

# **ILPA** Information sheet

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## The Immigration Act 2014: Administrative Review

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The Immigration Bill became an Act of Parliament on 14 May 2014 but its provisions have only come into force gradually. The Act makes drastic reductions to the rights of appeal to the First-tier Tribunal (Immigration and Asylum Chamber). Many of those who lose rights of appeal will be entitled to an internal administrative review. Administrative review is being further extended from 6 April 2015 when most appeal rights are lost, by the [Statement of Changes HC 1025](#).

A person will only be entitled to appeal to the Tribunal against a:

- refusal of a human rights claim
- refusal or revocation of a “protection” claim, namely a claim for refugee or for humanitarian protection status

Certain types of applications, such as applications to join or to stay with family members, are treated as human rights claims. If such an application is made and refused the person will have a right of appeal.

### **What is Administrative Review and when can it be used?**

Administrative review is when a person asks the Home Office to look at its decision again. If the Home Office does not change its mind, then the only route of challenge will be judicial review in the High Court, a costly and time-consuming remedy.

[Appendix AR to the Immigration Rules](#) sets out which decisions for applications for visas or visa extensions are eligible for administrative review.

### **What is a case-working error?**

Administrative review will be available to correct what are called “case-working errors” in certain decisions where there is no right of appeal. A case-working error is where the original decision maker’s decision to refuse an application was incorrect either because they

misapplied the Immigration Rules or failed to apply the Secretary of State's relevant published policy and guidance in relation to the application. The definition of a case-working error is the same irrespective of whether the error is in a leave to remain decision, an entry clearance decision or a decision to cancel leave to enter. The new definition of a case-working error is in the Immigration Rules.

### **Who does it affect?**

Administrative review has been available to correct case-working errors in certain Tier 4 (student) decisions since 20 October 2014. From 2 March 2015 it will be available for decisions on Points-based System applications where the application (as opposed to the decision) was made on or after that date. From 6 April 2015 administrative review will be available for all decisions under the Immigration Rules where there is no longer a right of appeal.

There are three categories of applicant who will not be entitled to an administrative review even though they do not have a right of appeal:

#### 1) Visitors and short term students

If you are refused entry clearance as a visitor or a short term student you will have to make a further application as a visitor, addressing the reasons for refusal, rather than applying for administrative review.

#### 2) Persons given notice of liability for removal

If you are liable for removal from the UK you will be given notice that you are expected to depart from the United Kingdom. If you submit further applications for leave to remain at this point, you are not able to have refusal of those applications administratively reviewed.

#### 3) Persons whose leave is cancelled

There is no right of appeal or administrative review against the decision to cancel a person's leave to remain or enter once they are already in the UK.

### **The procedure for requesting an administrative review**

The Immigration Rules describe the procedure to make a valid application for administrative review. The Home Office must give written notice that a decision has been made which is eligible for administrative review, along with a statement of reasons for the decision, and information on how to apply for an administrative review.

An application for administrative review must be made in accordance with the requirements set out in the Immigration Rules. If it is not, it will be invalid and will not be considered. Where a person is not detained, the deadline for making a request for administrative review is no more than 14 calendar days (seven days for a person in detention) after receipt of the notice of the eligible decision. A fee of £80 must be paid. If the outcome of the administrative review is that the decision on the original application is withdrawn and leave is granted, the Home Office will refund the fee. The fee will also be refunded if the administrative review application is rejected as invalid.