



Home Office

# Evidential flexibility

Version 11.0

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# About this guidance

This guidance tells you how to apply the evidential flexibility policy for applications made under all routes except Appendix FM and protection routes. It replaces all previous instructions and guidance on evidential flexibility on those routes and corrects an error in version 10 stating this guidance did not apply to applications under part 7 of the Immigration Rules.

## 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 the Administrative 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 email the Guidance Rules and Forms team.

## Publication

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

- version **11.0**
- published for Home Office staff on **15 January 2021**

## Changes from last version of this guidance

Changes made to reflect the Immigration Rules made in October 2020.

### Related content

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# Which applications does this guidance apply to?

This guidance applies to all applications except:

- applications under Appendix FM of the Immigration Rules- evidential flexibility guidance for these applications can be found at the following link: Family life (as a partner or parent), private life and exceptional circumstances
- protection applications under Part 11 of the Immigration Rules- guidance on how to consider evidence can be found at the following link: Assessing credibility and refugee status

This guidance also does not apply where it is suspected that false information or false documents have been provided or the applicant has failed to disclose material facts. The Suitability: false representations, deception, false documents, non disclosure of relevant facts guidance should instead be followed in these cases.

## **Related content**

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# When to apply evidential flexibility

The requirements for each route, including how to prove the requirement is met, is set out in the Immigration Rules and accompanying guidance. The 'document checklist' shared with an applicant when they complete an online application also sets out what evidence they should submit in support of their application. Applicants should provide all information and evidence on which they rely to support their application as part of the application process.

The burden of proof is on the applicant to show that they meet the eligibility requirements of the Rules. The standard of proof is the balance of probabilities (i.e. it is more likely than not that a requirement is met). When applying the suitability requirements the burden of proof sometimes shifts to the Home Office: see suitability guidance for more information.

When you are considering the application, if it appears that the applicant has made an error with, or omitted, supporting evidence, or further information or verification of evidence is needed to make a decision, you should normally provide an opportunity for the additional information to be provided. For example, you should consider contacting the applicant:

- if evidence is missing that you believe the applicant has, or could obtain
- if evidence is inadequate but could be further clarified – for example, if an employer's letter has been provided but it is missing relevant information, for example, it does not confirm the applicant's gross annual salary

You may decide to ask for further information from the applicant, the sponsor, or the awarding body or other organisation to which the information relates. You may also decide to make verification checks of the evidence provided if you think that would help you assess whether the applicant meets the requirements of the route under which they are applying. If you are not sure whether the additional information or verification checks would help, please discuss this with your senior case worker or an appropriate manager.

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## **Official – sensitive: end of section**

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You must not refuse an application because the applicant has not provided a specific document if the applicant was not asked to provide that specific document. If it is necessary for you to see the specific document in order to decide whether the requirements of the Rules are met, you must first give the applicant the opportunity to provide that document.

You do not need to contact the applicant if evidence is missing or inadequate if you can find the relevant information elsewhere. For example, information may be accessible to you on the case work systems, such as from the Confirmation for Acceptance of Studies (CAS) or from a previous application. You are not required to review all documents held on a person just in case the information could be found there.

You do not need to contact the applicant, or third party (e.g. the sponsor for the applicant's job or the student sponsor), if evidence is missing or inadequate if receiving it would make no difference to your decision, for example, because the application would still be refused on other grounds, for example not meeting another eligibility requirement or on suitability grounds. Suitability: false representations, deception, false documents, non disclosure of relevant facts.

If evidence is missing or inadequate, you do not have to offer the applicant an opportunity to prove they meet the requirement in a different way. You do not have to contact them to see if they want to rely on other evidence to show they meet the requirements.

