



Home Office

**UK Border
Agency**

TIER 5
(YOUTH MOBILITY
SCHEME)

Tier 5 (Youth Mobility Scheme) of the Points Based System Policy Guidance

This guidance
is to be used
for applications
made on or after
1 October 2009

CONTENTS

Introduction.....	3
GENERAL GUIDANCE FOR APPLICANTS TO THE POINTS-BASED SYSTEM	3
Self-Assessment.....	3
Documents we require to support applications under the points-based system.....	4
Verification and Other Checks	4
Administrative review	6
TIER 5 (YOUTH MOBILITY SCHEME) OVERVIEW OF TERMS AND CONDITIONS.....	7
Overview of Terms and Conditions	7
Transitional Arrangements for applicants who may have been affected by the abolition of previous youth mobility provisions when Tier 5 (Youth Mobility Scheme) was introduced	9
ATTRIBUTES.....	9
Date of Application.....	9
National of a country participating in the YMS.....	9
Age	10
MAINTENANCE (FUNDS).....	10
ADDITIONAL REQUIREMENTS	11
ANNUAL ALLOCATIONS.....	12
MEDICAL TREATMENT DURING A YOUTH MOBILITY SCHEME STAY.....	12
BREACHES OF YOUTH MOBILITY SCHEME LEAVE TO ENTER.....	12
ANNEX A – LIST OF COUNTRIES PARTICIPATING IN THE YMS	13
ANNEX B – YOUTH MOBILITY POINTS TABLE	14
ANNEX C: ADMINISTRATIVE REVIEW	15

INTRODUCTION

1. This document provides policy guidance on Tier 5 (Youth Mobility Scheme) of the points-based system (also referred to as YMS). The YMS is only available to certain nationalities (see Annex A of this guidance and Appendix G of the Immigration Rules). Please note that the guidance reflects policy at the current date and may be subject to change. It should be read in conjunction with paragraphs 245ZI to 245ZL of the Immigration Rules.

2. Applicants who are outside the United Kingdom and who wish to obtain entry clearance under the points-based system should use form VAF9. They will also need to complete a separate appendix for the category under which they are applying. These forms and separate notes on completing them are available at www.ukvisas.gov.uk/en/howtoapply/vafs.

3. An applicant may apply for entry clearance under the YMS at a post in the country of which he/she is a national. He/she may also apply to a post in a country or territory where he/she is staying at the time of application, even if this is not his/her normal place of residence, provided that the following conditions are met:

- the entry clearance post is authorised to accept entry clearance applications for YMS; and
- the applicant is able to demonstrate to the Entry Clearance Officer that at the date of the application he/she has the authority to stay in that country or territory; and
- that authority was granted for a period of more than 6 months.

(Detailed information on where to apply can be found in paragraphs 28, 28A and 29 of the Immigration Rules.)

4. Applications will not be accepted from persons who are already in the United Kingdom.

GENERAL GUIDANCE FOR APPLICANTS TO THE POINTS-BASED SYSTEM

Self-Assessment

5. We have an online tool that enables an applicant to self-assess his/her application to see whether or not he/she is likely to score enough points for the application to succeed.

6. The points-based calculator is on our website at www.ukba.homeoffice.gov.uk.

7. An applicant can enter details of his/her nationality and age. The points-based calculator then calculates the points we may award for the attributes section of the points assessment. The applicant can also then enter details of whether he/she has enough money to support himself/herself in the United Kingdom. In addition to making this assessment the applicant needs to consider whether the additional requirements are met (paragraphs 51 to 53 below refer).

8. The points-based calculator will provide a summary of the information an applicant enters, the points awarded for each section and the overall score.

9. Under Tier 5 (Youth Mobility Scheme), an applicant must score:

- 40 points for Attributes (Appendix A of the Immigration Rules); and
- 10 points for Maintenance (Funds) (Appendix C of the Immigration Rules).

10. The results of the points-based calculator show the possible points an applicant might score and do not guarantee the application will be successful. We make a decision after receiving the full application and the evidence to support it.

