



Home Office

Exclusion from the UK

Version 2.0

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About this guidance

This guidance tells you about the exclusion from the UK of foreign nationals by a personal decision by the Home Secretary or Minister of State acting on behalf of the Home Secretary.

Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you, or you think that the guidance has factual errors, then email Migrant Criminality Policy team.

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email the Guidance Rules and Forms team.

Publication

Below is information on when this version of the guidance was published:

- version **2.0**
- published for Home Office staff on **11 September 2018**

Changes from last version of this guidance

Amendments to the [Consideration](#) section to clarify how evidence is to be used to support a recommendation to exclude an individual from the UK. The amendments follow the SIAC judgment of 3 August 2018 in the case of [Farooq & Sharif \[SN/7/2014 & SN/8/2014\]](#), in which findings were made on how guidance on exclusions from the UK is to be applied. Those findings do not accord with how the Home Office intended such guidance to be understood, and so amendments have now been made to this guidance to clarify the position.

Amendments to reflect agreement that the Security Minister, exercising the Royal Prerogative on behalf of the Home Secretary, can take decisions to exclude in certain types of case.

Related content

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Introduction to exclusion

This page tells you what an exclusion is.

Exclusion is used to prohibit non-European Economic Area (non-EEA) nationals from entering the UK if their presence would not be conducive to the public good. In the case of European Economic Area (EEA) nationals and their non-EEA family members, exclusion is used to prevent entry where justified on grounds of public policy or public security.

This is done by way of an exclusion decision in relation to non-EEA nationals, or by way of an exclusion order in relation to EEA nationals or their non-EEA family members.

An exclusion decision or order should only be made against a person who is believed to be outside the UK. If the person is in the UK, deportation will normally be the appropriate course of action.

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Authority to Carry Scheme 2015

The following persons are within the scope of the [Authority to Carry Scheme 2015](#) meaning that a carrier may be refused authority to carry them to the UK:

- non-EEA nationals who have been excluded from the UK by the Secretary of State, or in relation to whom the Secretary of State is in the process of making an exclusion decision
- EEA nationals or their non-EEA national family members who are, or in relation to whom the Secretary of State is in the process of making, the subject of an exclusion order under the Immigration (European Economic Area) Regulations 2016

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Exclusion remains in force unless and until the person is successful in an application to have the exclusion decision lifted or the order revoked.

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Exclusion of non-European Economic Area (non-EEA) nationals

This section tells you about the use of exclusion against non-EEA nationals. This does not apply to non-EEA nationals who are the family members of European Economic Area (EEA) nationals exercising Treaty rights in the UK. These individuals fall for consideration under the [Immigration \(European Economic Area\) Regulations 2016](#) (the EEA Regulations 2016 as amended). See the section on [exclusion decisions in EEA cases](#) for further information.

The power to make an exclusion decision is a broad, non-statutory one that can only be exercised personally by the Secretary of State, normally the Home Secretary or Minister of State on the Home Secretary's behalf. An exclusion decision is taken on the basis that the person's exclusion from the UK is conducive to the public good. For further information see [Grounds for exclusion](#).

In most foreign national offender cases deportation will be the normal route for those the Home Office want to remove from the UK, but there may be cases where the person leaves the UK before deportation action can be completed. If we are aware, or reasonably believe, that the person is no longer in the UK, consideration may be given to exclusion. If deportation action was pursued in the belief that the person was in the UK, as the person had not informed us otherwise, it may still be appropriate to rely on the deportation order obtained rather than pursue exclusion.

The High Court found in the case of [Decker v SSHD \[2014\] EWHC 354 \(Admin\)](#) that a deportation order was not invalid simply because the claimant was outside the UK on the day it was signed.

Refusal of entry clearance or leave to enter

A person who is subject to an exclusion decision faces a mandatory refusal of an entry clearance or leave to enter the UK in line with [paragraph 320\(6\) of the Immigration Rules](#), on the grounds that the Secretary of State (or Minister of State acting on behalf of the Home Secretary) has personally directed that the person's exclusion from the UK is conducive to the public good. This remains the case as long as the exclusion is still in force.

