



Home Office

# Administrative review: EU Settlement Scheme

Version 2.0

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# About this guidance

This guidance tells the Administrative Review team and staff in the Settlement Resolution Centre about administrative reviews in relation to the EU Settlement Scheme.

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

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

## Contacts

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

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

## Clearance

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

- version **2.0**
- published for Home Office staff on 21 January 2019

## Changes from last version of this guidance

The guidance has been amended to reflect the fact that, following changes made to the Immigration Rules on 21 January 2019, an application under this scheme must be made while the applicant is in the United Kingdom.

### Related content

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# Overview of administrative review under Appendix AR (EU)

This section tells the Administrative Review team and staff in the Settlement Resolution Centre about administrative reviews of decisions made on applications under the EU Settlement Scheme.

## Right to an administrative review

An applicant who applies under the EU Settlement Scheme on or after 1 November 2018 may apply for an administrative review where they have received an 'eligible decision' as set out in [Appendix AR \(EU\)](#). For more information see: [Decisions which are eligible for administrative review](#).

## Grounds for seeking an administrative review

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

- the original decision-maker failed to apply, or incorrectly applied, Appendix EU
- the original decision-maker failed to apply, or incorrectly applied, the published guidance in relation to the application
- there is information or evidence that was not before the original decision-maker which shows that the applicant qualifies for a grant, or a different grant, of leave under Appendix EU

## How to apply for an administrative review

Applicants must apply online using the form at [Apply for an administrative review of your EU Settlement Scheme decision](#).

The application must be made while the applicant is in the UK.

Each applicant who has received a decision on an application under the EU Settlement Scheme must make their own application for administrative review.

It is not possible to include dependents in an application for administrative review.

A parent or legal guardian may make the application for administrative review on behalf of a child.

Information given in the application forms will enable the applications for administrative review from members of a family group to be 'linked' so that you can consider them together. You will still need to make a separate decision on each application for administrative review.

## Application fees

There is a fee of £80 for each application for administrative review.

This fee will be refunded in full where the administrative review is successful, that is where the original decision is withdrawn and leave, or different leave, is granted. For further information see: [Refunds](#).

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# Validity of an application for administrative review under Appendix AR (EU)

This section tells the Administrative Review team and staff in the Settlement Resolution Centre how to consider whether an application for administrative review under Appendix AR (EU) is valid.

An application for administrative review will only be valid where it meets the requirements set out in [paragraphs 34M to 34Y in Part 1 of the Immigration Rules](#). These paragraphs have been amended to include administrative reviews under Appendix AR (EU).

You must check that the application for administrative review meets all the relevant requirements and, if it does not, you must reject it in writing as invalid. The template to use in that case is AREUN.001.

## How the application is made

An application for administrative review of an eligible decision under Appendix EU should be made online using the relevant online application process in accordance with paragraph 34O(3) of the Immigration Rules. The online application form requires applicants to state whether they are in the UK. Under paragraph 34QA, the applicant must be in the UK when the application is made.

Paragraph 34U sets out the requirements to be met where an application for administrative review is made. The specified fee must be paid unless an [exemption](#) applies.

If this requirement is not met, you must reject the application under paragraph 34M of the Immigration Rules with reference to paragraph 34U. The template to use in that case is AREUN.001.

## Fee exemptions

An applicant will be exempt from paying the administrative review fee where they were exempt from paying for their original application under the EU Settlement Scheme.

You must not reject an administrative review application for non-payment of the fee if the applicant was exempt from paying it.

If the applicant has chosen the fee-exempt route on the form but does not qualify for the exemption, you should invite the applicant to provide reasons for non-payment (or payment) within 10 working days using template AREUN.006. If reasons are not provided, you should request payment within 10 working days using template

AREUN.007. If payment is not received in that time (or if there is no response to the AREUN.006), you should reject the application as invalid using template AREUN.001.

## Decisions which are eligible for administrative review

Under paragraph 34P, the application for administrative review must be made in respect of an 'eligible decision'.

Under paragraph AR(EU)1.1. of Appendix AR (EU), there are two types of eligible decision. These are:

- refuse the application under paragraph EU6 of Appendix EU because the applicant doesn't meet the eligibility requirements for either indefinite leave to remain or limited leave to remain under Appendix EU
- grant the applicant limited leave to remain under paragraph EU3 of Appendix EU and not indefinite leave to remain under paragraph EU2

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

## Decisions which are not eligible for administrative review

There is no right to an administrative review where the application has been refused on suitability grounds as set out in paragraph EU15 or EU16 of Appendix EU. There is also no right to an administrative review where the application has been rejected as invalid under paragraph EU10 of Appendix EU.

If the application for administrative review is not made against an eligible decision, you must reject it under paragraph 34M with reference to paragraph 34P of the Immigration Rules using template AREUN.001.

## Time limits for bringing an administrative review

Under paragraph 34R(1A) an application under Appendix AR (EU) must be made no more than 28 days after the applicant receives the notice of the eligible decision.

Where the applicant is entitled to apply for review of a new decision made as a result of a successful application for administrative review, the time limit is calculated from when they were served with the new decision.

