



Home Office

# Appendix ECAA Extension of Stay guidance

Version 1.0

This guidance is based on Appendix ECAA Extension of Stay Immigration Rules

# Contents

Contents.....	2
About this guidance.....	6
Contacts .....	6
Publication .....	6
Changes from last version of this guidance .....	6
ECAA business persons: key facts .....	7
ECAA workers-key facts.....	9
Background .....	11
Relevant Immigration Rules .....	12
Validity requirements.....	13
Applying for permission to stay in the UK as an ECAA worker or business person .....	13
Applying for permission to stay in the UK as a dependent of an ECAA worker or business person.....	13
Children applying for entry clearance to come to the UK.....	13
Pre decision casework.....	13
Biometric results .....	14
ECAA business persons - evidence to assess the applicant has met the requirements .....	15
When establishing a new or additional business .....	15
In all cases.....	15
Requests for further information .....	15
Verification .....	16
Interviewing applicants .....	16
Eligibility requirements - ECAA business persons.....	17
The applicant has permission as an ECAA business person.....	17
The applicant has established or intends to establish, take over or become a partner or director of one or more businesses in the UK .....	17
The business must be viable .....	18
The applicant genuinely intends to operate their business in the UK .....	19
The applicant provides evidence they are devoting or have devoted sufficient funds to the business.....	19
The funds or assets belong to the applicant .....	20
Evidence of bank statements showing funds to invest.....	21
Bearing the share of the liabilities the business may incur .....	22

Business must not be disguised employment.....	23
The profits of the business will be sufficient to support the applicant and any dependants without recourse to employment or public funds .....	24
Granting an extension of 3 years .....	26
Granting an extension for a further 12 months .....	26
Factors to be considered .....	26
Where a business ceases trading or suffers severely reduced profits because of COVID-19 .....	27
Eligibility requirements - joining an existing business.....	28
Written statement of the terms on which the applicant is to enter the business....	28
Business accounts for the previous years .....	28
Evidence the applicant will be actively involved in running the business .....	30
Evidence there is a genuine need for the applicant’s services and investment ....	30
Articles of Memorandum or a Certificate of Incorporation .....	30
ECAA business persons - evidence of bank statements showing funds required to be invested.....	32
ECAA business persons - experience and qualifications .....	33
Mandatory qualifications .....	33
Insufficient evidence .....	34
ECAA business persons - proficiency in English.....	35
ECAA business persons - registration for tax and national insurance contributions.	36
Types of business structure .....	38
Sole trader .....	38
Director of a limited company .....	38
Partnership .....	38
Examples of successful and unsuccessful businesses .....	39
Eligibility requirements - workers.....	41
The applicant has permission as an ECAA worker.....	41
The applicant has been lawfully employed .....	41
Demonstrating the applicant is currently working and will continue to do so .....	42
How absences affect an extension for permission to stay in the UK as an ECAA worker.....	42
Involuntary unemployment.....	43
Where a Turkish ECAA worker has been furloughed as a result of COVID-19 ....	43
Where a Turkish ECAA worker has become involuntarily unemployed because of COVID-19 .....	43
ECAA workers - evidence required from au pairs .....	45
ECAA workers - multiple employers and agency employment.....	46

Eligibility requirements - dependent partners .....	47
Considering applications for permission to stay.....	47
Eligibility requirements - dependent children.....	49
Considering entry clearance .....	49
Considering an entry clearance or extension of permission to stay application....	49
Children born in the UK who have never held ECAA leave .....	49
Safeguarding and promoting the welfare of children.....	50
Entry clearance for children - referring applications .....	51
Biometric data.....	52
Fees.....	52
Proviso.....	52
Dependents of ECAA workers or business persons - evidence .....	53
Documents required .....	53
Suitability requirements .....	54
ECAA workers and their family members – suitability.....	54
ECAA business persons and their family members – suitability .....	54
ECAA dependent child applying for entry clearance – suitability .....	54
Suitability assessment .....	55
Mandatory grounds for refusal.....	56
Other discretionary grounds for refusal.....	56
Applicant receiving public funds .....	58
ECAA workers .....	58
ECAA business persons.....	58
Granting applications.....	60
ECAA workers- length of grant .....	60
Conditions attached to the grant.....	60
The applicant should have no access to public funds (subject to any bilateral agreements).....	60
Study is permitted, subject to the Academic Technology Approval Scheme ( ATAS) condition in Appendix ATAS. ....	60
The applicant will be required to register with the police, where relevant.....	60
ECAA business persons - length of grant.....	61
Conditions attached to the grant.....	61
Dependant partners - length of grant.....	61
Conditions attached to the grant.....	61
Dependent children - length of grant.....	61
Conditions attached to the grant.....	62

Administrative review .....	63
Decision letters .....	63
Administrative reviews .....	63
The applicant's status while an administrative review is being undertaken .....	63
Who should consider the request for administrative review .....	63
Refusal wordings.....	64
Refusals under Appendix ECAA Extension of Stay.....	65
ECAA workers .....	65
ECAA business persons.....	68
Refusal wordings: ECAA business persons joining a new business.....	71
Dependants.....	73
Refusal wordings: entry clearance for children.....	77

# About this guidance

This guidance tells you about what you must do when deciding applications from ECAA business persons, workers and their family members who apply for an extension of permission under Appendix ECAA Extension of Stay, which entered into force at 11pm Greenwich Mean Time (GMT) on 31 December 2020. The guidance also covers applications from children of ECAA workers and business persons, who can apply for entry clearance to come to the UK as an ECAA dependant under the same Appendix.

A person with permission on the ECAA route can apply for settlement under [Appendix ECAA](#) (now called Appendix ECAA Settlement). Recent updates to these settlement Immigration Rules are from page 61 in the [Statement of Changes to the Immigration Rules HC 813](#).

## 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 European Migration and Citizens' Rights Unit .

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 **1.0**
- published for Home Office staff on **31 December 2020**

## Changes from last version of this guidance

This is new guidance.

### Related content

[Contents](#)

Safeguard and promote child welfare

# ECAA business persons: key facts

This section tells you about the key facts for business applications under Appendix ECAA Extension of Stay.

Issue	Answer
Eligibility requirements	<p>The applicant must be a Turkish national who:</p> <ul style="list-style-type: none"> <li>• has been granted or applied (successfully) for ECAA leave on or before 31 December 2020.</li> <li>• continues to be self employed in line with the conditions of Appendix ECAA Extension of Stay</li> </ul>
Application forms	Turkish Businessperson or Worker (online form)
Cost of application:	No fee
Entry clearance mandatory?	Not applicable, except for child dependants where it is mandatory
Is biometric information required for applications made in the UK?	Yes
Code of permission to stay granted	Code 2
Entry clearance endorsements	Not applicable (unless a child under 21 who will be granted code 1 conditions)
Conditions of permission to stay	<ul style="list-style-type: none"> <li>• No recourse to public funds</li> <li>• Able to work as authorised by the Secretary of State</li> <li>• Report extension to the police.</li> </ul> <p>For more information, see: <a href="#">Granting Applications</a></p>
How long is permission to stay normally granted for?	<ul style="list-style-type: none"> <li>• after completing one year of self-employment applicants will normally be granted 3 years' further permission to stay if the provisions are met - where the ongoing success of the business is still to be proven a further 12 months' permission may be granted rather than the full 3 years</li> <li>• further periods of 3 years' permission can continue to be granted where the ECAA requirements continue to be met</li> </ul>
Are dependants allowed?	<ul style="list-style-type: none"> <li>• where a partner or spouse has been granted or applies (successfully) for ECAA leave before 31 December 2020 they will be able to apply for further permission to stay under this Appendix in line with their ECAA sponsor</li> <li>• partners or spouses who have not previously</li> </ul>

