of the decision</b></p> <p>It is important to enter all the following details of the reconsideration on CID:</p> <ul style="list-style-type: none"><li>• for valid reconsideration requests only, you must add the new outcome 'Outcome to be Reconsidered by UKBA' in the CID outcome field</li><li>• the decision, and</li><li>• points raised by the applicant, or representative, and the Home Office response to those points on the 'case notes' screen.</li></ul> <p>This makes sure there is a clear audit trail so:</p> <ul style="list-style-type: none"><li>• the applicant does not obtain more than one reconsideration</li><li>• any future legal challenge can be robustly defended.</li></ul> <p><b>Handling of case papers</b></p> <p>You must keep the following information:</p> <ul style="list-style-type: none"><li>• the reconsideration request letter</li><li>• any relevant case papers such as covering letters, and</li><li>• any valuable documents not being returned to the applicant.</li></ul> <p>You must not return any valuable documents to the applicant if their leave has expired.</p> <p>You must keep the documents to assist the immigration, compliance and engagement (ICE) in their progressive enforcement activity. For more information, see related link: Retention of valuable documents.</p> <p>You must send any documents you keep for linking to the Home Office file, if one exists. If there is no Home Office file, either:</p>	<p><b>In this section</b></p> <p><a href="#">Reconsideration – change the decision</a> <a href="#">Reconsideration – changing the reason(s) for refusal</a> <a href="#">Reconsideration - maintain the decision</a></p> <p>Links to staff intranet removed</p>
--	--	--

- send the documents for linking to the CRS file, or
- ask for a Home Office file to be created as required, for example if you are keeping any valuable documents.

#### **The reconsideration decision letter**

You must inform the migrant, or their legal representative, if they have one, of the outcome of the reconsideration in writing, using the correct letter templates. For more information on what letters to produce, see related links:

- Reconsiderations – change the decision, and
- Reconsiderations – maintain the decision.

You must be aware that the content of your letter responding to a reconsideration request may form part of any following judicial review that challenges the decision. It is important that your letter is:

- clear
- concise, and
- responds to all points the applicant or their representative raise in the reconsideration request.

For more information on judicial reviews, see link on left: Reconsiderations – pre-action protocol cases and judicial review claims.

## Reconsiderations

### Reconsiderations - change the decision

<a href="#">About this guidance</a> <a href="#">What is an acceptable reconsideration request</a> <a href="#">What is not an acceptable reconsideration request</a> <a href="#">Requirements for new reconsideration requests</a> <a href="#">Legacy reconsideration requests</a> <a href="#">Pre-sift for legacy reconsideration requests</a> <a href="#">Applicant's status after submitting a reconsideration request</a> <a href="#">Reconsideration request – initial checks</a> <a href="#">Considering a reconsideration</a> <a href="#">Reconsiderations – decisions</a> <a href="#">Reconsiderations and appeals</a> <a href="#">Reconsiderations – pre-action protocol cases and judicial review claims</a>	<p>This page tells you what to do when you have reconsidered the original immigration decision and have decided to change it.</p> <p><b>Reverse the original decision</b></p> <p>If you reverse the decision because it was incorrect, you must grant leave as appropriate to the application being reconsidered. The start date of the leave granted is the date on which you reverse the incorrect previous decision and make a new decision.</p> <p>You must issue the appropriate approval letters and an ICD.4565 'Reconsideration request – notification of outcome' covering letter, using DocGen to produce and complete the letters.</p> <p>From 1 December 2012, all applicants granted leave to remain must give their biometric information, even if they were not required to when they applied.</p> <p>If an applicant qualifies for leave to remain but they were not required to give their biometric information at the time of application, you must send them a biometric invitation letter and application form before completing your action on the case.</p> <p>For guidance on the process, see related link: Applying for a biometric residence permit – standard route applications.</p> <p>If you reverse the original decision when there is a pending appeal, you must read the reconsiderations and appeals section of this guidance. For more information, see related link.</p> <p><b>Rectifying errors on approved decisions</b></p> <p>If the reconsideration request relates to aspects of an approved application, such as the period of leave granted or condition code, you must rectify any errors you identify.</p> <p>This includes consideration of whether curtailment is appropriate if leave has been granted in error. If necessary you must issue a new biometric residence permit stating the correct conditions of leave.</p>	<p><b>In this section</b></p> <p><a href="#">Reconsideration – changing the reason(s) for refusal</a> <a href="#">Reconsideration - maintain the decision</a></p> <p><b>Related links</b></p> <p><a href="#">Reconsiderations and appeals</a></p> <p>Links to staff intranet removed</p>
--	---	--