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Exclusion of European Economic Area (EEA) nationals and their non-European Economic Area (non-EEA) family members

This page tells you about the exclusion of EEA nationals and their family members who may not be EEA nationals.

This guidance should be read in conjunction with the guidance on [EEA decisions on grounds of public policy and public security](#).

[Regulation 27](#) and [Schedule 1](#) of the [Immigration \(European Economic Area\) Regulations 2016](#) (the EEA Regulations 2016) set out the principles to consider when making a decision to exclude an EEA national or their family member from the UK on grounds of public policy or public security.

Where such a decision is taken, it must be in line with the following principles:

- the decision must comply with the principle of proportionality
- the decision must be based exclusively on the personal conduct of the person concerned
- the personal conduct of the individual concerned must represent a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society, taking into account past conduct of the individual and that the threat does not need to be imminent
- matters isolated from the particulars of the case or which relate to considerations of general prevention do not justify the decision
- the individual's previous criminal convictions do not in themselves justify the decision
- the decision may be taken on preventative grounds, even in the absence of a previous criminal conviction, provided the grounds are specific to the person

In every case where a decision is made on the grounds of public policy or public security, the decision maker must consider the 6 principles set out above. Further information on the application of the 6 principles is set out in the guidance on [EEA decisions on grounds of public policy and public security](#).

Protection against restriction of Free Movement rights and removal

[Regulation 27](#) of the [EEA Regulations 2016](#) provides additional protection in relation to decisions to exclude an EEA national or their family members, including higher thresholds for the removal of certain EEA nationals and their family members based on their length of residence in the UK. A different threshold applies where the

decision relates to a person who has a permanent right of residence or, in relation to an EEA national only, who has resided in the UK for a period of at least 10 years or who is a child.

Individuals with a permanent right of residence

Where an EEA national or their family member has established a permanent right of residence, a decision to exclude the person from the UK is only permitted on serious grounds of public policy or public security.

'Serious grounds' are not defined in the EEA Regulations 2016. To justify a decision on 'serious grounds', there must be stronger grounds than would be applicable for a person who does not have a permanent right of residence.

[Regulation 15](#) of the [EEA Regulations 2016](#) sets out the circumstances when an EEA national or their family member can acquire a permanent right of residence in the UK. For more information see guidance on the right to permanent residence.

EEA nationals with 10 years' residence in the UK and EEA children

Under [regulation 27\(4\)](#) of the EEA Regulations 2016, a decision to exclude the person from the UK, is only permitted on imperative grounds of public security, where an EEA national either:

- has resided in the UK for a continuous period of at least 10 years prior to the decision
- is under the age of 18, unless the relevant decision is in the best interests of the person concerned, as provided for by the UN Convention on the Rights of a Child

'Imperative grounds' are not defined in the EEA Regulations 2016. They must be interpreted more widely than threats to the state or its institutions, and can, for example, include serious criminality, such as drug dealing as part of an organised group (see [Tsakouridis \(European citizenship\) \[2010\] EU ECJ C-145/09](#)).

Fundamental interests of society

[Schedule 1](#) of the [EEA Regulations 2016](#) provides a non-exhaustive list of the fundamental interests of society in the UK, and provides examples of the types of behaviour that are contrary to those interests.

When making a decision about whether to exclude an EEA national or their non-EEA family member, consideration must be given to the fundamental interests of society to determine whether exclusion is appropriate on the grounds of public policy or public security. You should list all the relevant fundamental interests which apply when making an exclusion decision under the EEA Regulations 2016.

Further information about the fundamental interests of society including a list of the types of behaviour considered contrary to each fundamental interest of society can be found in the guidance on [EEA decisions on grounds of public policy and public security](#).

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Grounds for exclusion

This page tells you about the types of cases where the use of exclusion is appropriate.