Issue	Answer
	<p>been granted ECAA leave will not be able to apply under Appendix ECAA Extension of Stay. Applicants should apply via <a href="#">Appendix FM</a></p> <ul style="list-style-type: none"> <li>• children under the age of 21 can apply for entry clearance or permission to stay irrespective of whether they previously held or applied for ECAA leave on or before 31 December 2020</li> <li>• children over the age of 21 are eligible for permission to stay under this Appendix only where they already have ECAA leave. They are not eligible for ECAA Extension of Stay entry clearance</li> </ul>
Work and study allowed for dependants?	Yes
Is switching into this category allowed?	No
Does this category lead to settlement (indefinite leave to remain)?	Yes, if eligible via Appendix ECAA Settlement
CID case type	Business under EC Association Agreement – LTR Business under EC Association Agreement (Dependant)- EC
Immigration Rules paragraphs	Appendix ECAA Extension of Stay Relevant parts of Part 9 of the Rules (Grounds for Refusal)

## Related content

[Contents](#)



# ECAA workers-key facts

This section shows you the key facts for employed applications under Appendix ECAA Extension of Stay.

Issue	Answer
Eligibility requirements	<p>The applicant must be a Turkish national who:</p> <ul style="list-style-type: none"> <li>• has been granted or applied (successfully) for ECAA leave before 31 December 2020</li> <li>• continues to be employed as a worker in line with the conditions of either their ECAA leave or Appendix ECAA Extension of Stay permission.</li> </ul>
Application forms	Turkish Businessperson or Worker (on line form)
Cost of application:	No fee
Entry clearance mandatory?	Not applicable, except for child dependants where it is mandatory.
Is biometric information required for applications made in the UK?	Yes
Code of permission to stay granted	<ul style="list-style-type: none"> <li>• code 2 where applying after three years of legal employment with the same employer, however the applicant must continue working for the same employer or in the same occupation for next 12 months.</li> <li>• code 1 when applying after four years legal employment and where the applicant will be granted unrestricted work</li> </ul> <p>For more information, see: <a href="#">Granting Applications</a></p>
Entry clearance endorsements	Not applicable (unless a child under 21, who will be granted under code 1 conditions)
Conditions of permission to stay	<p>No recourse to public funds.  Emp'd by .....(where relevant)  Changes must be authorised by the SoS  Report extension of permission to the police to continue registration.</p>
How long is permission to stay normally granted for?	<ul style="list-style-type: none"> <li>• on completing 3 years of legal employment for the same employer, permission to stay must be granted for 12 months or up to the date when the applicant is eligible for unrestricted employment</li> <li>• on completing 4 years legal employment, permission to stay should be granted for 3 years – this is unless the circumstances of the employment are such that granting further short period of leave after 3 years would be</li> </ul>

Issue	Answer
	unreasonable, for example the applicant is employed on a single contract basis
Are dependants allowed?	<ul style="list-style-type: none"> <li>• where a partner or spouse has been granted or applies (successfully) for ECAA leave before 31 December 2020 they will be able to apply for further permission to stay under this Appendix in line with their ECAA sponsor</li> <li>• partners or spouses who have not previously been granted ECAA leave will not be able to apply under Appendix ECAA Extension of Stay. Applicants should apply via <a href="#">Appendix FM</a> Children under the age of 21 can apply for entry clearance or permission to stay under Appendix ECAA Extension of Stay irrespective of whether they previously held or applied for ECAA leave on or before 31 December 2020</li> <li>• children over the age of 21 are eligible for permission to stay under this Appendix only where they have ECAA leave. They are not eligible for ECAA Extension of Stay entry clearance.</li> </ul>
Work and study allowed for dependants?	Yes
Is switching into this category allowed?	No
Does this category lead to settlement (indefinite leave to remain)?	Yes, if eligible via Appendix ECAA Settlement
CID case type	Turkish Employed ECAA – LTR Turkish Employed ECAA (Dependant) - LTR Turkish Employed ECAA (Dependant) EC
Immigration Rules paragraphs	Appendix ECAA Extension of Stay Relevant parts of Part 9 of the Rules (Grounds for refusal)

## Related content

[Contents](#)

# Background

This section tells you about the background to the European Communities Association Agreement (ECAA).

The ECAA was set up under the Ankara Agreement on 12 September 1963 with the general aim of promoting economic relations between Turkey and the European Community and the eventual accession of Turkey to the Community. Articles 13 and 14 of that agreement refer to a process for abolishing the restrictions on the freedom of establishment and the freedom to provide services between the contracting parties.

Prior to 11pm GMT on 31 December 2020, the UK was a signatory to the ECAA as part of its membership of the EU and the transition period agreed under the EU Withdrawal Agreement. The UK has previously implemented the ECAA through the 1973 Immigration Rules arrangement to cover business persons and via Decision 1/80 of the Association Council for workers.

Following the UK's departure from the EU, and the ending of the transition period on 31 December 2020, the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 disapplied certain directly effective immigration rights under EU law including provisions within the ECAA between the EU and Turkey. Turkish nationals and their family members who already have or applied for (and were subsequently granted), leave under the ECAA on or before 31 December 2020 will be able to apply to extend their stay under transitional rules within Appendix ECAA Extension of Stay.

## **Related content**

[Contents](#)

# Relevant Immigration Rules

This section tells you about the Immigration Rules that apply to ECAA businesspersons, workers and their family members.

Turkish nationals and their family members seeking an extension of ECAA permission to stay, or child dependants under 21 applying for entry clearance from 11pm GMT on 31 December 2020 onwards will be considered under Appendix ECAA Extension of Stay.

These Rules can be found on pages 55 onwards in the [Statement of Changes to the Immigration Rules HC 813](#).

Any applications submitted before 11pm GMT on 31 December 2020 will be considered against the previous ECAA arrangements and guidance.

## **Related content**

[Contents](#)

[Turkish ECAA Business Person Guidance \(pre 11 pm on 31 December 2020\)](#)

[Turkish ECAA Worker Guidance \(pre 11 pm on 31 December 2020\)](#)

# Validity requirements

This section tells you about the validity requirements that must be met for an ECAA extension application to be considered. Failure to meet these requirements will lead to the application being rejected. These requirements are set out in paragraphs ECAA 1 and ECAA 7 of Appendix ECAA Extension of Stay.

## Applying for permission to stay in the UK as an ECAA worker or business person

Applicants must meet all of the following as set out ECAA 1:

- be a Turkish national
- have provided any required biometrics
- be in the UK
- provide their current passport that establishes their identity and nationality
- complete the online application form, which is compulsory and also serves as an application for a biometric residence permit (BRP)

## Applying for permission to stay in the UK as a dependent of an ECAA worker or business person

Applicants must meet all the following, as set out ECAA 7:

- be in the UK
- have permission to stay as a dependent partner (if applying to extend that leave)
- have provided any required biometrics
- provide their current passport that establishes their identity and nationality
- complete the online application form, which is compulsory and also serves as an application for a biometric residence permit (BRP)

## Children applying for entry clearance to come to the UK

Applicants must:

- provide their current passport that establishes their identity and nationality
- complete the online application form, which is compulsory and also serves as an application for a biometric residence permit (BRP)

## Pre decision casework

Before considering the application, you must check that:

- the applicant's identity has been confirmed through biometrics
- security checks have taken place within the last 3 months

- the 'person details' on CID match those in the passport
- entry clearance records on CRS support the application
- the key documents tracking screen has been updated
- the address details on CID are up to date
- the representative's details have been entered
- the date of postmark and date of expiry of last leave are correct
- biometrics have been taken for the applicant

You must also carry out these checks for each dependant included in the application.