Documents we require to support applications under the points-based system

11. The applicant must ensure he/she provides all of the necessary supporting documents at the time he/she sends us the application. If the Immigration Rules state that specified documents must be provided, we will say so in this guidance and we will only accept those documents.

12. If the applicant does not provide the specified documents, we will not contact him/her to ask for them. Therefore, if the applicant fails to send the correct documents we may refuse the application.

13. Any documentary evidence that the applicant provides should be original (not a copy) unless we say otherwise.

14. Where a document is not in English or Welsh, the original must be accompanied by a fully certified translation by a professional translator. This translation must include details of the translator's credentials and confirmation that it is an accurate translation of the original document. It must also be dated and include the original signature of the translator.

15. The applicant should carefully select the right evidence to send us. If he/she sends us a lot of irrelevant or poor-quality documents, it may take us longer to consider the application. We only need evidence that is directly relevant to the application as set out in this guidance. We will not consider unrelated evidence when calculating the points score.

Verification and Other Checks

16. We aim to consider applications quickly. However, we must also be confident that applications meet the requirements of the Immigration Rules, and that the information an applicant provides is a true reflection of his/her background.

17. We will ask for a variety of verifiable documents to enable us to consider the application.

18. We may want to check the supporting documents an applicant sends with his/her application. Therefore, he/she must ensure that all evidence comes from a source that can be clearly identified and that it can be independently confirmed as being genuine.

19. There are two situations in which we will undertake a check:

- **verification checks** – where we have reasonable doubts that the documents are genuine;
- **other checks** – where we carry out further checks, for example:
 - allegations – where we have received an allegation that an applicant has made a false application; or
 - additional checks – where we have doubts about an application or the documents sent with the application but the doubts are not serious enough for us to make a verification check.

Verification Checks

20. Where we have **reasonable doubts** that a specified document is genuine we may want to verify the document with an independent person or government agency.

21. The purpose of these checks is to ensure that the document provided is genuine and accurately reflects statements made in the application. If the document is being used as evidence to score points, we also want to ensure that it entitles the applicant to claim those points.

22. Verification may delay our decision on an application so we will only do it when there are clear reasons for it.

Reasonable Doubt

23. There are many reasons why we may doubt that a specified document is genuine and what we consider to be a reasonable doubt will depend on an individual application. However, our judgements will be based on the facts we have.

Outcome of Verification Check

24. There are three possible outcomes of a verification check.

- **Document confirmed as genuine.** If we can conclude that the document is genuine, we will consider the application as normal.
- **Document confirmed as false.** If we can conclude that the document is false, we will refuse the application, whether or not the document is essential to the application. If a document is confirmed as false we will normally refuse the application for more than one reason. For example, if an applicant sends us a bank statement to show that he/she has enough funds available, and we have evidence that the statement is false, we will refuse the application because the applicant does not meet the funds requirement and because he/she has sent a false document.
- **Verification check inconclusive.** If we cannot verify that the document is either genuine or false then we will ignore it as evidence for scoring points. If the applicant has sent other specified documents as evidence for scoring the relevant points, we will consider these as normal. If the applicant has not sent any other documents, we will award zero points in that area.

Refusing applications without making further checks

25. We may refuse an application without making verification checks in two circumstances:

- Where we are concerned about a piece of evidence but would in any event refuse the application for other reasons, those reasons will form the basis of the refusal. We will not make verification checks in these circumstances. However, we will always verify passports if we doubt they are genuine.

- Where there is evidence that proves a particular document is false. If we can confirm that a document is false we will normally refuse the application for more than one reason. For example, if an applicant sends us a bank statement to show that he/she has enough funds available, and we have evidence that the statement is false, we will refuse the application because the applicant does not meet the funds requirement and because he/she has sent a false document.

Other Checks

26. We will make other checks where, for example:

- we have received an allegation that an applicant has made a false application; or
- we have doubts about an application or the documents sent with the application but these are not serious enough for us to make a verification check.

27. These checks may delay our decision on an application so we will only make them when we have clear reasons to do so.

Allegations

28. If we receive an allegation about a particular person, company or document that relates to an application, we may make more checks to confirm that the application and all information provided are correct.