	You must issue updated approval letters and an ICD.4565 'Reconsideration request – notification of outcome' covering letter, using DocGen to produce and complete the letters.	
--	--	--

## Reconsiderations

### Reconsiderations - changing the reason(s) for refusal

[About this guidance](#)  
[What is an acceptable reconsideration request](#)  
[What is not an acceptable reconsideration request](#)  
[Requirements for new reconsideration requests](#)  
[Legacy reconsideration requests](#)  
[Pre-sift for legacy reconsideration requests](#)  
[Applicant's status after submitting a reconsideration request](#)  
[Reconsideration request – initial checks](#)  
[Considering a reconsideration](#)  
[Reconsiderations – decisions](#)  
[Reconsiderations and appeals](#)  
[Reconsiderations – pre-action protocol cases and judicial review claims](#)

This page tells you what to do when you have reconsidered the original immigration decision and have decided to change the reason(s) for refusal.

#### Changing the reason(s) for refusal

If you are reconsidering a refusal decision and decide the original decision was not wholly correct you must still refuse the application. For example, it may be that the:

- application should have been refused for other reasons
- decision notice was worded incorrectly, or
- decision was issued on the wrong decision notice.

If you reconsider the case and decide it should have been refused for different reasons, you must:

- withdraw the original decision, and
- issue a new decision notice (including fresh appeal rights if the original application was in-time) and an ICD.4565 'Reconsideration request – notification of outcome' covering letter, using DocGen to produce and complete the letters.

#### Decisions with a pending appeal

If the applicant has lodged an appeal against the original decision that you have withdrawn, contact the applicant to request they withdraw the appeal on the basis that you will issue a new decision on the application.

You must notify the tribunal service that you have withdrawn the decision so they can cancel the appeal. For more information on how to do this, see link on left: Reconsiderations and appeals.

If the applicant has a right of appeal against the new decision, they will have the usual 10 working days from the date of notification of the new decision to lodge an appeal.

#### In this section

[Reconsideration – change the decision](#)  
[Reconsideration - maintain the decision](#)

#### Related links

[Reconsiderations and appeals](#)

## Reconsiderations

### Reconsiderations - maintain the decision

<a href="#">About this guidance</a> <a href="#">What is an acceptable reconsideration request</a> <a href="#">What is not an acceptable reconsideration request</a> <a href="#">Requirements for new reconsideration requests</a> <a href="#">Legacy reconsideration requests</a> <a href="#">Pre-sift for legacy reconsideration requests</a> <a href="#">Applicant's status after submitting a reconsideration request – initial checks</a> <a href="#">Considering a reconsideration</a> <a href="#">Reconsiderations – decisions</a> <a href="#">Reconsiderations and appeals</a> <a href="#">Reconsiderations – pre-action protocol cases and judicial review claims</a>	<p>This page tells you what to do when you have reconsidered the original immigration decision and decide it was correct.</p> <p><b>Maintaining the original decision</b></p> <p>If you maintain the original decision you must tell the applicant or representative of the outcome in writing, using the ICD.4564 'Reconsideration request – maintain decision' letter template on DocGen to produce and complete the letters.</p> <p><b>Decision letter</b></p> <p>You do not need to produce a new decision notice if you are maintaining the original decision. Maintaining the decision is not a new immigration decision and therefore does not generate a new right of appeal.</p> <p>Depending on the circumstances of the case, you may also need to inform the Immigration and Appeals Chamber (IAC) of the outcome. The IAC general helpline telephone number is 0300 123 1711 Below are the different circumstances and the action you need to take.</p> <p><b>The applicant has full right of appeal but has not lodged an appeal</b></p> <p>You do not need to notify the tribunal service. You must take particular care to make sure you keep a full audit trail and record of all the correspondence. This is because any future defence of an appeal lodged after the date of the reconsideration may need to refer to the record or the decision letter.</p> <p><b>The applicant has limited right of appeal but has not lodged an appeal</b></p> <p>If the reconsideration request has been made wholly or partly on the basis of one or more of the limited grounds on which the applicant could appeal, for example, race relations, human rights or asylum grounds, and you are maintaining a refusal, you must:</p> <ul style="list-style-type: none"><li>• re-serve the decision with a right of appeal on limited grounds raised by the applicant, and</li><li>• enclose the appropriate appeal forms, under section 5 of the Immigration (Notices) Regulations 2003.</li></ul>	<p><b>In this section</b></p> <p><a href="#">Reconsideration – change the decision</a> <a href="#">Reconsideration – changing the reason(s) for refusal</a></p> <p>Links to staff intranet removed</p>
---	---	--