If any of the recorded details are incorrect, you must change them as necessary. You must refer suspected forged documents to the technical support team for advice.

You must check all previous cases on CID. You must also update the case notes on CID before deciding whether further information is required or whether a decision to grant or refuse the application can be made, based on the evidence already provided.

## Biometric results

You must check that biometrics have been verified before you make a decision. The results can be located on the 'admin events' screen on CID and the Identity Card for Foreign Nationals (ICFN) database. If the applicant fails to provide this information, you must reject the case and return all documents to the applicant.

### Related content

[Contents](#)

### Related external links

[Biometric information](#)

# ECAA business persons - evidence to assess the applicant has met the requirements

This section tells you about what documents an applicant should submit with an application to prove they meet the requirements for permission to stay as an ECAA business person under ECAA 4.

The documentary evidence you consider will depend on the specifics of the application, and nature of the business, but may include the following:

## When establishing a new or additional business

- business plan
- business accounts for the previous 2 years (if appropriate)
- funding evidence
- bank statements, overseas money transfers, bank loans
- certificate of registration with Companies House (if appropriate)
- tax and/or national insurance (NI) registration and tax documents
- partnership agreement
- copies of contracts and invoices
- educational and vocational qualifications
- testimonials
- proof of advertising
- premises agreements
- licence required or obtained
- staff details
- insurance details

## In all cases

- a completed online application form
- a valid passport for the main applicant and any dependants
- documents showing the business is still active such as invoices and recent accounts
- proof of relationship for any dependants applying with the main applicant
- documents showing the profits of the business can maintain any dependants
- evidence of personal living costs

## Requests for further information

You must decide on a case by case basis whether it is appropriate to request further information from the applicant. Where a refusal is based partly or wholly on the

applicant failing to provide necessary documentation, you must make it clear in the decision letter why and how any missing documents led to a refusal.

## Verification

You must verify the documents with the appropriate agency to determine if the documents are genuine, false or inconclusive if you have reasonable doubts that any supporting documents:

- are genuine – including passports
- do not reflect the claims made in the application

You can also conduct verification checks on key documents such as references and relevant business documents by contacting the provider in the usual way. All verification reports must be recorded in the case notes and linked to the file.

If documents are confirmed as being false, you must consider refusing the application on suitability grounds using the relevant paragraphs of Part 9 of the Rules.

## Interviewing applicants

If you are unable to determine whether an application is genuine solely from the documents provided and you would otherwise refuse the application on that basis, you should consider interviewing the applicant in person.

For example, you may have concerns about:

- the authenticity of the documents provided
- inconsistencies in the evidence provided
- significant omissions in the documents required
- the involvement of a third party in preparing the application
- applications which appear to be identical with other applications previously submitted
- the credibility of the application

The interview questions and record sheet must be linked to the file.

### **Related content**

[Contents](#)

[Bank statements showing funds required to invest](#)

[Registered to make tax and national insurance contributions](#)

[Evidence of experience and qualifications](#)

[Evidence of proficiency in English](#)

[Refusal wording](#)



# Eligibility requirements - ECAA business persons

This section tells you about the requirements ECAA business persons must meet when applying for permission to stay under the ECAA route. These requirements are set out in paragraph ECAA 4 of Appendix ECAA Extension of Stay.

Whether the applicant can be granted permission to continue operating their business or set up a new business depends on a number of factors and evidence.

As set out in ECAA 4.1 and 4.2 you must be satisfied that:

- the applicant has permission as an ECAA business person
- the applicant has established, or intends to establish, take over or become a partner or director, of one or more genuine businesses in the UK
- the business or businesses must be viable
- the applicant must genuinely intend to operate, or have genuinely operated, one or more businesses in the UK
- they have devoted assets of their own to the business
- they are able to bear their share of the liabilities the business may incur
- their part in the business does not amount to disguised employment
- their share of the profits of the business will be sufficient to support themselves and any dependants without recourse to employment or public funds

In addition, if they are joining an existing business under ECAA 4.2 (f) you must be satisfied that they have provided all of the following:

- a written statement of the terms and conditions on which they are joining the business
- accounts for the existing business for the last 12 months
- evidence that there is a genuine need for their services and investment

## The applicant has permission as an ECAA business person

You must check that the applicant has permission as an ECAA business person at the time of their application to consider granting them an extension under Appendix ECAA Extension of Stay.

## The applicant has established or intends to establish, take over or become a partner or director of one or more businesses in the UK

In order to meet ECAA 4.1 (b) most applicants will have an existing business in the UK on which they are basing the application. However, there may be existing ECAA

business persons who are establishing a new business or joining a different business. Applicants are able to change or add more businesses provided that the business they are relying on for an extension meets all the requirements set out in ECAA 4.1- 4.3.

Where applicants are [joining an existing business](#), further eligibility requirements will be required.

## The business must be viable

In order to demonstrate that business is viable under ECAA 4.1 (c) you must look at the existing or potential business or businesses as a whole, taking into account the range of evidence related to businesses as set out in this guidance.

The financial statements of a business show how it is performing and indicate the financial position of the business in terms of its assets and liabilities. These financial statements normally consist of a profit and loss account showing business turnover and net profit over a trading period of 12 months, and a balance sheet which is a snapshot of the overall financial position of the business at a particular time.

Accounting requirements are different depending on whether the applicant is in business as a sole trader, director of a limited company or legal partnership.

For a sole trader, the net profit of the business will be taxed as income and can therefore be compared with the income from self-employment shown on other documents submitted such as:

- tax returns
- tax documents
- self-assessment tax calculations

You must also be satisfied that the details are credible when compared with any other evidence submitted such as invoices, contracts and business bank statements

For a limited company, the net profit is distributed to the shareholders in the form of dividends. The director of a limited company is regarded as an employee of the company and the director's income will be derived from remuneration and dividends. The income must correspond with other documents submitted such as:

- tax returns
- tax documents
- self-assessment tax calculations
- P60 certificates
- wage slips

For a partnership, each partner will take an equal share of the net profits unless the partnership agreement states otherwise.

There is no fixed amount of yearly profit that a business should generate in order for you to decide whether or not it is viable. In many cases a perfectly viable business may suffer a down turn in profits due to short term factors.

Factors to be taken into account when assessing ECAA 4.1 (c) include whether:

- the business is still active via evidence such as recent invoices, tax returns or advertising campaigns
- the level of debt attached to the business and whether the applicant can bare such liabilities
- the profits of are being artificially inflated by public funds
- the applicant has attained any mandatory qualifications needed to conduct their business
- any required licences needed to operate the business legally have been obtained

Each business must be judged on its own merits.

If, after you have made your assessment you decide the business is not viable, you must refuse the application under ECAA 4.1 (c) or other relevant rules.