For example:

- if the applicant says they are relying on a student loan, but the evidence is not sufficient to show the requirement is met, you do not need to check whether the applicant meets the requirement some other way such as asking for bank statement
- if the applicant provides bank statements and they do not show the required level of funds or the evidence is not sufficient to satisfy you, there is no need to check whether the applicant has another bank account that might meet the requirement

## **Format of evidence**

The rules do not now generally set out specific format requirements for most documents. This does not mean that format is irrelevant. It will help you assess if a piece of evidence is genuine and if it provides the information you need to be satisfied the requirement is met. You must not refuse an application because the evidence is not in a particular format.

If evidence, such as a qualification, transcript or letter, does not include the information you would normally expect you should consider whether to take further action to verify it or request further information.

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# Process if evidential flexibility has not been applied

If you decide that you do not need to give an opportunity to provide further information you must accurately and fully record on the caseworking system:

- what evidence or information is missing or inadequate
- why you decided not to give the applicant an opportunity to provide further information

You must explain in the decision notice why no request for further information has been made. Suggested wording for your decision notice can be found in the [deciding the case](#) section of this guidance.

## **Related content**

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# Process of applying evidential flexibility in entry clearance applications

This section tells you about the process of requesting additional information in entry clearance cases.

## Process to request information

To request additional information, you must contact either the applicant or representative or sponsor or other third party by email or telephone, using the email address or telephone numbers provided on the application form or Certificate of Sponsorship or Confirmation for Acceptance of Studies or other relevant document. If you contact them by email you must use the [standard email template](#). If you contact them by telephone you should note this on the relevant caseworking system case notes. If you need to contact the applicant by email to request sensitive personal information you must follow the process outlined below, under In-country applications.

When requesting information under evidential flexibility you must ask the applicant to provide the requested information within 10 working days. If any additional information is received after this date but before you make your decision you should take it into account when deciding the case.

If you do not receive any additional information by the 10 day deadline, and no extension has been agreed, you should make a decision on the basis of the available information.

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# In-country applications

This section tells you about the process of requesting additional information on an application submitted where the applicant is in the UK.

## Applications made where an applicant attends a UK Visa and Citizenship Application Services point (UKVCAS)

For applications where the applicant attends a UKVCAS service point for biometric enrolment, the commercial partner Agent will check the documents presented for scanning against the Access UK document checklist whilst the applicant is present. The Agent will tell the applicant whether all mandatory evidence has been provided. If evidence is missing, the Agent will give them the option of either returning that day with the missing evidence or using the self-load functionality to provide the missing evidence by a specific date and time. Please note that the option to return with the missing evidence is not available at enhanced sites.

If an applicant cannot provide the missing evidence that day the Agent will ask the applicant for agreement to submit the documents to UKVI without the missing evidence. If the applicant agrees the Agent will submit the documents available and complete Annex 3 to record that some evidence is missing and why.

The applicant must still be given the opportunity to provide any missing or additional evidence under evidential flexibility before a decision is made, as set out in this guidance.

If the applicant attends their biometric enrolment appointment at one of the 6 core UKVCAS service points they must upload their documents before their appointment as assisted scanning is not available at these locations. However, if an applicant has booked an appointment at a core site and wishes to pay for an added value service, then the commercial partner will check the supporting evidence against the document checklist and scan and upload this for the applicant.

All the supporting evidence provided by the applicant will be scanned and uploaded to HOPs (Home Office Storage Platform). The decision maker must consider the application, assess the evidence and if anything is missing or inadequate, contact the applicant or third party according to the process set out in this guidance. The commercial partner is not responsible for requesting missing evidence even where they have checked it as part of the added value service.

## Applications where an applicant does not attend a UKVCAS; Requesting further information by email or telephone

You can make your request for additional information using the contact details provided by the applicant on their application. This can be by email (unless the applicant has said they do not want us to contact them by email), by telephone or by post. If the applicant has a representative you must inform the applicant that the

request for additional information will also be sent to their representative by email or post. When contacting a third party (sponsor) you should use the contact details from information provided. You can contact them by email or by post according to their stated preference.

When making this request by email you must use the [standard email template](#).

If the application is not on Atlas, you must send all emails from the team mailbox, not your personal mailbox. This allows others to access any responses in your absence. You must save a copy of the email you sent in the team mailbox so colleagues can see what information you have requested.

