

Guidance on applications for a review of a refusal of funding in Immigration CLR matters:

Following discussions with representative bodies and stakeholder groups, the LSC is seeking to ensure that providers and clients are clear as to the process for requesting a review of a legal representative's decision to refuse funding for an appeal before the Asylum and Immigration Tribunal (AIT) either on their asylum/immigration application or in relation to bail. Given the speed of the application process and the limited time to appeal any negative decision to the AIT, it is vital that client's are informed of any refusal of funding and are able to seek a review of that decision as quickly as possible.

To clarify the process, we have put together some questions and answers for providers and clients:

What responsibilities does the provider have?

Under 11.141 to 11.151 of the Unified Contract Immigration Specification, LSC providers have a contractual responsibility to:

- Inform the client of their right of review and the process for exercising it,
- Provide a completed CW4 form detailing their reasons for refusing/withdrawing funding,
- Retain a copy of the CW4 on file

When can clients apply for review of a refusal of CLR?

All providers have devolved powers to grant, refuse or withdraw CLR. If a provider assesses the merits as poor then they must in all circumstances inform the client of their right of review to an Independent Funding Adjudicator (IFA) and if requested assist the client in making such a review. The key requirements here are set out under Para 29.23 of the Funding Code Guidance for Immigration which can be located at the following address http://www.legalservices.gov.uk/docs/cls_main/Funding_code_Chp29_Immigration.pdf.

Clients can submit an application for review within a reasonable timescale of either:

- Their legal adviser refusing to grant CLR following a negative decision from the Home Office or;
- Their legal adviser withdrawing CLR funding whilst an appeal to the AIT is ongoing
- Their legal adviser refusing/withdrawing funding in relation to a bail hearing

Who should the client submit the review to?

All reviews should be sent to:

National Immigration and Asylum Team (NIAT)
12th Floor
Exchange Tower
2 Harbour Exchange Square
London
E14 9GE

Who undertakes the review?

An Independent Funding Adjudicator (IFA) will undertake the review; these are either solicitors or barristers with experience of immigration and asylum appeals. They will review the papers provide and recommend whether funding should be granted or not.

What documents should be sent with the review?

The provider should note the reasons for refusal or withdrawal of CLR on file and the CW4 form. The CW4 form should then be provided to the client along with a copy of all relevant documents, including:

- Home Office Decision
- Statement or Statement of Evidence Form
- Any other relevant information such as a copy of the substantive interview record

What happens once NIAT receive the review application?

Once an application is received by NIAT it will be reviewed internally to ensure the relevant documentation is provided and the right of appeal is valid. If the application is complete, it will be listed before the next available IFA sitting.

If all necessary information, to allow an adjudicator to make an assessment of the case, is not received NIAT will write to client / provider in order to obtain this. This clearly will delay any decision on the application. NIAT have agreed to hold applications, where further information is required, for a period of 2 weeks (14 days) by which time if nothing is received the application will be returned. It is therefore very important that the client is made fully aware of the documentation they are being provided with, at the conclusion of the case, and advised of what should be sent to the LSC when submitting a CW4 application.

An IFA considers funding reviews regularly. The IFA will consider the matter on the papers only.

Once NIAT has received the IFA's decision, both the client and supplier will be notified in writing giving the reasons for the adjudicator's decision. Providers and clients are also able to contact NIAT through the referral line to check on the status of an application at any stage of the process.

What if the request for a review is urgent?

NIAT are able to consider reviews urgently, for example, in Fast Track cases or in situations when there is an impending hearing. In these situations suppliers should fax a copy of the CW4 to NIAT and then call the enquiry line to notify us of the urgency. We aim to get a decision on these cases within 24hours.

Contact Information

NIAT Referral Line: 020 7718 8091

Email: IFAresults@legalservices.gov.uk

What happens if the review recommends that CLR be granted?

In this scenario the applicant will be sent a letter confirming the grant of CLR; this letter will demonstrate that the merits assessment has been met and set out the reasons for this.

Providing the client is still financially eligible, the letter will provide authority for a legal representative to grant CLR.

NIAT will aim to send out the decision to the applicant within 24 hours of receipt of the same from the IFA.

Where the IFA recommends that CLR be refused, upholding the decision of the provider, this decision and the reasons for it are also communicated to the client.

Can the AIT query the status of an application for review?

Yes. NIAT have provided the AIT with contact details should they request an update on the status and outcome of a client's application for review. This may be particularly useful where a hearing date is imminent.