Extra Checks

29. Sometimes we will have suspicions about a document, but they will not be enough to make us doubt that it is genuine. For example, this may be because previous verification checks have found that some supporting evidence is invalid and some is genuine, or where evidence provided contradicts information we already have. In these cases, we may carry out more checks.

Outcome of Check

30. There are four possible outcomes of these checks:

- **Document confirmed as genuine.** If we can conclude that the document is genuine, we will consider the application as normal.
- **Document confirmed as false.** If we can conclude that the document is false, we will refuse the application, whether or not the document is essential to the application. If a document is confirmed as false we will normally refuse the application for more than one reason. For example, if an applicant sends us a bank statement to show that he/she has enough funds available, and we have evidence that the statement is false, we will refuse the application because the applicant does not meet the funds requirement and because he/she has sent a false document.
- **Check inconclusive.** If we cannot verify that the document is either genuine or false then we will consider the application as if it is genuine.
- **Check gives us cause to have reasonable doubt about the genuineness of a specified document.** If we cannot verify that the document is either genuine or false but as a result of the checks, we find other reasons to doubt the genuineness of a particular specified document, we may decide to make a verification check.

Procedure for verification and other checks

31. The procedures for both verification checks and other checks will usually be similar and will vary from case to case, but they may involve:

- checking the details or genuineness of documents with employers, the relevant embassy or High Commission, other government departments (in the United Kingdom and overseas); and
- checking the accuracy and authenticity of documents with banks, universities and professional bodies.

Standard procedure

32. We will use a standard form to record the results of our enquiries, to ensure that we record any feedback consistently.

33. If we cannot obtain an immediate answer to enquiries we will normally wait for up to a maximum of four weeks for the necessary information.

Administrative review

34. If we refuse an application for entry clearance and the applicant thinks that a mistake has been made, the applicant can ask us to check our decision. This is known as 'administrative review.' Full guidance on administrative review can be found at Annex C below.

TIER 5 (YOUTH MOBILITY SCHEME) OVERVIEW OF TERMS AND CONDITIONS

Overview of Terms and Conditions

35. The key features of the Tier 5 (Youth Mobility Scheme) are in the table below. For more information, see paragraphs 245ZI to 245ZL of the Immigration Rules.

Description of category	<p>The Tier 5 (Youth Mobility Scheme) is for sponsored young people from participating countries who wish to experience life in the United Kingdom. The applicant's government acts as their sponsor. The countries listed in Annex A are currently the only ones participating in the YMS and are said to have Deemed Sponsor status.</p> <p>Successful applicants will be free to do whatever work they like during their stay in the United Kingdom, except for self employment (subject to certain exceptions), working as a professional sports person (including as a sports coach) or working as a doctor in training.</p> <p>NB Any work in which a YMS participant engages must be compliant with United Kingdom and European Union laws, directives and regulations.</p> <p>YMS temporary migrants may also engage in privately-funded studies, voluntary work¹ and au pair² placements as and when they wish.</p> <p>NB: The Youth Mobility Scheme Rules in force at the date an applicant is granted entry clearance will apply to the entrant.</p>
Period of grant	2 years' validity of entry clearance
Switching into another route	Not permitted. Switching into any other Points Based System route or into visitor status is not allowed.
Extension of stay	Not permitted
Dependants	<p>Not permitted.</p> <p>In addition, the applicant must not have any children under the age of 18 who are either living with him/her or for whom he/she is financially responsible. Applicants who are married or have partners may participate in the YMS. Although spouses or partners of YMS participants may not enter the United Kingdom as dependants, they may enter if they qualify and obtain entry clearance in their own right under the YMS, or qualify for entry in another capacity.</p>

(1) (2)

1 Information on the National Minimum wage exemption for voluntary workers is included in the NWM guidance in the website link: <http://www.berr.gov.uk/files/file11671.pdf>

2 Information on au pair opportunities in the UK can be obtained from the British Au Pair Agencies Association which has the website link: <http://www.bapaa.org.uk/>