Administrative review decisions are served in accordance with [Appendix SN](#) to the Immigration Rules. Appendix SN sets out that where the eligible decision is sent by email, it is regarded as having been received on the day on which it was sent, unless there is evidence to the contrary.



The first day for calculating the period during which the person must apply for administrative review is the first day after they received the decision. For example, if they received the decision on 1 July, the first day when calculating the 28 days is 2 July and the last day for applying will be 29 July (but an application made on 1 July will be valid).

Where an application is submitted after the deadline you should normally reject it. The only exception is where you are satisfied that the application meets both of the following:

- it would be unjust not to waive the deadline
- the application was made as soon as possible after the deadline

For example, where an applicant could not make an in-time application because they were admitted to hospital as an emergency, but they made their application as soon as they left hospital, it would be appropriate to extend the deadline.

If the application is made after the deadline and there are no compelling reasons for this, you must reject the application under paragraph 34M with reference to 34R(1A) of the Immigration Rules. The template to use is in that case is AREUN.001.

## Further application for administrative review

Under paragraph 34N(2A) a further application for administrative review may be made where the original decision is withdrawn following the administrative review, and a new decision is made in accordance with paragraph AR(EU)2.2. of Appendix AR (EU).

You must check the relevant casework system to make sure that either:

- this is the first application for administrative review of an eligible decision
- the applicant is entitled to a second administrative review following the decision on the first review (CID outcome will be recorded as: AR Decision Overturned).

Unless paragraph 34N(2A) applies you must reject any repeat administrative review application under paragraph 34M with reference to paragraph 34N(1) of the Immigration Rules.

The applicant may also submit a second administrative review application if the first one was rejected as invalid and there is still time to make an application for administrative review before the deadline set out in paragraph 34R(1A).

## Rejecting a request for administrative review

If the application for administrative review is invalid, you must:

- complete the AREUN.001 'Rejection' notice template and send it to the applicant

- explain in the notice why you cannot consider the administrative review request and inform the applicant that the fee will be refunded (if one was paid)
- update CID with:
  - the date the application for administrative review was received
  - the date it was rejected
- where applicable, initiate the refund process by completing the ICD.3463 template and send it to the Charging Supplier Relationship Services (SRS) team

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# Considering the administrative review

This section tells the Administrative Review team and staff in the Settlement Resolution Centre how to consider an administrative review where the application is valid.

## Independence of the review

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

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

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

- originally considered
- were involved in considering
- previously reviewed

## Full reconsideration

For all administrative review applications under Appendix AR (EU) you must conduct a full reconsideration of the decision and decide whether the original decision was:

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

You should consider whether:

- the original decision-maker failed to apply, or incorrectly applied, Appendix EU
- the original decision-maker failed to apply, or incorrectly applied, the published guidance in relation to the application
- information or evidence that was not before the original decision-maker has been provided which shows that the applicant qualifies for a grant, or a different grant, of leave under Appendix EU

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

## New information and evidence

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

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

## Requesting additional information or evidence

You may also request additional information or evidence. You must make this request using template AREUN.008. There is no specific deadline for providing additional information or evidence and you should give the applicant a reasonable timeframe to provide it. What is reasonable will depend on the circumstances of the case.

If the applicant does not respond with the evidence within this timescale you must make a decision based on the information and evidence available, unless there are exceptional reasons why the deadline should be extended. An example of an exceptional reason is where the applicant has notified you that it is not possible to get the information or evidence before the deadline because it has to be obtained or posted from overseas.

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# Administrative review decisions

This section tells the Administrative Review team and staff in the Settlement Resolution Centre what to do once you have reconsidered the decision under review.

## Types of decision

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

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

## Maintain the decision

If, having reviewed the substantive decision (including any new information or evidence) you decide that it is correct for the reasons given, you must maintain it and inform the applicant of the outcome using notice template AREUN.002 'Decision maintained'.

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

As you are maintaining the decision, the applicant does not have a further right of administrative review. The applicant must be informed of this in the decision letter.

## Decision correct but contained errors

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

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

## Maintain the decision and correct the errors

Where the errors are not material and the original decision remains correct, or where some of the reasons for the decision were correct but others were incorrect, you must maintain the original decision using template AREUN.002 but provide new reasons with the errors corrected or incorrect reasons removed.

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

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

## Withdraw the decision and issue a new refusal decision

There are two situations where, because of errors in the original decision, you might need to withdraw it and issue a new one. These are:

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

Where either of the above applies, you will need to withdraw the decision and issue a new one using template AREUN.003.

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

## Withdrawing the decision and granting leave

Where you decide that the original decision to refuse status under the EU Settlement Scheme was incorrect and the applicant should be granted pre-settled status (5 years' limited leave to remain) or settled status (indefinite leave to remain) you must withdraw the decision and grant the appropriate leave.

The start date of the leave granted is the date you withdraw the incorrect decision and make a new one.

You must issue the appropriate approval notice and an AREUN.003 'Decision withdrawn – new decision made' notice.

## Changing a grant of pre-settled status to a grant of settled status

Where you decide that the original decision to grant pre-settled status (5 years' limited leave to remain) was incorrect and the applicant should be granted settled status (indefinite leave to remain) you must withdraw the decision and grant the appropriate leave. The start date of the leave granted is the date you withdraw the incorrect decision and make a new one.