You must note the following details on the caseworking system:

- the information requested
- any emails sent, or telephone contact, including your name, the date and the content of the email or telephone contact

Where the application is on Atlas, you should use the notification functionality in Atlas to email the applicant, using template Evidential Flexibility-Further Information request template.

If you cannot contact the applicant or their representative or the third party by email, because, for example, emails have bounced back as undelivered, you must send them by post to an address they have provided for correspondence. an ICD.5114 on DOC Gen or the Evidential Flexibility-Further Information request template on Atlas setting out the information you require and record the problem you had contacting them by email or telephone on the case working system.

## Use of email for requesting sensitive personal information

This is information that the law categorises as either special category data, or information relating to criminality.

In some cases, you may need to contact an applicant or third party to request sensitive information, for example if you are asking:

- about specific medical conditions or for certain types of medical records
- questions concerning race or ethnic origin
- about criminal convictions

In these circumstances you should contact the applicant by telephone to confirm whether they are content to use email for this purpose.

If you are not certain whether the information you are requesting is sensitive, speak to a senior caseworker or manager in the first instance. All information shared over email must be done in line with Home Office guidance on sharing information securely.

## Requesting further information by post

When contacting the applicant by post you must send them an ICD.5114 or Evidential Flexibility - Further Information request template on Atlas setting out the information you require and record any problems you had contacting them by email or telephone on the case working system. You must send the letter to an address they have provided for correspondence. When there is a representative on the caseworking system you must also copy the letter to them using the Immigration Adviser covering template IA Cover letter\_post\_only.

You must note the following details on the caseworking system:

- the information requested
- the address where the further information request was sent
- when the letter was posted if known

## After a request has been made

In country, you must normally put the case in the brought forward (BF) for 13 days from the date of the email or written request unless there are exceptional circumstances. For example, there is a postal strike which means that you should put the case in BF for longer. The additional time, on top of the 10 working days provided to send the additional information, is to allow for evidence to move from workflow to the decision-making team.

For applications made out of country you should bring up the case for further action in 10 working days in accordance with local procedures.

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# Deciding the case

The below wordings for decision letters are not an exhaustive list of possible scenarios. You must amend these paragraphs so that they accurately reflect the facts of the case that you are dealing with.

## **Option 1: evidence provided does not meet the requirements of the Immigration Rules**

In making the decision to refuse your application I considered whether to give you an opportunity to provide additional evidence on [explain what was missing]. I decided not to do so because that evidence would not change the decision because [explain why you decided it was not necessary so seek additional information].

## **Option 2: information requested, but no response received**

On (case worker to insert date), we wrote to you and/or your representatives (delete as appropriate) to request additional information [set out what was requested]. You were given until [date] to provide this information but we received no response to that request. Therefore, your application has been considered based on the information available.

## **Option 3: information requested, but provided information does not meet the requirements of the Immigration Rules**

On (case worker to insert date), we wrote to you and/or your representatives (delete as appropriate) to request additional information. On (case worker to insert date) you provided (case worker to list evidence received). This information has been considered, but for the reasons explained in this notice you do not meet the requirements of the Immigration Rules.

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# Template for making requests by email

We are considering your/your client's application for [application type] and need some further information. Please would you provide the following documents or information within 10 working days of this request:

- Insert required documents/information here as clearly as you can

If we do not receive the documents/information by this date we will make a decision on the information we already have.

We recommend that you send the requested documents/information to the email address provided, or if by post, by guaranteed next day delivery to ensure it arrives in time.

Please send your response to:

- Insert email and/or postal address here

## **For customers applying on AUK 2 using the Stand Alone Document Upload (SADU) portal only**

You need to log in to your application and upload your evidence. Your unique application number is \${UAN}. You will need the identity document you used to start your application to log in. Log in to your application and upload your evidence at <https://apply-to-visit-or-stay-in-the-uk.homeoffice.gov.uk/dashboard>

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