However, there may be some cases where you decide to [grant 12 months instead of three years because of concerns regarding the viability or past success of the business or businesses.](#)

## **The applicant genuinely intends to operate their business in the UK**

You must be satisfied that the applicant is or will be taking an active role in their business under ECAA 4.1 (d). There may be types of business such as an internet based establishment where the structure means that while it is based here there are no UK clients - this is acceptable provided the business is genuine and there is a good reason why they are established in the UK.

## **The applicant provides evidence they are devoting or have devoted sufficient funds to the business**

Under ECAA 4.2 (a) the applicant must provide evidence that they have invested, or will invest, sufficient fund or assets. While Appendix ECAA Extension of Stay does not specify the types of documents to be submitted in support of a business application, you must assess if not providing relevant or requested documents undermines the credibility of the applicant's business proposal.

You must decide if the applicant is devoting funds or assets to the business. If the applicant is not devoting any funds or assets it means the business is not one that meets the requirements of the Appendix ECAA Extension of Stay rules and you must refuse under ECAA 4.2 (a).

There is no minimum level of investment, but it must be proportional to the business needs and generate enough net profit to support the applicant and any dependants.

If the applicant is joining an existing business, you must be satisfied from the evidence provided that the applicant will be actively concerned with its running and that there is a genuine need for their services and investment.

## The funds or assets belong to the applicant

In order to satisfy ECAA 4.2 (b) applicants must be able to provide sufficient evidence to show that:

- the source of the funds or assets is legitimate
- the funds or assets are under their own control
- there is no possibility that the money may be recalled or withdrawn from the business at short notice

While Appendix ECAA Extension of Stay does not specify the types of documents to be submitted in support of a business application, you should assess whether failure to provide relevant or requested documents undermines the credibility of the applicant's business proposal.

The applicant should provide evidence of the available funding, including original bank statements for the last 6 months. You may request a translation of those bank statements that are not in English as necessary. Additional evidence must be provided to show the source of any unusual or irregular deposits into the applicant's account, such as:

- transfers of funds from sources overseas
- assets from the sale of land, gold or property overseas
- gifts of money from business associates and close family members

You must convert money transfers from overseas into pounds sterling so they can be assessed. The official exchange rate used by the Home Office is the one produced by OANDA. You must use the exchange rate on the [OANDA website](#) on the date on which the application was raised. This is an independent website which the Home Office is not responsible for.

You may accept electronic bank statements from an online account with a supporting letter from the bank on company headed paper confirming that the documents are authentic. Or you can accept electronic bank statements bearing the official stamp of the bank issuing the statements. This stamp must appear on every page of the statement.

You may use discretion if the level of financial investment is small in comparison to the expected profits generated, or where gifts from family members have been made.

In all cases you must be satisfied enough evidence has been provided to show the money has been gifted by an individual who is financially able to make the gift, without the possibility of needing to recall the money at short notice. Gifts from a business associate are not acceptable.

Applicants must show that the majority of funds to be invested are their own. Loans, either in the form of a business bank loan or from another source such as a family member, may form part of a funding package to set up in business but they must not be considered as assets belonging to the applicant.

If they rely in part on a loan, they must show their business will realistically make sufficient profit to be able to repay the loan as well as to support the applicant and any dependants.

You must refuse applications under ECAA 4.2 (b) where a loan forms the only basis of investment.

## **Evidence of bank statements showing funds to invest**

The assessment of funds under ECAA 4.2 (a) and (b) should also be undertaken where the applicant is applying for permission to stay and is reliant on a new business that we have not considered previously. The purpose of the consideration is to show they have a genuine intention to invest their own money in the business.

Although there is no formal requirement in Appendix ECAA Extension of Stay for the applicant to provide bank statements, if the applicant fails to provide this evidence it may undermine the credibility of their claim that they have a genuine intention to self-establish.

The applicant must provide evidence of available funds. This will usually include 6 months of original bank statements, or less if the source of the funds is clearly shown. You may request a translation from the applicant of bank statements that are not in English as necessary.

More evidence should be provided to show the source of unusual or irregular deposits into the account, such as:

- transfers of funds from sources overseas
- assets from the sale of land
- gold or property overseas
- gifts of money from business associates and close family members

You may accept electronic bank statements from an online account with a supporting letter from the bank on company headed paper confirming the documents are authentic. Or where available, you can accept electronic bank statements bearing the official stamp of the bank issuing the statements. This stamp must appear on every page of the statement.

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**Official – sensitive: start of section**

The information on this page has been removed as it is restricted for internal Home Office use.

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**Official – sensitive: end of section**

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Applications where the documents provided show the applicant has invested money in the new business but this money does not represent their own assets must be refused under ECAA 4.2 (a) or (b).

## **Bearing the share of the liabilities the business may incur**

Under ECAA 4.2 (c) applicants must demonstrate they can meet their share of liabilities, including any debts or liabilities that exist when they buy or join an existing business, or debts and liabilities run up by the business in the course of trading, such as overheads and purchasing large quantities of stock.

The following figures shown on the balance sheet (BS) will be relevant in assessing if the applicant can bear their share of the liabilities:

- the value of the business's fixed assets as shown on the BS (land, buildings, machinery, goodwill, trademarks, web site domain names)
- the current assets of the business (stock, work in progress, debtors, cash in hand)
- short-term liabilities falling due within one year (business loans, overdrafts, VAT, PAYE, Corporation Tax)
- longer term liabilities falling due after one year
- shareholder's funds
- net profit or loss made by the business in the preceding 12 months

The applicant is not allowed to claim [public funds](#) in the UK or add to their business activities through paid employment, to top up the net profits of the business in order to meet any debts or liabilities of the business. However, applicants may have insurance cover to meet the cost of any liabilities that may arise, such as a claim for damages.

You must consider the size of the debt in relation to the overall value of the business and whether the business is likely to wipe out the debts or liabilities from the profits of the business in following years. Applicants may not need to show they can meet their debts or liabilities straightaway.

You must refuse applicants under ECAA 4.2 (c) who provide documents that show the business carries significant debts or liabilities that cannot be met by the applicant.

## Business must not be disguised employment

Under ECAA 4.2 (d) applicants must not be involved in 'disguised employment'.

Disguised employment is when the nature of the proposed work is actually employment and not self-employment. Indicators of 'employment' and 'self-employment' are below. It should be noted however, that while directors of companies can technically be 'employees' (for example, they could be paying Class 1 National Insurance) they can still be considered ECAA business persons.

Disguised employment means the applicant claims to be self-employed when they are actually employed. It is defined as a proactive attempt to present employment as self-establishment. For example, the claimed investment is a transfer of money to the business owner while the applicant is managing the business on behalf of the owner.

An applicant is self-employed if they can demonstrate they are in business on their own account and bear the responsibility for the success or failure of that business. However, as above, caseworkers need to be mindful of the position of directors of companies.

You must refuse applications under ECAA 4.2 (d) when you identify disguised employment.

In some cases, the applicant may genuinely believe that what they are doing is self-employment as they are providing services for a number of clients, but may actually be an employee with multiple employers. In these cases, the application must be refused.

You must apply the correct 'multiple test' to decide whether the applicant is employed rather than self-employed by considering the breadth of evidence provided. The reasons why an application falls for refusal can then be clearly set out in the refusal notice.