Exclusion of a person from the UK is normally used in circumstances involving national security, criminality, international crimes (war crimes, crimes against humanity or genocide), corruption and unacceptable behaviour.

National security

National security threats will often be linked to terrorism. Terrorist activities are any act committed, or the threat of action designed to influence a government or intimidate the public, and made for the purposes of advancing a political, religious or ideological cause and that:

- involves serious violence against a person
- may endanger another person's life
- creates a serious risk to the health or safety of the public
- involves serious damage to property
- is designed to seriously disrupt or interfere with an electronic system

Criminality

Where appropriate non-European Economic Area (non-EEA) nationals with past or present involvement in criminality, will normally be refused entry to the UK in line with [Part 9 of the Immigration Rules](#).

In the case of European Economic Area (EEA) nationals or their non-EEA national family members, refusal of admission will be in line with the [EEA Regulations 2016](#).

Exclusion will not usually be necessary, unless the level of criminality, or the threat posed by the person is so serious that it warrants exclusion. For example, if a notorious or dangerous criminal is a non visa national, their ability to travel to the UK in the first place may be better prevented by exclusion. Exclusion may also be an option where a foreign national offender has left the UK before it has been possible to conclude the deportation process, preventing a deportation order from being made. This may be due for example to the person having left the UK voluntarily, or in some cases having been extradited either ahead of or early in the deportation process. In such cases the reason for having sought to deport the person should be considered as a basis for exclusion.

For advice on the deportation criteria see [deporting non-EEA foreign nationals and EEA decisions taken on grounds of public policy](#).

International crimes

War crimes are grave breaches of the Geneva Conventions committed during an armed conflict. This includes an internal armed conflict within a State and an international armed conflict between States.

The types of acts that may constitute a war crime include:

- wilful killing
- torture
- extensive destruction of property not justified by military necessity
- unlawful deportation
- the intentional targeting of civilians
- the taking of hostages

Crimes against humanity are acts committed at any time (not just during armed conflict) as part of a widespread or systematic attack, directed against any civilian population, with knowledge of the attack. This includes:

- murder
- torture
- rape
- severe deprivation of liberty in violation of fundamental rules of international law
- enforced disappearance of persons

Genocide means acts committed with intent to destroy, in whole or in part, a national, ethnic, racial or religious group.

This list is not exhaustive. The full definitions of war crimes, crimes against humanity and genocide can be found in [Schedule 8](#) of the International Criminal Court Act 2001.

Corruption

There is no single accepted definition of corruption. A number of organisations including Transparency International define it as ‘the abuse of entrusted power for private gain’.

The types of activities associated with corruption include, but are not limited to the following:

- tax evasion
- money laundering
- bribery and accepting kickbacks (part of an income paid to a person in return for an opportunity to make a profit, often by some illegal arrangement)
- extortion
- asset stealing
- fraud
- match fixing in sport

A person does not need to have been convicted of a corruption related offence in order to be excluded. Where there is substantive, reliable information that a person has been involved in corruption this should be taken into account.

Extremism

In October 2015 the Government published its [Counter-Extremism Strategy](#), which contains a commitment to make it more explicit that the criteria for exclusion on the grounds of unacceptable behaviour include past or current extremist activity, either here or overseas. A person who has engaged in unacceptable behaviour in the past may still be considered for exclusion unless it is clear that they have publicly retracted their views and it is clear that they have not re-engaged in such behaviour.

Unacceptable behaviour

Unacceptable behaviour covers any non-UK national whether in the UK or abroad who uses any means or medium including:

- writing, producing, publishing or distributing material
- public speaking including preaching
- running a website
- using a position of responsibility such as a teacher, community or youth leader

to express views which:

- foment (provoke), justify or glorify terrorist violence in furtherance of particular beliefs
- seek to provoke others to terrorist acts
- foment other serious criminal activity or seek to provoke others to serious criminal acts
- foster hatred which might lead to inter-community violence in the UK

The list of unacceptable behaviours is indicative rather than exhaustive.