You must issue the appropriate approval notice and an AREUN.003 'Decision withdrawn – new decision made' notice.

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### **Official sensitive: start of section**

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

## Recording details of the review decision

It is important that you record all the following details of the review on the relevant casework system (currently CID):

- check that the new outcomes 'AR Received' and 'AR Validated' have been added in the CID outcome field
- add the decision to the CID outcome field, from the list of administrative review [CID outcomes](#)

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

## Handling of case papers

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

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

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

## The administrative review decision notice

You must inform the applicant of the outcome of the review in writing, using the correct administrative review notice templates. For more information on what notices to use, see links below:

- [AREUN.001 'Rejection'](#)
- [AREUN.002 'Decision maintained'](#)
- [AREUN.003 'Decision withdrawn – new decision made'](#)

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# Withdrawing an application for administrative review

This section tells the Administrative Review team and staff in the Settlement Resolution Centre about when an application for administrative review is withdrawn.

Unlike administrative reviews of other decisions, administrative reviews under Appendix AR (EU) are not treated as withdrawn if the applicant:

- requests their passport back so they can travel
- leaves the UK whilst their review is pending
- makes a further application either under Appendix EU or under another immigration route

The application will only be withdrawn where the applicant notifies UKVI that they wish to withdraw the application.

## Requests to withdraw the administrative review

A request to withdraw an administrative review application must be made in writing, either by post or email. The application will be treated as withdrawn on the date the request is received.

## How to process the withdrawal of an administrative review

You must record the withdrawal as soon as possible. You must tell the applicant that their application has been withdrawn using the AREUN.005 'Withdrawal' template.

The application fee will not be refunded if the application is withdrawn unless there are exceptional circumstances for the withdrawal.

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# Administrative review: CID outcomes

This table sets out the outcomes on CID for administrative reviews.

<b>Outcome</b>	<b>When used</b>
<b>AR Received</b>	When an application for AR is received
<b>AR Validated</b>	When the application has been validated
<b>AR Rejected</b>	When the AR is rejected as invalid
<b>AR Withdrawn</b>	Where the applicant requests withdrawal of the AR
<b>AR Decision Maintained</b>	Where the original decision is correct and is maintained
<b>AR Decision Overturned</b>	Where the original decision is withdrawn and new decision made – you should also enter a new immigration decision
<b>AR Completed</b>	When the AR process is complete
<b>Further AR Received</b>	When a further AR is received

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# Refunds

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

## When to refund

The application fee must be refunded where:

- the application is rejected as invalid
- the decision on the application under the EU Settlement scheme is withdrawn and a new decision is made (including where the review was successful because of new information or evidence which was not before the original decision maker)

If the applicant is eligible for a refund of the application fee for the administrative review, you must complete the ICD.3463 refund request template in CID and send it to the charging operations team.

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

## When not to refund

The application fee will not be refunded where:

- the application is withdrawn at the applicant's request
- the result of the review is that the original decision is maintained (even if errors are corrected)

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# Template letters

This section lists the templates available to the Administrative Review Team when responding to an application for administrative review of a decision under the EU Settlement Scheme, or to a fee exemption claim:

- [AREUN.001 'Rejection'](#)
- [AREUN.002 'Decision maintained'](#)
- [AREUN.003 'Decision withdrawn – new decision made'](#)
- [AREUN.005 'Withdrawal of AR'](#)
- [AREUN.006 'Fee reminder'](#)
- [AREUN.007 'Fee exemption rejection'](#)
- [AREUN.008 'Request further information'](#)

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# Frequently asked questions

This section is for Administrative Review caseworkers and staff at the Settlement Resolution Centre. It covers common questions which applicants may ask.

## **Who can the applicant contact if they have a problem completing the online administrative review form?**

The applicant should email the administrative review team. This email address must only be used for enquiries about problems with using the online administrative review form. General enquires about immigration matters will not be answered.

## **Will the person conducting the administrative review be the same person who made the initial decision?**

No. The administrative review will be carried out by a different person on an independent team. This ensures there is independence and transparency in the review process.

## **Why is the fee more than the actual application under the EU Settlement Scheme?**

The £80 fee for administrative review is consistent across all immigration routes. If the original decision is overturned, the application fee will be refunded.

## **What is the time limit for applying for administrative review?**

The applicant has 28 calendar days from the date they receive the decision notice. Applications may be accepted after the 28 days where there are compelling reasons why the application could not be made in time and the application is made as soon as possible.

## **Can applicants apply for administrative review and make a new application for leave under the settlement scheme or another form of leave at the same time?**

Yes, applicants can make a new application whilst their administrative review application is under consideration.

## **What happens if the administrative review is unsuccessful?**

Applicants can make another application under the EU Settlement Scheme at any time up to 30 June 2021: [apply-for-eu-settled-status](#).

They can also rely on any EU law rights they have to reside in the UK until 31 December 2020. Further information can be found at [www.gov.uk/right-to-reside](http://www.gov.uk/right-to-reside).

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