This is to make sure the requirements of the Immigration (Notices) Regulations 2003 are met. For more information, see related link.

**The applicant has limited right of appeal with an appeal pending**

You only need to link the Home Office reconsideration decision letter to the appeal bundle for the immigration judge to consider if it concerns the one or more of the limited grounds on which the applicant made the appeal, for example, race relations, human rights or asylum grounds.

If the request for reconsideration is wholly or partly based on one of the limited grounds of appeal, then you must re-serve the decision.

**Maintaining the decision but for different reasons**

If the result of your reconsideration is that you maintain the refusal but for different reasons from those against which the previous appeal has been lodged, then you must serve a fresh notice of appeal in accordance with Rule 5(7) of the notices regulations. If appropriate, make and serve a removal decision at the same time.

For more information on the Immigration (Notices) Regulations 2003, see related link.

**The applicant has full right of appeal with appeal pending**

You must link the additional factors and the Home Office reconsideration decision letter to the appeal bundle for the immigration judge to consider. You do this by using internal mail, but if the hearing is due within the next seven days you must fax the documents to the presenting officer unit.

**The applicant has remaining leave**

When you write the reconsideration decision letter maintaining a decision, you must tell the applicant that they can submit a new application with the required fee before their leave expires, if they believe they meet the requirements to be granted leave.

**The applicant has no remaining leave**

When you send the reconsideration decision letter to the applicant, you must also tell them to make arrangements to leave the UK. If appropriate, make and serve a removal decision

	at the same time. You must then follow standard operational processes for migrants who no longer have leave to remain in the UK, by allocating the case to the relevant case ownership unit for progressive enforcement action.	
--	---	--



## Reconsiderations

### Reconsiderations and appeals

<a href="#">About this guidance</a> <a href="#">What is an acceptable reconsideration request</a> <a href="#">What is not an acceptable reconsideration request</a> <a href="#">Requirements for new reconsideration requests</a> <a href="#">Legacy reconsideration requests</a> <a href="#">Pre-sift for legacy reconsideration requests</a> <a href="#">Applicant's status after submitting a reconsideration request</a> <a href="#">Reconsideration request – initial checks</a> <a href="#">Considering a reconsideration</a> <a href="#">Reconsiderations – decisions</a> <a href="#">Reconsiderations and appeals</a> <a href="#">Reconsiderations – pre-action protocol cases and judicial review claims</a>	<p>This page tells you what to do if a legacy or Alvi-related reconsideration request relates to a decision where the applicant has a right of appeal.</p> <p>An appeal is the most appropriate way for an applicant to challenge an appealable immigration decision. They can do this by:</p> <ul style="list-style-type: none"><li>• completing the IAFT – 1 form (sent out with the original refusal, or available on the tribunal website), and</li><li>• submitting it to the Immigration and Asylum Chamber (IAC) of the first tier tribunal, within 10 working days of receiving the original decision.</li></ul> <p>For more information on the IAC, see related link: First-tier and upper tribunal.</p> <p>For more information on Alvi-related reconsideration requests, see related link.</p> <p>If the applicant makes an in-time appeal, they are covered by section 3C or 3D leave until:</p> <ul style="list-style-type: none"><li>• their appeal rights are exhausted, or</li><li>• they are granted leave following a successful appeal.</li></ul> <p><b>Reconsiderations when the applicant has lodged an appeal</b></p> <p>You can accept a legacy or Alvi reconsideration request that meets the requirements of this policy even if an appeal has also been lodged against the decision, unless the appeal has been concluded and the decision upheld.</p> <p><b>Reconsideration and time limits for submitting an appeal to the IAC</b></p> <p>Applicants only have 10 working days to submit the appeal from the date they received the original decision. This date is considered to be the second working day after the date of posting the decision to a UK address.</p> <p><b>If you reverse the original decision when there is a pending appeal</b></p> <p>If you grant leave in a case with a pending appeal, this will stop the appeal.</p>	Links to staff intranet removed
--	---	---------------------------------