Applicants are probably self-employed if they:

- run their own business and take responsibility for its success or failure
- have several customers at the same time
- can decide how, when and where they do their work
- are free to hire other people to do the work or help at their own expense
- provide the main items of equipment to do their work

Applicants are probably employed if they:

- work for one person at a time who takes on the risks of the business
- can be told how, when and where they do their work
- can be moved from task to task
- have to do the work themselves
- have to work a set amount of hours or set pattern of work

- are paid a regular amount according to the hours worked
- receive overtime pay, sick pay, holiday pay or bonus payments
- are 'part and parcel' of an organisation and receive employee type benefits such as a pension, access to grievance procedures
- casual or part-time work can constitute employment

There are a range of neutral factors which can be taken into account such as:

- the length of any contracts provided
- how they can be terminated
- whether tax and national insurance contributions have been deducted by the employer

You can request an employment status check from HM Revenue & Customs (HMRC) if required. You must email the referral form to your higher executive officer (HEO) or senior caseworker for approval.

Applications where the documents provided demonstrate the applicant has an involvement in the business which amounts to disguised employment must be refused.

## **The profits of the business will be sufficient to support the applicant and any dependants without recourse to employment or public funds**

Under ECAA 4.2 (e) applicants must demonstrate that a sufficient level of profit from the business will be generated to maintain and accommodate themselves and any dependants without employment or [public funds](#) to which they are not entitled.

Evidence of the net profit (monies remaining after deducting business expenses) generated from the business should be provided in the form of:

- business accounts
- tax returns
- other form of business evidence

While Appendix ECAA Extension of Stay does not specify the types of documents to be submitted in support of a business application, you must assess whether failure to provide relevant or requested documents undermines the ability of the applicant to meet the requirements of the ECAA route.

You must take care not to count capital purchases as revenue expenses as these items will be used for several years.

You must not take into account any income from other sources such as:

- investment
- sub-letting



- bank account interest

Contributions from any dependants included in the application must not be considered, as they are dependants of the main applicant. This includes any contributions made in the form of mortgage repayments and accommodation costs where the dependant is named on the mortgage or tenancy agreement.

Evidence of personal expenditure (outgoings) should be provided in the form of personal bank account statements and other documents showing significant personal expenditure. These include:

- tenancy agreements
- mortgage statements
- council tax bills
- utility bills

Outgoings include any personal loan repayments which may have been declared by the applicant or shown as regular deductions from the applicant's personal bank account statements.

Outgoings may also include commitments to support family members living abroad.

You may use discretion if there are particular circumstances to do with assessing if the applicant can realistically maintain and accommodate themselves and any dependants included in the application without recourse to employment or public funds.

Examples include:

- the accuracy and credibility of the evidence of income and outgoings must be taken into account in considering all the supporting documentation provided by the applicant
- the applicant may have provided business accounts from the previous financial year and recent evidence of maintenance and accommodation so that up to date management accounts are required to inform the decision
- the applicant may not have generated the level of profit required throughout the first 2 years of their stay, but has remained in business and maintained and accommodated themselves during that time without recourse to employment or public funds
- you must consider the overall performance of the business across several years, and if poor performance has been offset by good performance
- evidence has been provided to explain why the applicant is unable to present results for a full year's trading due to factors such as late start ups, sick leave, or paternity leave
- if the business is producing losses or only marginal profits and is incapable of supporting anyone in the UK or have a negative impact on the welfare of the applicants, this may be a reason not to exercise discretion in the applicant's favour

Applications where insufficient profit has been generated to maintain and accommodate the applicant and any dependants must be refused under ECAA 2.4 (e).

## Granting an extension of 3 years

Applicants who have already been granted a period of permission to stay in the UK as a business person under either the 1973 business rules or Appendix ECAA Extension of Stay may be granted an 'appropriate extension' to continue operating their business under the business rules. This should normally be for 3 years under code 2 conditions.

## Granting an extension for a further 12 months

If you have any doubts about refusing an application outright, you may decide, based on the merits of the application and the relevant circumstances, it is appropriate to grant an extension of stay for a further 12 months on code 2 conditions rather than a grant for the full 3 years.

Relevant circumstances can include:

- the business is established but has experienced difficulties during the initial 12 months of operating and its ongoing success is still to be proven
- the business is producing losses or only marginal profits while it is being set up
- the applicant is unable to provide business accounts but only submits bank statements instead

The applicant would need to apply again for a further extension at the end of that period.

## Factors to be considered

You can consider the following factors when assessing an extension of permission to stay as an ECAA business person. This list is not exhaustive and each application should be assessed on its own merits.

- the viability and credibility of the source of the money being used to set up or invest in the business or businesses
- evidence of a credible time frame (lasting no more than 11 months) of when money that has not yet been invested in the business will be invested
- the credibility of the financial accounts of the business or businesses
- the credibility of the applicant's proposed business activity in the UK
- if the nature of the business requires mandatory accreditation, registration and/or insurance, whether the accreditations, registrations or insurances have been obtained
- any absences from the UK during the relevant qualifying period must have been for a purpose that is consistent with the applicant's basis of stay here, including paid annual leave, or for serious or compelling reasons

## Where a business ceases trading or suffers severely reduced profits because of COVID-19

Where the profits of an applicant's business are adversely impacted during the 2020/21 financial year because of COVID-19 and in particular during the UK's restrictions related to COVID-19, discretion can be exercised by caseworkers to grant permission to stay under Appendix ECAA Extension of Stay where all other conditions are met. Discretion would include overlooking the need for the existing business to be viable as demonstrated by the production of recent accounts during any period of COVID-19 restrictions. Examples of factors to be taken into account include:

- how long the business has been in operation;
- its viability excluding the COVID-19 circumstances;
- previous profits; and
- use of any COVID-19 related schemes supporting businesses such as the issuing of loans or grants

Each case would be assessed on its own merits.

### Related content

[Contents](#)

[COVID 19 and Turkish ECAA applications](#)

# Eligibility requirements - joining an existing business

This section tells you about the additional requirements that must be met under ECAA 4.2 (f) if a person is applying for permission to stay as a business person under Appendix ECAA Extension of Stay and they intend to join an existing business.

If they are joining an existing business, applicants must provide:

- a written statement of the terms and conditions on which they are joining the business
- accounts for the existing business for the 12 months before the date of application
- evidence that there is a genuine need for their services and investment

## Written statement of the terms on which the applicant is to enter the business

Under ECAA 4.2 (f) (i) applicants joining an existing business must provide a written statement of the terms on which they will enter the business.

This should take the form of an agreement between the applicant and the current owner of the business detailing the terms and conditions on which the applicant will enter the business. This can include all the financial aspects of the partnership.

The following factors can be taken into account when assessing an applicant joining an existing business under ECAA 4.1 including whether:

- the applicant is devoting their own funds or assets to the business
- they are making a financial investment in the business proportional to their role in the business
- they are taking their share of the profits of the business
- they are involved in strategic decision-making and long-term operational decisions
- they have responsibility for their share of the business liabilities

## Business accounts for the previous years

Applicants joining an existing business must provide business accounts (preferably audited) immediately prior to joining the existing business under ECAA 4.2 (f) (ii). This is to establish the financial position of the business and show that they will be joining a legitimate business that is able to support them and any dependants.

The financial statements of a business show how it is performing and indicate the financial position of the business in terms of its assets and liabilities.

