

## REVIEWS

The purpose and scope of the review is to consider whether the correct administrative procedures have been followed in reaching a decision on the application. The Reviews Team will undertake a full review of all elements of the work permit application. Where the Reviews Team identify further grounds for refusal, the decision to maintain refusal of an application will stand, even if an original ground for refusal has been overturned.

The Reviews Team will only undertake two reviews per original application refused. Any request for review should be sent within 28 days of the date of the original decision letter, or for a second review, within 28 days of the first review letter. Caseworkers should ensure that envelopes are forwarded with the review request to the Reviews Team to enable them to verify that the request was submitted within the 28 days allowed. Also, caseworkers should clearly indicate on the review request which Business Team caseworked the original application.

On team consideration is undertaken by the Business Process Team (BPT). Where a letter is received from an employer or representative seeking reconsideration of a refusal on the basis of the information ALREADY PROVIDED in the original application, BPT should consider whether, with hindsight, the refusal was obviously flawed. If so, they should contact the Business Team who may overturn their original decision.

Further evidence cannot be considered at review and the fact that the employer or representative states that there is no further evidence provided, does not necessarily mean that this is the case. The BPT should satisfy themselves that this is so.

The following are examples of new information that cannot be taken into account:

- Supporting documents not previously submitted
- New references, new advertisements, additional and new company information
- Revised salary details
- Information we have not seen or been advised of before

The following does not constitute new information and can be taken into account:

- Arguments that we have misinterpreted work permit criteria or evidence that was submitted in support of the original application
- Repeat copies of material we have already received

In the following circumstances, however, new information may be accepted:

- if the information was not requested by the Business Team and should have been at the time of the original application

AND

- that information could have altered the decision

Following the BPT consideration, the past papers held on the Business Team will be collected by the BPT who will forward them to the Reviews Team with the Review letter.

If past papers are in storage at Iron Mountain, the letter should be held on the BPT until the file is returned from Cody 4. Upon receipt of the papers the application will be input and passed onto the Reviews Team.

BPT should note on gLOBE:-

- The date the review request was received
- Whether the request is in-time or contains any new information

### **What to do if?**

- [The request for a review has been made more than 28 days after the date of the original decision letter](#)
- [The employer submits a letter asking for a third review of the original decision](#)
- [New information, not previously supplied, has been submitted with the request for a review](#)
- [You are not sure whether the grounds for reconsideration constitute new information or not](#)
- [The letter from the employer simply states they want further clarification regarding the grounds for refusal](#)
- [The letter is a complaint about handling of an application](#)
- [The letter is a late response to a request for more information](#)
- [Money has been sent in with the request for review](#)
- [A fresh application has been made which is a resubmission of an application that has been recently refused but no new information has been included](#)
- [If, following a fresh application, the grounds for refusal on the original application were incorrect and the original application would otherwise have been successful](#)
- [A fresh application has been made which is a resubmission of an application that has been recently refused and additional grounds for refusal are found which did not form part of the original refusal](#)
- [The Reviews Team have decided to overturn the original decision and approve the application](#)
- [The Reviews Team have decided to maintain the original decision and refuse the application](#)

**The request for a review has been made more than 28 days after the date of the original decision letter** – On receipt of a letter which has been accepted as a review request, the BPT will consider whether the letter has been submitted within 28 days of the date of the original decision letter. If not, the BPT will write to the employer or representative, using standard letter L895, advising them that their representations will not be considered and advising them that if they still wish to employ the overseas worker, they must submit a fresh application.

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**The employer submits a letter asking for a third review of the original decision** – BPT should check the case details on GLOBE to ensure that the application has already been reviewed on two separate occasions. If the employer is asking for a third review of the original decision, the BPT should write to the employer or representative (using the standard letter L803 for out of country applications and L894 for in country applications) advising them that it is the policy of the Border and Immigration Agency to only consider two reviews per application.

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**New information, not previously supplied, has been submitted with the request for a review** – The BPT should ensure the 'new information' is information that was either not provided in support of the original application or different from that provided with the original application.

If the request does contain new information, the BPT should write to the employer or representative (using standard letter L896) advising them that they must submit a fresh application and explain the procedures. In the following circumstances, however, new information may be accepted:

- if the information was not requested by the Business Team and should have been at the time of the original application

AND

- that information could have altered the decision

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**You are not sure whether the grounds for reconsideration constitute new information or not** – seek advice from your line manager. They may in turn seek advice from Reviews Team colleagues. They will advise on whether the information should be accepted or not and what action should be taken with the request.

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**The letter from the employer simply states they want further clarification regarding the grounds for refusal** – The caseworker should respond by letter expanding on the grounds for refusal. They should have the letter checked by their Higher Executive Officer (HEO) before posting it. This should not be passed to the Reviews Team.

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**The letter is a complaint about handling of an application** – forward the letter to the complaints section of Customer Contact Centre to monitor and handle an appropriate response. Where there is doubt, the complaints section should be consulted. This should not be passed to the Reviews Team.

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**The letter is a late response to a request for more information** - If a response to a request for information (for example, an L600/L602/L106) is sent in after the case has been refused, the Business Team should request that a new application be submitted. If the letter was only a few days late, however, and the case now appears approvable, the HEO on the Business Team should consider re-opening the application.

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**Payment has been sent in with the request for review** - notify a manager at once and the manager must return the cheque with a covering letter and make a note on the case file and gLOBE comments.

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**A fresh application has been made which is a resubmission of an application that has been recently refused but no new information has been included** - This should be dealt with on the Business Team and caseworked as normal.

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**If, following a fresh application, the grounds for refusal on the original application were incorrect and the original application would otherwise have been successful** – the caseworker should arrange an *ex gratia* payment in respect of the original application by asking the Charging Operational Team for a PRN. The caseworker should consult the Higher Executive Officer (HEO) and request that they complete an Ex-gratia Approval stencil. This should be sent to the nominated Senior Executive Officer (SEO) for approval, after authorisation the stencil should be sent to the Charging Team. See Charging guidance on Pool 002 for further details.

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**A fresh application has been made which is a resubmission of an application that has been recently refused, and additional grounds for refusal are found which did not form part of the original refusal** – Business Team caseworkers should refuse including these additional grounds. A decision to use additional grounds must be taken at SEO grade.

If a further refusal is required, the letter should be carefully drafted and personalised. Standard paragraphs by themselves are not normally appropriate and should be tailored to reflect the specific case in question.

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**The Reviews Team decide to overturn the original decision and approve the application** – The Reviews Team Manager will contact the manager and SEO of the relevant Business Team to advise of the decision that is to be made. The case will remain open until close of play that day for any response to be received. While comments from the Business Team may be taken into account, the final decision on whether to overturn will be made by the Reviews Team. If the original decision is to be overturned, an appropriate approval letter (L717, L776, L777 or L778) will be sent to the employer.

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**The Reviews Team have decided to maintain the original decision and refuse the application** – The Reviews Team will send a refusal letter (L801, L802, L861 or L862 as appropriate) to the employer which will explain why the original decision has been maintained. This will explain, where necessary, why additional grounds for refusal have been included and if any of the original grounds for refusal have been overturned.

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