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Consideration of exclusion

This page tells you what you need to do when considering exclusion of an individual using the Home Secretary's prerogative power or [the Immigration \(European Economic Area\) Regulations 2016](#) (the EEA Regulations 2016).

Overview

A decision to exclude an individual from the UK must be made on the facts of the particular case. The decision to exclude is exercised by the Home Secretary (or Minister of State acting on behalf of the Home Secretary) following a recommendation which must set out why the use of the exclusion power is appropriate. Although the power to exclude is a broad one, it should not be used routinely.

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Assessing cases

A recommendation to exclude an individual from the UK must be based on reliable evidence. This could include where the recommendation is to exclude the person on the basis of criminality in the UK or overseas that has been confirmed through criminal record checks. In other cases, the evidence may not be so straightforward and a greater degree of scrutiny and assessment may be required.

You must give appropriate weight to evidence when deciding whether to recommend exclusion; for example, rumours or uncorroborated tip-offs by members of the public are likely to carry less weight than an assessment provided by a professional body or evidence supplied by another government department. However, where evidence has already been assessed by law enforcement agencies or similar organisations, it will usually be reasonable to rely on that assessment without undertaking your own consideration of the reliability of the underlying evidence.

Websites can be useful sources of information but you should exercise caution when using online research. For example, they might suggest that an individual has said or
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done something which would justify exclusion but the website information in fact only repeats allegations from other websites, which are wrong.

Direct statements made by an individual, together with the context in which they are made, are particularly helpful in unacceptable behaviour cases, for example those promoting extremism. However, they will not always be required to support a recommendation to exclude an individual, particularly where the recommendation is based on other evidence that has been provided by law enforcement agencies or similar organisations. The assessment should include the impact and degree of harm that the individual's statements or actions have or would have upon the UK, communities within the UK or upon UK interests overseas both if the individual is permitted to enter the UK and if they are excluded.

An exclusion decision must be reasonable, consistent with decisions taken in similar circumstances, and proportionate. There must also be a rational connection between exclusion of the individual and the legitimate aim being pursued, for example safeguarding public security or tackling serious crime.

If, having consulted with any relevant stakeholders and senior caseworkers, you intend to submit to the Home Secretary or Minister of State with a recommendation on exclusion, you must make sure that your submission clearly sets out the options, with the evidence to support your conclusions and recommendation.

Any decision to exclude a European Economic Area (EEA) national or their family member must comply with the EEA Regulations 2016.

If, in the event of the Home Secretary or Minister of State deciding to exclude the person, it is proposed to [remove any existing immigration status](#), you must make this clear in the submission. If the person has existing immigration status in the UK it will be particularly important to address any human rights considerations that may arise.

Advice on human rights is available in the following guidance:

- Considering Human Rights
- Article 8
- Human rights claims on medical grounds

Once advice has been prepared and submitted to the Home Secretary or Minister of State, the individual is within the scope of the [Authority to Carry Scheme 2015](#) as the Home Secretary or Minister of State is 'in the process' of making an exclusion decision.

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Removal of existing status in the UK

This page tells you what you need to do and where to find information if a person has existing status in the UK but is being considered for exclusion.

Cancellation of leave

An exclusion decision does not invalidate any leave that the person may have. If, for any reason, a person who is to be excluded holds leave to enter or remain in the UK that has not lapsed, the leave must be cancelled on conducive grounds, using the relevant provisions in the Immigration Rules.

Leave that is in force, including indefinite leave to enter or remain, may be cancelled by virtue of the [Immigration \(Leave to Enter and Remain\) Order 2000](#) (2000 Order) while the holder of the leave is outside the UK. Leave to enter can be cancelled by a Border Force officer and leave to remain can be cancelled by the Secretary of State in reliance on paragraph 321A(4) of [part 9 of the Immigration Rules](#).