The financial statements normally consist of a profit and loss account (P&L) showing business turnover and net profit over a trading period of 12 months, and a balance sheet (BS) which is a snapshot of the overall financial position of the business at a particular time.

The accounts (preferably audited) must be professionally produced by a qualified or chartered accountant.

You must be satisfied that:

- the business is viable (not insolvent)
- the applicant can bear their share of the debts or liabilities of the business
- the proposed investment is proportional to their role in the business
- the net profit of the business is sufficient to support the applicant and any dependants included in the application

Management accounts may be submitted for the current year.

Accounting requirements are different depending on whether the applicant is in business as a:

- sole trader
- director of a limited company
- legal partnership

For a sole trader, the net profit of the business will be taxed as income and can therefore be compared with the income from self-employment shown on other documents submitted such as:

- tax returns
- tax documents
- self-assessment tax calculations

You must also be satisfied that the details are credible when compared with any other evidence submitted such as invoices, contracts and business bank statements.

For a limited company, the net profit is distributed to the shareholders in the form of dividends. The director of a limited company is regarded as an employee of the company and the director's income will be derived from remuneration and dividends. The income must correspond with other documents submitted such as:

- tax returns
- tax documents
- self-assessment tax calculations
- P60 certificates
- wage slips

For a partnership, each partner will take an equal share of the net profits unless the partnership agreement states otherwise.

Applications to join an existing business where business accounts have not been provided, or are incomplete, must be refused for the reason that evidence has not been provided to show the financial position of the business that they will be joining or taking over.

## **Evidence the applicant will be actively involved in running the business**

Applicants joining an existing business must be actively involved in that business (ECAA 4.2 (f)(i)).

You must be satisfied the evidence provided confirms the terms of the partnership agreement and the partnership agreement has a realistic chance of being fulfilled. The involvement should take up most of the applicant's working time.

## **Evidence there is a genuine need for the applicant's services and investment**

Applicants joining an existing business need to show there is a genuine need for their services and investment under ECAA 4.2 (f) (iii). This could be demonstrated by showing how the proposed investment will be used to grow and increase the net profit of the business.

You must be satisfied the proposed investment is backed up by legal documents, such as the partnership agreement, and the applicant must show they will be fully integrated into the business and have an active involvement in the business.

## **Articles of Memorandum or a Certificate of Incorporation**

Applicants joining an existing limited company must provide evidence of terms and conditions (ECAA 4.2(f)(i)). This can include Articles of Memorandum or a Certificate of Incorporation.

You must check the evidence is correct and genuine using the [Companies House Direct website](#). This will show all company appointments and resignations and indicate if the company is still active.

Applications to join an existing business where business accounts have not been provided, or are incomplete, must be refused under paragraph ECAA 4.2 (f)(ii). This is because insufficient evidence has been provided to establish the current financial position of the business that they will be joining.

Applications to join an existing business where the applicant is not named on the partnership agreement, or the partnership agreement does not satisfactorily outline how they will be actively involved in running the business, must be refused.

This is because insufficient evidence has been provided to show the terms on which they will enter the new business.

Where the applicant intends to join an existing business, accounts (preferably audited) must be produced to show its financial position together with the terms on which they are to enter into it. Whilst not actual requirements as laid out under Appendix ECAA Extension of Stay, you must take the following points into consideration:

- the applicant is joining an existing business which is already operating with a good profit
- there is no evidence to show the applicant's involvement will help to grow the business

#### **Related content**

[Contents](#)

[Statement of Changes to the Immigration Rules HC 813.](#)

[Refusal wordings](#)

#### **Related external links**

[Business Link](#)

[Starting up in business](#)

[Companies House](#)

# ECAA business persons - evidence of bank statements showing funds required to be invested

This section tells you about how to assess whether a person applying for permission to stay as an ECAA businessperson has sufficient funds to invest in the business. This reflects the requirement in paragraph ECAA 4.2(a) and the factors to be considered in the assessment at paragraph ECAA 4.3 of Appendix ECAA Extension of Stay.

This assessment should be undertaken where the applicant is applying for further permission to stay and is reliant on a new business that you have not considered previously. The purpose of the consideration is to show they have a genuine intention to invest their own money in the business.

Although there is no formal requirement in Appendix ECAA Extension of Stay for the applicant to provide bank statements, if the applicant fails to provide this evidence it may undermine the credibility of their claim that they have a genuine intention to self-establish.

The applicant must provide evidence of available funds. This will usually include 6 months of original bank statements, or less if the source of the funds is clearly shown. You may request a translation from the applicant of bank statements that are not in English as necessary.

More evidence should be provided to show the source of unusual or irregular deposits into the account, such as:

- transfers of funds from sources overseas
- assets from the sale of land
- gold or property overseas
- gifts of money from business associates and close family members

You may accept electronic bank statements from an online account with a supporting letter from the bank on company headed paper confirming the documents are authentic. Or where available, you can accept electronic bank statements bearing the official stamp of the bank issuing the statements. This stamp must appear on every page of the statement.

## **Related content**

[Contents](#)

[Registered to make tax and national insurance contributions](#)

[Evidence of experience and qualifications](#)

[Evidence of proficiency in English](#)

[Refusal wordings](#)



# ECAA business persons - experience and qualifications

This page tells you about how experience and qualifications can be used to assess the viability of the business an application under Appendix ECAA Extension of Stay relies on. These factors linked to a business feed into determining whether it is viable under paragraph ECAA 4.3.

Experience and qualifications are not requirements of Appendix ECAA Extension of Stay but should be taken into account as part of the overall assessment of the evidence.

You must examine this evidence in the context of the proposed business, taking into account the other supporting evidence provided. You must check the evidence is correct and genuine using CRS to check relevant information on previous visa applications.

In some circumstances, common sense will tell you it may be possible for the applicant to establish a viable business without relevant experience or qualifications. In other circumstances, a lack of previous experience and/or qualifications may be a barrier to establishing a business. For example, it could extend the time taken to establish the business and slow the rate of growth of the business in subsequent years.

All businesspersons are expected to show they have at least a basic understanding of business and financial management including cash-flow management.

All qualifications must be recognised in the UK and be acceptable for the purpose for which they are proposed.

You must check the evidence is correct and genuine.

Evidence of specific qualifications needed in some trades or professions will strengthen the credibility of the application, but it is the applicant's responsibility alone to make sure they meet any legal requirements.

For example, self-employed workers in information technology (IT) trades and accountants may choose not to register with an appropriate professional body, even though this would strengthen the credibility of an application to establish in business.

## Mandatory qualifications

ECAA 4.3(e) of Appendix ECAA Extension of Stay notes that if the nature of the business requires mandatory accreditation, registration or insurance, whether the accreditation, registration or insurance have been obtained should be a factor considered by caseworkers.

Where an applicant is wishing to start a new or additional business it may not be possible for them to have acquired all the qualifications/licences they require in advance. In such circumstances, they should submit evidence that they have researched what is required and plan to obtain them in due course. Where the applicant is already running a business, you must see any mandatory professional qualifications before you make a decision on a case.

These might include:

- driving licence
- Gas Safe Register registration
- environmental health service registration
- Gambling Commission licence
- Health and Care Professions Council registration
- Ofsted registration
- Building Regulations or Electrical Safety Regulations accreditation
- Performing Rights Society membership
- premises or personal licence for the sale of alcohol
- Security Industry Authority (SIA) licence
- Professional qualifications where relevant e.g. where the applicant is an architect or dentist

## Insufficient evidence

In cases where the applicant does not provide sufficient evidence of their previous experience and/or qualifications relevant to the application, you should ask them to provide further written evidence. This may take the form of employer references and certificates.