<p>Previous participation</p>	<p>Those who have previously spent time in the UK under the YMS or under the Working Holidaymaker Scheme are not eligible to apply under the YMS.</p>
<p>Conditions of grant applying to applicants</p>	<p>Entry clearance under this route will be subject to the following conditions:</p> <ul style="list-style-type: none"> (i) no recourse to public funds; (ii) registration with the police, if this is required by paragraph 326 of the Immigration Rules; (iii) no employment as a professional sports person (including as a sports coach) or as a doctor in training; and (iv) self employment only allowed if: <ul style="list-style-type: none"> (1) The temporary migrant does not own permanent premises, from which he/she does business (other than his/her home); (2) the total value of the equipment that he/she uses in his/her business does not exceed £5000; and (3) The temporary migrant has no employees. <p>Renting premises (i.e. which the applicant does not own) to work in a self employed capacity, is acceptable provided the other conditions are met.</p> <p>Setting up a company for the provision of the business, and also holding shares in a company, are both permitted provided that the other conditions are met.</p> <p>Any self employment or business activity other than that described above will not meet the terms of the YMS and will breach the conditions attached to leave granted under the YMS.</p>

Transitional Arrangements for applicants who may have been affected by the abolition of previous youth mobility provisions when Tier 5 (Youth Mobility Scheme) was introduced

36. The Youth Mobility Scheme replaces the youth mobility provisions formerly provided for under Immigration Rules and concessions, which have now been abolished.

37. The provisions affected are:

- the Working Holidaymakers Rules;
- the Au Pairs Rules for non-EEA nationals;
- the BUNAC Scheme;
- the Japan Youth Exchange Scheme;
- Gap Year Entrants working in United Kingdom schools concession; and
- MPs' Research Assistants concession.

38. Since the date of their abolition no further grants of leave to enter at port have been permitted under the abolished provisions.

39. Those with valid entry clearances issued under the abolished provisions may enter and re-enter the United Kingdom in accordance with the validity of their entry clearances, and those who, at the date of abolition, had already been granted leave to enter of more than six months at UK ports, under any of those provisions, may also re-enter the UK within the period of that leave, and complete the period of stay they had been granted. (However, anyone granted six months or less leave to enter at port under the provisions prior to their abolition, and who departs from the United Kingdom before the end of their permitted stay, will not be able to re-enter to complete their leave, as it will have lapsed in the normal way on their departure).

40. Any entry clearance applications that had been made and were already in the system at the time when the relevant provisions were abolished (26 November

2008) will be dealt with according to the terms of the provisions under which they were accepted, i.e. the Rules and concessions in place before 27 November 2008. Any such applications made after the abolition of the provisions will be rejected. (NB entry clearances will also be issued when any appeals against decisions made under the provisions for the routes abolished are ultimately allowed).

NB Since the date of the abolition of the above provisions there has been no provision for applications for extensions of stay to be accepted or granted under the terms of those of the abolished provisions which permitted such extensions.

ATTRIBUTES

Date of Application

41. The date of application will, in all cases, be taken to be the date that the fee associated with the application is paid. This means the date shown on your payment receipt, which depends on how you paid for your visa application, for example, at a British Diplomatic Post, visa application centre or online.

National of a country participating in the YMS

Claiming points

42. Please refer to paragraphs 101 to 104 of Appendix A of the Immigration Rules. An applicant can claim 30 points if he/she is either:

- a) A citizen of a country listed in Appendix G to the Immigration Rules (See Annex A); or
- b) A British Overseas Citizen, British Overseas Territories Citizen or British National (Overseas) as defined by the British Nationality Act 1981.

Documents required

43. Paragraph 245AA of the Immigration Rules states that we will only award points when an applicant provides the specified evidence that he/she meets the requirements for this category. Paragraph 101 of Appendix A also says that specified documents must be provided as evidence of all matters in respect of which points are claimed.

44. Each applicant must produce a valid passport which confirms they are a national of a country participating in the YMS, or a British Overseas Citizen, British Overseas Territories Citizen or British National (Overseas).