A notice of the decision to cancel leave must be served in line with [article 8ZA of the 2000 Order](#), as amended by the [Immigration \(Leave to Enter and Remain\) \(Amendment\) Order 2013](#). If the person is able to return to the UK before service of a notice of cancellation of leave has taken effect they will still have leave. If that person is stopped on arrival at the border, a Border Force officer has the power under paragraph 2A(3) of schedule 2 to the [Immigration Act 1971](#) to examine the person to decide whether it would be conducive to the public good to cancel their leave, with paragraph 2A(8) providing the power to cancel continuing leave. Paragraph 321A(4) of the Immigration Rules provides the grounds for cancelling leave, notably “where the Secretary of State has personally directed that the exclusion of that person from the UK is conducive to the public good”.

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Revocation of entry clearance

If the person holds a valid entry clearance, unless it is revoked by an entry clearance officer, it will remain extant even if any leave it confers has been cancelled. For this reason, provided the entry clearance has not yet been activated, or there is no leave, you must also seek to have the entry clearance revoked by an entry clearance officer on conducive grounds under [paragraph 30A\(iii\) of the Immigration Rules](#).

Revocation of refugee status

If a person who is being considered for exclusion is a recognised refugee in the UK you will need to consider whether there are grounds to revoke refugee status. The process of revoking refugee status can be started whilst the refugee is outside the UK. For information on when revocation might be appropriate and what you need to do, see [revocation of refugee status guidance](#).

Revocation of European Economic Area (EEA) residence documents

If a person who is being considered for exclusion holds a valid registration certificate, residence card, document certifying permanent residence or permanent residence card, the document must be revoked on grounds of public policy or public security in line with the decision to make an exclusion order.

Where the holder is in the UK, a decision to revoke any of these documents allows the person to appeal in the UK (in-country). In exclusion order cases the person must be outside the UK when the decision to revoke is taken and therefore any appeal will be out of country.

Deprivation of citizenship

While it is not possible to exclude a British citizen from the UK, it may be possible in certain circumstances to deprive a person of their British citizenship under [section 40 of the British Nationality Act 1981](#). If a person has been deprived of British citizenship, this would allow consideration of exclusion.

You must seek advice about the potential eligibility of a particular case for deprivation action before any detailed consideration is given to exclusion.

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For further information on deprivation of citizenship see [chapter 55 of the nationality instructions](#).

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Appeal rights in exclusion cases

This page tells you about appeal rights and legal challenges in non-European Economic Area (non-EEA) exclusion cases and in relation to exclusion orders made under the Immigration (European Economic Area) Regulations 2016 (the EEA Regulations 2016).

Exclusion decision: non-EEA cases

There is no right of appeal against an exclusion decision, although the decision may be challenged by way of judicial review. Where the Home Secretary (or Minister of State acting on behalf of the Home Secretary) considers that the information relied upon either wholly or partly to make the exclusion decision should not be made public for any of the reasons below, the decision may be certified under section 2C of the Special Immigration Appeals Commission (SIAC) Act 1997:

- in the interests of national security
- in the interests of the relationship between the UK and another country
- otherwise in the public interest,

Certification under section 2C provides for the judicial review to be heard in SIAC.

If a decision is made to revoke protection status in the UK (leave granted as a refugee or a grant of humanitarian protection) at the same time an exclusion decision is made, the revocation of protection status will attract a right of appeal that must be brought from outside the UK.

An excluded person may apply for entry clearance or for leave to enter while they are outside the UK. Refusal of a human rights claim, including where raised as part of certain applications made under the Immigration Rules, attracts a right of appeal from outside the UK. Deprivation of citizenship, if applicable, also attracts a right of appeal.

Exclusion orders: European Economic Area (EEA) cases

A person has a right of appeal against a decision to make an exclusion order against them (regulation 36 of the EEA Regulations 2016) but that right of appeal can only be exercised outside of the UK (regulation 37(c)).

Revocation

A person can also make a request to the Home Office to have the exclusion decision made against them [revoked](#).