If the applicant is currently running a business but does not provide sufficient evidence of relevant experience and/or qualifications, this should be taken into consideration in the overall assessment of the application. Where appropriate, you may consider refusing the application on the basis that it is not viable.

### Related content

[Contents](#)

[Registered to make tax and national insurance contributions](#)

[Evidence of proficiency in English](#)

[Refusal wordings](#)

# ECAA business persons - proficiency in English

This section tells you about how proficiency in English can be used to assess the general credibility of the business an application under Appendix ECAA Extension of Stay relies on. This is part of the assessment detailed in paragraph ECAA 4.3(d) regarding the credibility of the applicant's proposed business activity in the UK.

If the applicant has little or no English you must consider this in the context of the proposed business, taking into account the other supporting evidence provided.

In some circumstances, common sense will tell you that it may be possible for the applicant to establish in business with little or no English. In other circumstances, not being able to speak good English may present severe difficulties. For example, it could extend the time taken to establish the business and slow the rate of growth of the business in subsequent years.

In cases where the applicant does not provide sufficient evidence of proficiency in English and this is relevant to the application, you must ask the applicant to provide further written evidence of their fluency. This may take the form of an appropriate qualification in English or a certificate of attendance from a college where they are studying English.

You must check that the evidence is correct and genuine.

Applications where you consider fluency in English to be important for the proposed business but the applicant does not provide sufficient evidence of this may suggest the business is not credible. This should be taken into consideration in the overall assessment of the application and where appropriate, you may consider refusing the application on the basis that it is not viable.

## **Related content**

[Contents](#)

[Bank statements showing funds required to invest](#)

[Registered to make tax and national insurance contributions](#)

[Evidence of experience and qualifications](#)

[Refusal wording](#)

# ECAA business persons - registration for tax and national insurance contributions

This section tells you about where a person applying for permission to stay as an ECAA businessperson and needs to show they have registered to make tax and national insurance contributions as a self-employed businessperson, have received the relevant insurance and other business documents to support the application.

Whether a business holds relevant insurance is one of the factors to be assessed when looking at the credibility of the enterprise. It is outlined at paragraph ECAA 4.3 (e) regarding whether the accreditation, registration or insurance have been obtained, if the nature of the business requires mandatory accreditation or insurance.

Self-employed businesspeople are legally required to register for the payment of income tax and national insurance contributions, but this is not a requirement of Appendix ECAA Extension of Stay. However, a failure to pay income tax or national insurance may be a factor when assessing how viable the business is under ECAA 4.1 (c).

Where the applicant has not registered to make tax and national insurance contributions you must not refuse the case unless there are other reasons that lead you to think the requirements are not met.

One or more of the documentary evidence listed below, will help confirm whether the business is active and that applicant is genuinely self-employed.

Evidence may include:

- tax returns (P35)
- Unique Tax Reference number (UTR)
- self-assessment tax calculations (SATCs)
- national insurance receipts (class 2 and 4)
- invoices
- contracts for work undertaken as a subcontractor (for example, contract for services)
- testimonials
- references
- public liability insurance
- employer's liability insurance
- premises of personal licences where appropriate (for example, if selling liquor)

## **Related content**

[Contents](#)

[Bank statements showing funds required to invest](#)

[Evidence of experience and qualifications](#)

[Refusal wording](#)

# Types of business structure

This section tells you about the different types of business structures you may come across.

The applicant may wish to apply for an extension of stay to continue running an existing business or start up an additional or new one. This could be as either:

- a sole trader
- the director of a limited company
- legal partnership

## Sole trader

This is the simplest way to run a business. A sole trader owns the assets of the business, is responsible for all debts and liabilities and is not required to file annual returns with Companies House. The business accounts will be made up to the end of the financial year.

## Director of a limited company

A director is an employee of the company and all debts and liabilities are the responsibility of the company. The director's level of financial investment must be proportional to their role in the business.

Annual returns, often abbreviated so as not to alert competitors, must be filed with Companies House within 10 months of the year end after incorporation. Directors may take a dividend each quarter.

## Partnership

This is a legal entity with shared decision making. The profits are shared according to an agreed split between the partners. The applicant must have an equal or controlling interest in the company with a share of responsibility. A partnership agreement is a key document to cover all the 'what ifs'.

### Related content

[Contents](#)

[Relevant Immigration Rules](#)

[Examples of successful and unsuccessful businesses](#)

# Examples of successful and unsuccessful businesses

This section tells you about examples of successful and unsuccessful applications under the ECAA category.

The examples are intended only as a rough guide. Each application must be assessed on its own merits using the Appendix ECAA Extension of Stay guidance.

<b>Business</b>	<b>Successful</b>	<b>Unsuccessful</b>
Fast food outlet or shop	Owns all or a significant amount of the business through investment of own funds, is the legally-registered owner, has final say on opening times, recruiting employees, sources of supplies, and so on.	Has paid money to the business owner but business was already operating successfully, no evidence of origin of funds, applicant has no controlling influence over the day to day running of the business.
Cleaning	Has invested in equipment, premises, transportation, has employees, simultaneously provides services for different clients.	Pays tax as a self-employed person but has bought only a small amount of equipment, works for one client at a time, is paid by the hour or week.
Business or IT consultancy	Has bought and uses own equipment, work consists of single projects at set prices for a variety of clients, evidence that applicant is looking to expand his business.	Is well qualified but works for one client on a long-term contract, is based in the client's office, uses client's equipment, work is determined by the day to day demands of the business.
Travel agency	Owns or rents business premises, meets all costs of running office from profits of business, organises travel directly with travel providers, has employees.	Claims to work specialising in certain types of client on a self-employed basis as part of a larger agency, works from the agency's office, uses their equipment and relies on their marketing and so on, has no previous experience in the industry.
Hairdressing	Owns or rents premises, has employees, making good profit, member of the National Hairdressing Federation as a salon owner.	Rents chair in hairdressers, pays tax on own takings but has no say over use of business premises and day to day running of the business.

**Related content**  
[Contents](#)



# Eligibility requirements - workers

This section tells you about the requirements ECAA workers must meet when applying for an extension of permission to stay under the ECAA route. These requirements are set out in paragraph ECAA 3 of Appendix ECAA Extension of Stay.

Whether the applicant can be granted permission to continue working in the UK depends on a number of factors, including evidence as set out in the requirements of Appendix ECAA Extension of Stay.

You must be satisfied under ECAA 3.1 and 3.2 that:

- the applicant has permission as ECAA worker
- either:
  - they have been lawfully employed for at least 3 years with the same employer or
  - they have been lawfully employed for at least 4 years including at least 3 years with the same employer and the remaining time within the same occupation
- they can show that they will continue to be employed in the UK throughout the period of permission requested.

## The applicant has permission as an ECAA worker

ECAA 3.1 (a) requires that you must check that the applicant has permission as an ECAA worker in order to consider granting them an extension under Appendix ECAA Extension of Stay. Turkish nationals who have worked in the UK under non-ECAA categories, for example as student are not eligible for Appendix ECAA Extension of Stay, which is exclusively for those with existing permission as an ECAA worker.