Age

Claiming points

45. Please refer to paragraphs 101 to 104 of Appendix A of the Immigration Rules. An applicant can claim 10 points if he/she:

- will be 18 or over at the time their entry clearance becomes valid for use;

and

- was under the age of 31 on the date his/her application was made.

Documents required

46. In all cases we will use an applicant's passport issued by his/her country participating in the YMS to confirm that his/her age is within the prescribed range.

MAINTENANCE (FUNDS)

Claiming points

Maintenance Requirement

47. Please refer to paragraph 245B of the Immigration Rules.

48. One of the requirements of Tier 5 (Youth Mobility Scheme) is that migrants coming to the United Kingdom under the Youth Mobility Scheme must be able to support

themselves for the entire duration of their stay in the United Kingdom without use of public funds (for example benefits provided by the state). Migrants who are unable to support themselves could face financial hardship because they will not have access to most state benefits.

49. The evidence of maintenance must be of cash funds in the bank (this includes savings accounts and current accounts even when notice must be given), or loan available to the applicant. Other accounts or financial instruments such as shares, bonds, pension funds etc, regardless of notice period, are not acceptable.

50. If the applicant wishes to rely on a joint account as evidence of available funds, he/she must be named on the account along with one or more other named individual.

51. In order to qualify for entry clearance under Tier 5 (Youth Mobility Scheme) applicants must show that they have enough money to support themselves. The funds requirement for YMS is £1600 for which 10 points will be awarded. This amount must be held in the applicant's personal bank account on the date of the application for entry clearance. (NB The adequacy of the funds held will be judged against the exchange rate at the date of application, so applicants will need to have sufficient funds in their accounts to ensure that the maintenance requirement will be met despite changes in the exchange rate).

52. Applicants should also assess the potential costs of living in the United Kingdom. If applicants do not expect to receive any income from their work in the United Kingdom after the first month, they should ensure that they have enough money to support themselves.

Documents required

53. This evidence must be original, on the official letter-headed paper or stationery of the organisation and bearing the official stamp of that organisation. It must have been issued by an authorised official of that organisation.

All evidence must be dated no more than one month before the application is submitted. Appendix C of the Immigration Rules states that only specified documents will be accepted as evidence of this requirement. The specified documents are:

1. Building Society/Savings account pass book

The Building Society/Savings account pass book should clearly show:

- the applicant's name;
- the account number;
- the financial institution's name and logo;
- that there are sufficient funds present in the account (the balance must be at least £1600);

2. Personal bank or Building Society statements

The personal bank or Building Society statements should clearly show:

- the applicant's name;
- the account number;
- the date of the statement;
- the financial institution's name and logo;
- that there are sufficient funds present in the account (the balance must be at least £1600);

Ad hoc bank statements printed on the bank's letterhead are admissible as evidence (this excludes mini-statements from cash points).

If you wish to submit electronic bank statements from an online account these must contain all of the details listed above. In addition, you will need to provide a supporting letter from your bank, on company headed paper, confirming the authenticity of the statements provided. Alternatively, an electronic bank statement bearing the official stamp of the bank in question will be accepted. This stamp should appear on every page of the statement.

3. Letter from bank or Building Society confirming funds

The letter from the bank or Building Society should show:

- the applicant's name;
- the account number;
- the date of the letter;
- the financial institution's name and logo;
- that funds of at least £1600 are held in the applicant's account.#

4. Letter from a financial institution regulated by the home regulator (official regulatory body for the country in which the institution operates) confirming funds

The letter from the financial institution should show:

- the applicant's name;
- the account number;
- the date of the letter;
- the financial institution's name and logo;
- that funds of at least £1600 are held in the applicant's account.