You must:

- inform the tribunal service immediately
- contact the relevant court by letter, or fax if it is within seven days of the hearing, and
- notify the relevant presenting officers unit.

The appeals screen on CID will identify the relevant court or presenting officer unit for all cases already listed for a hearing.

If the court where the appeal will be heard is not identified on the CID appeals screen, you must call the IAC's general helpline (on 0300 123 1711) to find out where the appeal is located.

For more information on informing the tribunal, see rule 17(2) in the related link: Asylum and Immigration Tribunal (Procedures) Rules 2005.

**Request to reconsider a decision in advance of a pending appeal**

The reconsideration process and the appeals process are entirely separate and independent of one another:

- The appeals process is governed by legislation.
- The reconsiderations process is not a legal requirement but a service the Home Office provides for some types of cases.

You must reconsider the decision without taking into account any new information or evidence submitted to the IAC.

You must reject a reconsideration request if it:

- was made before the appeal was heard
- is still outstanding after the appeal has been heard, and
- the IAC upholds the original decision.

You can make reference to the appeal decision in the rejection decision. You must not delay

	<p>reconsidering a case to wait for the IAC decision.</p> <p><b>If the IAC overturns the decision following an appeal</b>  You must grant the applicant leave as directed by the immigration judge unless it has been agreed to challenge the judge's decision to overturn the refusal.</p> <p>If the judge's decision is not being challenged, you do not need to consider any outstanding reconsideration request about the refusal because the appeal has reversed the refusal.</p> <p>If it has been agreed to challenge the judge's decision, you must:</p> <ul style="list-style-type: none"> <li>• wait until the challenge to the judge's decision is lodged before processing the reconsideration: <ul style="list-style-type: none"> <li>○ this is to make sure the applicant is aware they will not be immediately granted leave as a result of the immigration judge's decision, before they receive the reconsideration decision</li> </ul> </li> <li>• contact the specialist appeals team, through your higher executive officer (HEO), before reconsidering the case: <ul style="list-style-type: none"> <li>○ this is to make sure there is no conflict between the reconsideration action and the challenge to the appeal decision.</li> </ul> </li> </ul> <p><b>If the IAC requests a reconsideration following an appeal</b>  An immigration judge may return a refusal to the Home Office with an instruction to reconsider the decision following an allowed appeal.</p> <p>You must proceed as directed by the immigration judge unless it has been agreed to challenge the judge's decision. In this case, you must wait until the challenge to the judge's decision has been lodged before processing the reconsideration. You do not need to ask the applicant to make a further written request in these circumstances.</p> <p>You must update CID with the details of the appeal outcome and the reconsideration.</p>	
--	---	--

