

5. Template Letter for Department for Work and Pensions Benefits Challenge



The Department for Work and Pensions has been known to terminate survivors' access to benefits at the end of the three month period of their temporary leave to remain (DDVC) despite the survivor having submitted an 'in-time' application to the Home Office for Indefinite Leave to Remain (ILR) under the Domestic Violence Rule.

This is not lawful given that, under section 3C of the Immigration Act 1971, as long as the application for ILR was submitted before the expiry of the temporary leave to remain (i.e. the DDVC period), this leave to remain is automatically extended until the Home Office makes a decision on the ILR application.

In such cases, it can help to send the DWP a letter explaining what Section 3C leave is, and what the survivor's rights are.

The Children's Legal Centre have developed a template letter for this purposes (see below) which can also be downloaded from their website here: [Template Letter Section 3C](#).

Note that, for those with temporary leave to remain under the DDVC, an "in time" application means an application for ILR that was made within the 3-month period of the DDVC.

TEMPLATE LETTER

Your address – in full

The name and address of the organisation asking for information about your immigration status

DATE

Dear Sir/Madam,

Your name, date of birth and nationality

Name, date of birth and nationality of each dependant (this is normally any family members included in your application)

I made an application for further leave to remain in the UK, on the basis of **insert**

the reason you were asking for permission to stay in the UK, e.g. my private and family life. I previously held leave to remain on this basis, with permission to **list the conditions on your last grant of leave, e.g. work, study and access public funds in the UK. This should be clearly written on the decision letter from your last grant of leave.**

My application to extend my leave to remain in the UK was submitted on **DATE**, before my previous grant of leave expired (on **DATE**).

Section 3C of the Immigration Act 1971 allows a person who has submitted an in-time application to extend their stay in the UK. They will not become an overstayer while their application remains outstanding and the conditions which applied during their previous grant of leave continue.

As I submitted my application when I had leave to remain, my leave is automatically extended with the same conditions. This means that I am still permitted to **list the conditions on your last grant of leave, e.g. work, study and access public funds in the UK. This should be clearly written on the decision letter from your last grant of leave.**

Employers can ask the Home Office to check an employee's or potential employee's immigration status using the Employer Checking Service:

<https://www.gov.uk/employee-immigration-employment-status>.

I have not yet received a decision in **my case/my family's case**. I understand that the Home Office service standard for making decisions on this type of application is six months.

If it has been more than six months since you submitted your application, please see the template letter on chasing the status of your immigration application, then include the following two sentences: I contacted the Home Office to ask about the status of my application on **DATE** and I am awaiting a response.

In spite of this Home Office delay, I have an ongoing right of residence in the UK, including the right to **list the conditions on your last grant of leave, e.g. work, study and access public funds. This should be clearly written on the decision letter from your last grant of leave.**

Yours faithfully,

Your signature

Your name