ADDITIONAL REQUIREMENTS

54. In addition to scoring a total of 40 points under Appendix A and 10 points under Appendix C (see above), an applicant for entry clearance under the Youth Mobility Scheme must also meet the following additional requirements:

- the applicant must have no children under the age of 18 who are either living with him/her or for whom he/she is financially responsible (i.e. paying maintenance);
- the applicant must not previously have spent time in the United Kingdom as a Working Holidaymaker or a Tier 5 (Youth Mobility Scheme) temporary migrant;

55. The entry clearance application form will require applicants to confirm that the requirements above have been met. No documentary evidence will be required in support of the confirmations, but applications will be refused if evidence comes to light that these requirements are not met. In addition to the two requirements noted in the paragraph above, the applicant must also not fall for refusal under the General Grounds for Refusal (GGFR). Although the entry clearance application form will not require applicants to confirm that they do not fall for refusal under GGFR, an applicant may be refused on those grounds.

56. All the requirements of the Immigration Rules must be met.

ANNUAL ALLOCATIONS

57. There will be annual allocations of places on the Youth Mobility Scheme for each of the individual participating countries. Youth Mobility Scheme entry clearance applications from nationals of a country listed in Annex A will be accepted for consideration only up to the point that their country's annual Youth Mobility Scheme allocation for that year has been filled. All Youth Mobility Scheme entry clearance applications from British Overseas Citizens, British Overseas Territories Citizens and British Nationals (Overseas) will be accepted for consideration.

MEDICAL TREATMENT DURING A YOUTH MOBILITY SCHEME STAY

58. General Practitioners (Doctors) have the right to register migrants as patients at their own discretion, and some National Health Service (NHS) hospital treatment is free to all in the United Kingdom, for example treatment given in an Accident and Emergency Department, and treatment for some infectious diseases such as tuberculosis, but, under Department of Health regulations, there are restrictions on non-residents' access to NHS hospital treatment in England (and similar, though not identical, regulations apply in other parts of the United Kingdom).

59. The Department of Health regulations currently allow Youth Mobility Scheme temporary migrants to be exempt from charges for NHS hospital treatment after they have spent a period of 12 months in the United Kingdom. They will also be exempt during periods of employment (including self-employment) in the first 12 months of their stay, but not during periods in that first 12 months when they are not working. Information on entitlement to free hospital treatment can be accessed via the link: www.dh.gov.uk/overseasvisitors.

60. NB The United Kingdom has reciprocal health agreements with some countries, but these are restricted to allowing relevant nationals who are temporary visitors to access to certain forms of healthcare, in certain circumstances, free of charge.

BREACHES OF YOUTH MOBILITY SCHEME LEAVE TO ENTER

61. YMS temporary migrants can stay in the UK for the period of the validity of their entry clearance but they cannot obtain an extension of their YMS stay. They cannot switch into any other Points Based System route, or into leave as a visitor. Those who do not observe all the conditions of their leave to enter, or who remain in the United Kingdom beyond the time limited by their leave may be liable to removal from the United Kingdom under Section 10(1) of the 1999 Immigration Act. (It is an offence under Section 24(1)(b) of the Immigration Act of 1971 for a person to knowingly overstay or otherwise fail to observe a condition of their leave.) Further guidance on this is set out in Chapter 50 of the guidance which can be accessed via the website link:

<http://www.ind.homeoffice.gov.uk/sitecontent/documents/policyandlaw/enforcement/detentionandremovals/>

62. New penalties for employers who employ those who are in breach of their conditions were introduced on 29 February 2008 by the Immigration, Asylum and Nationality Act 2006 and guidance for employers on preventing illegal working can be accessed via this link: www.ukba.homeoffice.

gov.uk/employers/preventingillegalworking/).

Please note that those who knowingly employ migrants who are in breach of their conditions may be committing a criminal offence.

63. Data on breaches of conditions by YMS migrants will be included in the annual YMS risk assessments, and consequently may affect a country's eligibility for inclusion in the YMS or for Deemed Sponsor status and consequently its allocation of places on the scheme.