## Reconsiderations

### Reconsiderations – pre-action protocol cases and judicial review claims

<a href="#">About this guidance</a> <a href="#">What is an acceptable reconsideration request</a> <a href="#">What is not an acceptable reconsideration request</a> <a href="#">Requirements for new reconsideration requests</a> <a href="#">Legacy reconsideration requests</a> <a href="#">Pre-sift for legacy reconsideration requests</a> <a href="#">Applicant's status after submitting a reconsideration request</a> <a href="#">Reconsideration request – initial checks</a> <a href="#">Considering a reconsideration</a> <a href="#">Reconsiderations – decisions</a> <a href="#">Reconsiderations and appeals</a> <a href="#">Reconsiderations – pre-action protocol cases and judicial review claims</a>	<p>This page tells you how reconsideration decisions affect pre-action protocol cases and judicial review (JR) cases.</p> <p>When you reconsider a decision you must thoroughly consider all the points raised by the applicant or representative.</p> <p>For more information on maintaining or changing the decision, see related links:</p> <ul style="list-style-type: none"><li>• Reconsideration – maintaining the decision</li><li>• Reconsideration – changing the reason(s) for refusal.</li></ul> <p><b>If the applicant then seeks to challenge the decision at JR</b></p> <p>If the applicant sends a 'letter before claim', also known as the pre-action protocol (PAP) after receiving the reconsideration decision, the detailed reconsideration decision letter will help the caseworker respond quickly to the PAP.</p> <p>If the applicant then submits a JR application or proceeds straight to JR without a PAP, it may strengthen the Home Office's position when there is evidence a thorough reconsideration was conducted.</p> <p>For more information about judicial reviews, see related link: IDI chapter 27: Judicial review.</p>	<p><b>Related links</b></p> <p><a href="#">Reconsideration – changing the reason(s) for refusal</a> <a href="#">Maintaining the original decision</a></p> <p>Links to staff intranet removed</p>
--	---	--

## Reconsiderations

### Contact

<a href="#">About this guidance</a> <a href="#">What is an acceptable reconsideration request</a> <a href="#">What is not an acceptable reconsideration request</a> <a href="#">Requirements for new reconsideration requests</a> <a href="#">Legacy reconsideration requests</a> <a href="#">Pre-sift for legacy reconsideration requests</a> <a href="#">Applicant's status after submitting a reconsideration request</a> <a href="#">Reconsideration request – initial checks</a> <a href="#">Considering a reconsideration</a> <a href="#">Reconsiderations – decisions</a> <a href="#">Reconsiderations and appeals</a> <a href="#">Reconsiderations – pre-action protocol cases and judicial review claims</a>	<p>This page tells you who to contact if they need more help reconsidering a specific case.</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 email, through your HEO or above, 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 email, through your HEO or above the administrative operational policy team.</p> <p>Changes to this guidance can only be made by the modernised guidance team (MGT). If you think the policy content needs amending you must contact the administrative operational policy team who will ask the MGT to update the guidance, if appropriate.</p> <p>The MGT 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 modernised guidance team.</p>	<p><b>In this section</b></p> <p><a href="#">Changes to this guidance</a> <a href="#">Information owner</a></p> <p>Links to staff intranet removed</p>
--	--	--

## Reconsiderations

### Information owner

[About this guidance](#)  
[What is an acceptable reconsideration request](#)  
[What is not an acceptable reconsideration request](#)  
[Requirements for new reconsideration requests](#)  
[Legacy reconsideration requests](#)  
[Pre-sift for legacy reconsideration requests](#)  
[Applicant's status after submitting a reconsideration request – initial checks](#)  
[Considering a reconsideration](#)  
[Reconsiderations – decisions](#)  
[Reconsiderations and appeals](#)  
[Reconsiderations – pre-action protocol cases and judicial review claims](#)

This page tells you about this version of the reconsiderations guidance and who owns it.

Version	4.0
Valid from date	9 July 2013
Policy owner	Administrative operational policy
Cleared by director	Sonia Dower
Director's role	Director, operational policy and rules
Clearance date	09 November 2012
This version approved for publication by	Sonia Dower
Approver's role	Director, operational policy and rules
Approval date	8 July 2013

Changes to this guidance can only be made by the modernised guidance team (MGT). If you think the policy content needs amending you must contact the administrative operational policy team, who will ask the MGT to update the guidance, if appropriate.

The MGT 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 modernised guidance team.

**In this section**  
[Changes to this guidance](#)  
[Contact](#)

Links to staff intranet removed