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Rights of appeal

Judicial review guidance

Exemption from control

This page tells you about the effect of exemption from control on exclusion decisions taken against members of a foreign government.

Under provisions in section 8 of the [Immigration Act 1971](#) and in the [Immigration \(Exemption from Control\) Order 1972](#), certain categories of person who do not have a right of abode in the UK, are either totally or partially exempt from immigration control.

Among the partially exempt categories are members of the government of a country or territory outside the UK and Islands (Channel Islands and Isle of Man) who are visiting the UK on government business. Such a person does not require leave to enter the UK. There is however provision in article 4(a) of the Immigration (Exemption from Control) Order 1972 for the Secretary of State to specifically direct in such a case that the person is not to be exempt from immigration control. This is important for exclusion cases, as on its own an exclusion decision taken by the Home Secretary (or Minister of State acting on the Home Secretary's behalf) would have no legal effect to prevent the person's entry to the UK, should they travel here on government business. A separate direction must be given against exemption from control.

When submitting a recommendation to exclude a member of a foreign government, you must include a recommendation that the Home Secretary or Minister of State directs that the person is not to be exempt from the provisions of the Immigration Act 1971. This will allow for the possibility that the person attempts to travel to the UK on government business.

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Notification of exclusion decision or exclusion order

This page tells you about notifying a person they have been excluded from the UK.

Where possible a person who has been excluded from the UK should normally be notified in writing of the decision and given reasons for their exclusion from the UK.

If a decision has been taken to cancel or curtail leave, to revoke the person's protection status or deprive them of British citizenship, the person must also be notified of that decision, together with details of appeal rights arising from any revocation of protection status or deprivation of citizenship.

If an exclusion order has been made under the Immigration (European Economic Area) Regulations 2016 (the EEA Regulations 2016), an individual should be notified of the exclusion order where possible, as well as any deadlines for appeal.

If it is not possible to notify a person of their exclusion, or other decisions taken, because for example the individual's whereabouts are unknown, or a notice sent to the person's last known address is returned as 'gone away' or 'not known at this address', the notice should be served to file and the file minuted accordingly. If the person is subsequently located they must be given a copy of the notice as soon as it is practical to do so.

If a person has a [right of appeal](#) against a decision, they must be notified. For further information see means and date of service.

Where a decision is taken to [cancel or vary leave to enter or remain](#), the person must be notified in accordance with [article 8ZA of the Immigration \(Leave to Enter and Remain\) Order 2000](#).

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Entry in breach of an exclusion decision

This page tells you what to do if a person enters or seeks to enter the UK in breach of an exclusion decision.

Under [paragraph 320\(6\) of the Immigration Rules](#), if the Secretary of State has personally directed that a person's exclusion from the UK is conducive to the public good, that individual must be refused entry clearance or leave to enter the UK.

Under the Immigration (European Economic Area) Regulations 2016 (the EEA Regulations 2016) a European Economic Area (EEA) national or their family member who arrives in the UK while subject to an extant exclusion order must be refused admission or removed as an illegal entrant.

If, despite measures to prevent an excluded person travelling here, including refusing a carrier authority to carry, the person is encountered at the border or in-country, further enquiries must be made to establish how they entered the UK. This will help determine if the person is to be considered and removed as an illegal entrant. For example:

- what route did the person use
- what was the mode of travel
- which part of the UK border, including consideration of the Common Travel Area, did the person cross
- did the person travel clandestinely
- if UK entry clearance was obtained, was deception employed
- had a false identity been adopted
- were false or forged documents used

It will also be relevant to know whether the person was successfully notified of the exclusion decision or exclusion order. If, despite being notified of their exclusion, an excluded person has entered the UK, they will have done so in the knowledge that they are prohibited from entering the UK and potentially will have failed to declare a material fact to the entry clearance officer or Border Force officer.

If, on arrival, the person is found to be in possession of an entry clearance that confers leave to enter, the leave must be cancelled by the Border Force officer. See [cancellation of leave](#).