ANNEX A – LIST OF COUNTRIES PARTICIPATING IN THE YMS

Australia

Canada

Japan

New Zealand

The countries listed above are the only countries currently participating in the YMS - all have Deemed Sponsor status. As and when new countries join the YMS without Deemed Sponsor status, the Immigration Rules and the content of this guidance will be amended accordingly. See "Points Based System: Tier 5 Statement of Intent" for information on YMS sponsorship. (<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/managingourborders/pbsdocs/statementofintent/temporaryworkersunderpbs>)

ANNEX B – YOUTH MOBILITY POINTS TABLE

Pass mark: 40 + 10. You must score a total of 40 points for nationality and age AS WELL AS 10 points for maintenance.

Criterion	Points awarded
Either: Is a citizen of a country in Annex A of this guidance; or Is a British Overseas Citizen, British Overseas Territories Citizen or British National (Overseas)	30
Meets both of the following requirements: Will be 18 or over when his/her entry clearance becomes valid for use: and Was under the age of 31 on the date his/her application was made.	10
Maintenance Has £1600 which is held in his/her personal bank account on the date of application for entry clearance	10

**NB The applicant also needs to consider the additional requirements.
(Paragraphs 51 to 53 refer)**

ANNEX C: ADMINISTRATIVE REVIEW

1. What is Administrative Review?

Administrative Review is the mechanism for reviewing refusal decisions made under the Points Based System (PBS) where an applicant believes an error has been made in the decision. The Administrative Review is free of charge.

Administrative Review is an entitlement but the request must be made within 28 days from the date the refusal notice is received by the applicant. For time limits for making a request, see further paragraphs 6 and 7 below.

Administrative Review is a non-statutory scheme, i.e. there is no legislation setting out what it covers or who is eligible to apply. The policy is contained in this guidance.

2. What if the Administrative Review request refers to matters outside the scope of the Administrative Review?

Where this occurs the matters should be dealt with under the normal complaints procedure. In such cases the applicant will be advised in writing.

3. Who conducts the Administrative Review?

An Entry Clearance Manager (ECM) will conduct the administrative review. This may mean that in some cases, an Entry Clearance Manager from another Post will conduct the Administrative Review. The applicant may receive the result of the Administrative Review from an entry clearance post that is different to the one that considered the original entry clearance application.

4. Who can apply for Administrative Review?

Anyone refused entry clearance under PBS, where they believe the Entry Clearance Officer has made an incorrect decision.

5. How does the applicant apply?

The applicant will receive the Administrative Review Request Notice with the entry clearance refusal notice.

The applicant must complete the Request Notice in full and send it directly to the address stated on the Request Notice.

Applicants **MUST NOT** send any additional documents such as passport or supporting documents with the Administrative Review request notice. If the refusal is subsequently overturned, the applicant will be asked to send in their passport.

6. What is the deadline for applying for Administrative Review?

The applicant has 28 days from the date of receipt of the refusal notice, to submit a request for Administrative Review.

7. What if an application is submitted late?

Where an Administrative Review request is received outside the 28-day period, the administrative reviewer will consider if there are exceptional circumstances to accept the application outside of the deadline.

If the Administrative Review request is late and the administrative reviewer decides not to perform the Administrative Review, the request notice will be returned to the applicant with a letter explaining why it is not being accepted.

8. How many times can an applicant request an Administrative Review?

Applicants may request only one Administrative Review per refusal decision. Any further review requests received for the same refusal decision will not be accepted. They will be returned to the applicant.

However, where the Administrative Review upholds a refusal but with different refusal grounds, the applicant may request an administrative review of these new refusal grounds.

If the applicant has new or further information, documents or other paperwork that they failed to submit with their original application, they will need to make a new application and pay the appropriate fee.

9. How long will the Administrative Review take?

The administrative reviewer will complete their review and notify the applicant in writing of their decision within 28 days from the date of receipt of the Administrative Review request notice.

If, in exceptional circumstances, the administrative reviewer is unable to complete the Administrative Review within the 28 days, they will notify the applicant in writing as to when to expect a decision.

10. What will the administrative reviewer look at?

The administrative reviewer will examine the evidence submitted with the original application, copies of which will be kept at the refusal post.

The applicant is not allowed to provide new evidence. Any new evidence must be disregarded unless the applicant was refused under paragraph 320 (7A) or 320 (7B) of the Immigration Rules on General Grounds for Refusal (see paragraph 12).

Any new evidence submitted by the applicant must be returned to them together with the outcome of the Administrative Review.

11. How are Administrative Review decisions made?

The administrative reviewer should focus on the areas which the applicant has asked to be reviewed. They will check that:

- points have been correctly awarded;
- documents have been correctly assessed; and
- verification checks have been properly carried out.

The administrative reviewer may recommend that the reason for refusal should be overturned, if they find that the Entry Clearance Officer:

- failed to properly consider evidence submitted with the original application;
- failed to apply the Immigration Rules correctly;
- made a mistake in processing the application;
- failed to give adequate reasons for refusing entry clearance. In this case, the administrative reviewer will recommend the ECO revoke the original refusal and serve a new refusal notice giving a full explanation for the refusal.

Where the administrative reviewer recommends in line with the above, that the reasons for refusal should be revoked, the applicant may still be refused but with new grounds for refusal.

The administrative reviewer will not recommend that the original decision is overturned simply because the applicant claims there is a fault with United Kingdom Border Agency's (UKBA) underlying processes or policies.

12. Does Administrative Review cover General Grounds for Refusal?

Yes. Administrative Review will also look at refusals on the basis of paragraph 320 of the Immigration Rules on "General Grounds for Refusal."

Reviews of refusals made under paragraphs 320(7A) and 320(7B) of the Immigration Rules

The applicant may submit further information with the Administrative Review request, if the refusal is based on paragraph 320 (7A) or 320 (7B) of the Immigration Rules on General Grounds for Refusal.

If an application has been refused because a false document was used or a false representation was made, the applicant may claim that they were unaware of the false documents or false representations. The refusal will still stand but the applicant would have to prove that they did not know that false documents or false representations were used, if they are not to have any future applications automatically refused for 10 years. Where the documents related directly to the applicant (e.g. employment references, qualifications or financial details), such a claim would be likely to fail unless the applicant has clear evidence that an error has been made (e.g. written confirmation from an employer, financial institution or educational establishment that they had supplied us with incorrect information at the time we verified the original documentation).

If the administrative reviewer does accept that the applicant did not knowingly use false documents or false representations, the refusal will still stand, but the applicant will not automatically have any future applications refused under the rules (paragraph 320 (7B)) where false documents or false representations were used.

13. Does Administrative Review cover verification?

Yes. As part of the Administrative Review process the administrative reviewer will ensure that the Entry Clearance Officer has followed the correct verification procedures.

14. What are the possible outcomes of Administrative Review?

There are three possible outcomes of Administrative Review:

- Uphold decision, reasons for refusal remain the same;
- Uphold decision, with revised reasons for refusal.
- Overturn decision and issue entry clearance;

15. How is the applicant informed of the result of the Administrative Review?

Decision upheld and the reasons for refusal remain the same:

- the administrative reviewer will notify the applicant by letter. The applicant will not be entitled to a further Administrative Review as the grounds for refusal have not changed.

Decision upheld but with revised reasons for refusal:

- A new refusal notice (GV51) will be served along with the Administrative Review letter from the administrative reviewer stating why the refusal has still been upheld. If there are fresh reasons for refusal which were not notified originally, the applicant will be able to submit a further Administrative Review request limited to those fresh reasons.

Decision overturned and entry clearance to issue:

- The administrative reviewer will notify the applicant by letter and request the applicant's passport.

16. Limited Right of Appeal

The applicant can only appeal on any or all of the grounds referred to in section 84 (1) (b) and (c) of the Nationality, Immigration and Asylum Act 2002. These are that the decision is unlawful by virtue of section 19B of the Race Relations Act 1976 (discrimination by public authorities), and/or that the decision is unlawful under section 6 of the Human Rights Act 1998 (public authority not to act contrary to Human Rights Convention) as being incompatible with the appellant's Convention rights.

All entry clearance applicants under the Points Based System who are refused will be limited to residual grounds of appeal stated above.

The process for dealing with limited rights of appeal remains unchanged.