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Related external links

Border Force operating mandate

Revocation of an exclusion decision or an exclusion order

This page tells you about applications to revoke an exclusion decision or an exclusion order.

An exclusion decision remains in force until revoked.

Non-European Economic Area (Non-EEA) nationals

Applications for revocation will normally be refused unless:

- this would be in breach of the Human Rights Convention or the Convention and Protocol Relating to the Status of Refugees
- the situation has changed significantly and materially since the exclusion decision was made

Where an excluded person applies to have the exclusion decision or exclusion order revoked, they will need to explain why the decision should be revoked, providing any available supporting evidence. For example, if the person was excluded for engaging in unacceptable behaviour, they should be able to show genuine and credible evidence that they have publicly renounced the behaviour that led to their exclusion.

There is no formal process for applying for the revocation of an exclusion decision. The excluded person or their representative can make a written request to the Home Office or an overseas entry clearance post.

If a person was excluded from the UK on the basis of a conviction, the fact that the conviction has become 'spent' or completed when they apply for revocation is not by itself enough to justify revoking the exclusion decision.

European Economic Area (EEA) nationals or their family members

An exclusion order remains in force until revoked ([regulation 34\(1\)](#) of the EEA Regulations 2016).

An individual may apply to the Secretary of State for revocation of the exclusion order on the basis that there has been a material change of circumstances ([regulation 34\(3\)](#)). There is no formal process for revocation of an exclusion order, but any application must be made in writing from outside of the UK, and must set out the material change in circumstances relied on.

Upon receipt of an application for revocation the Secretary of State must make a decision within 6 months after the date of receipt ([regulation 34\(6\)](#) of the EEA Regulations 2016).

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Refuse to revoke

Where you decide to maintain exclusion, having considered and where appropriate consulted on an application for revocation, you must provide clear reasons, responding to the points the applicant has raised. You must minute the case and your response must be approved by your senior caseworker.

When you notify the person of the outcome of their application you must also notify them of any appeal rights they may have. For further information see the rights of appeal guidance.

Agree to revoke

Where you consider that the exclusion should be revoked you must submit your recommendation to the Home Secretary, clearly setting out the reasons why you consider revocation to be justified, including advice or views from any other interested parties.

If the Home Secretary (or Minister of State) agrees to lift the exclusion you must notify the individual or their representative of the decision. If the application for revocation was made at an overseas post the decision must be sent to the entry clearance officer (ECO) who should notify the person concerned.

You must explain in your notification letter the revocation decision and warn that this does not mean that the individual has a right to come to the UK, nor does it

guarantee the success of any application for a visa. The requirements of the Immigration Rules must still be met.

You must place copies of all letters sent on the Home Office file and update CID.

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Former non-EEA nationals

It is possible that an exclusion decision will have been made against an individual who now falls to be considered under the Immigration (European Economic Area) Regulations 2016 (the EEA Regulations 2016). This could happen if, for example, the non-EEA national becomes the family member of an EEA national who is exercising a Treaty right in the UK, and intends to accompany or join the EEA national in the UK. It could also arise if, since the person was made subject to an exclusion decision, the country of which they are a national joined the European Union (EU).

If the person applies for revocation you must consider whether the reasons for the original exclusion decision would justify the Home Secretary (or Minister of State acting on behalf of the Home Secretary) making an exclusion order under the EEA Regulations 2016. If they do, the case must be re-considered in accordance with the EEA Regulations 2016 and a submission sent to ministers explaining the recommendation to make an exclusion order against the person.

If the case for maintaining exclusion cannot be justified under the EEA Regulations 2016, the exclusion decision will need to be revoked. You must still submit to ministers to seek agreement for revocation.

The person must be notified of the outcome, whether that is to revoke the exclusion decision or to make an exclusion order. If an exclusion order is made it will attract a right of appeal under the EEA Regulations 2016 ([regulation 37](#)).

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