## The applicant has been lawfully employed

The applicant must meet the requirements in either ECAA 3.1 (b) or 3.1 (c).

To meet ECAA 3.1 (b) the applicant must show they have been lawfully employed in the UK for at least 3 years with the same employer.

To meet ECAA 3.1 (c) the applicant must show they have been lawfully employed in the UK for at least 4 years, including at least 3 years with the same employer and the remaining time in the same occupation.

Evidence will include:

- Payslips
- Employment contract(s)
- Tax records for the relevant financial years such as P60s
- Employer's letters

You should have a combination of the above evidence to show that the applicant has worked for the relevant time with the same employer and meets ECAA 3.3 (holds a valid employment contract with the employer and continues to receive payment for services as part of that contract).

To meet ECAA 3.2, the applicant should also provide evidence that they are still in employment. This should be done with recent documentation from the list above that is no more than 3 months old.

You should note that the employer and/or type of occupation over the 3 or 4 years must comply with the conditions of their leave for that period. The grant of further permission and the conditions of such a grant are dependent on the applicant having complied with the conditions of their previous leave, including in relation to their permitted level of access to the UK labour market.

## **Demonstrating the applicant is currently working and will continue to do so**

In order to be considered for an extension of permission to stay as an ECAA worker, the applicant will need to prove that he or she is employed in the UK and will continue to be so throughout the period of permission requested (ECAA 3.2 and 3.3). They should be able to prove this through one or more of the following:

- holding a valid employment contract with the employer
- continuing to receive payment for services as part of that contract
- bank statements showing regular payments of wages
- an employer's letter specifying that they are or intend to continue employing the applicant

The above is not an exhaustive list.

Where a contract has no specific end date, you should assume that the applicant will continue to be employed throughout the period of permission you may grant.

## **How absences affect an extension for permission to stay in the UK as an ECAA worker**

Under ECAA 3.4 the following absences will be treated as periods during which the applicant was still lawfully employed:

- annual holidays
- statutory maternity leave, paternity leave or shared parental leave
- statutory adoption leave
- sick leave (up to 6 weeks in any year, or longer if there are compelling circumstances)
- absence due to an accident at work
- periods of involuntary unemployment (subject to the requirements below)

## Involuntary unemployment

Under ECAA 3.4 involuntary employment can be treated as a period of lawful employment, but the applicant must have registered with the relevant employment authorities and have made a reasonable effort to re-join the workforce. Relevant employment authorities will include bodies such as Jobcentre Plus where the applicant has registered and is actively seeking work.

Where the applicant has remained registered with the relevant authority and has made a reasonable effort to re-join the workforce, you can accept a period of involuntary unemployment of up to 3 months.

## Where a Turkish ECAA worker has been furloughed as a result of COVID-19

An ECAA worker who is, or was and furloughed (temporarily relieved of their normal work duties or responsibilities under the Coronavirus Job Retention Scheme) as a result of COVID-19, will continue to be treated as being in work during this period if they:

- were in genuine and effective employment in line with the conditions of their ECAA leave immediately prior to being furloughed
- remained under contract with their employer

If you are satisfied that an applicant meets the criteria above, any time spent on furlough will be treated as time spent in work and will not break continuity of employment (or residence) in the UK.

If not already provided, you should request evidence of this in the form of letters from the applicant's employer or DWP / HMRC confirming payment of salary during the period of furlough.

## Where a Turkish ECAA worker has become involuntarily unemployed because of COVID-19

Under ECAA 3.4 applicants will normally retain their worker status where they are temporarily unable to work as a result of illness or accident, or if they have become involuntarily unemployed. If an applicant lost their job or has been unable to work as a result of COVID 19 illness or restrictions, they should provide evidence such as a letter from the employer confirming the reasons for their involuntary unemployment or medical evidence such as a doctor's letter.

Where applicants have lost their job because of COVID-19 they will not need to provide evidence that they are or were registered with a Jobcentre Plus or actively seeking work in these circumstances. They will have 3 months in order to secure a new post.

**Related content**

[Contents](#)

[COVID 19 and Turkish ECAA applications](#)

# ECAA workers - evidence required from au pairs

This section tells you which original documents are needed from au pairs to support an application for permission to stay as an ECAA worker.

Applicants need to show they are working as au pairs under the direction of the host family in return for payment.

<b>Applicant must show:</b>	<b>Example of evidence in support:</b>
Host family can accommodate the au pair.	Legal documents which relate to the host family's home.
Au pair can be and is being paid.	Bank statements for the: <ul style="list-style-type: none"><li>• family</li><li>• au pair (if available)</li></ul>
Au pair is living with the host family.	<ul style="list-style-type: none"><li>• correspondence addressed to the applicant at the host family's address</li><li>• notification to the local council that the au pair is part of the household</li><li>• any involvement of an au pair agency in securing the placement</li></ul>
Au pair duties have been and will continue to be undertaken.	A statement from the host family which details the au pair's working pattern, including when the au pair has been and will be working, and for how long they intend to retain the services of the au pair

## **Related content**

[Contents](#)

[Eligibility Requirements ECAA Workers](#)

# ECAA workers - multiple employers and agency employment

This section tells you the effect of having more than one employer at the same time or obtaining work through an employment agency on an application for permission to stay as an ECAA worker under Appendix ECAA Extension of Stay.

Workers who have more than one employer but who can show they have been in continuous legal employment for the appropriate period with one of these employers will meet the requirement.

Applicants whose employment is secured through an employment agency still need to show they have been in continuous employment with the same employer or within the same occupation, through the agency, for the appropriate period. If they fail to show they will continue to be employed throughout the period requested, they should be refused under paragraph ECAA 3.2.

## **Related content**

[Eligibility Requirements ECAA Workers](#)

[Refusals under Appendix ECAA Extension of Stay: ECAA Workers](#)

# Eligibility requirements - dependent partners

This section tells you about the requirements dependent partners of ECAA workers or business persons must meet when applying for permission to stay under Appendix ECAA Extension of Stay. These requirements are set out in paragraphs ECAA 10 and 14 of Appendix ECAA Extension of Stay.

Under the Immigration Rules, a 'Partner' is defined as one of the following:

- spouse
- civil partner
- unmarried partner

Under Appendix ECAA Extension of Stay an 'unmarried partner' means a person who is:

- resident with the ECAA worker or ECAA business person
- intends to live, or continue living, with the ECAA worker or ECAA business person
- in a relationship with the ECAA worker or ECAA business person that is genuine and subsisting

## Considering applications for permission to stay

In order to be eligible for permission to stay, you must be satisfied that a dependent partner meets the relationship and financial requirements in ECAA 10 and 14 including that:

- the applicant has existing permission as a dependent of an ECAA business person or worker
- the marriage or civil partnership, or relationship similar to marriage or civil partnership, is subsisting
- the applicant intends to live with the ECAA business person or worker
- there is adequate accommodation provided by the ECAA sponsor for their partner
- where the ECAA sponsor is a business person, the business is generating sufficient profits to support the applicant and any other dependants

Unmarried partners will also need to prove:

- the applicant and their ECAA sponsor are aged 18 or over on the date of application
- any previous relationship of the applicant or the ECAA sponsor with another person has permanently broken down

- the applicant and the ECAA sponsor are not so closely related that they would be stopped from marrying or forming a civil partnership with each other in the UK

## **Related content**

[Contents](#)



# Eligibility requirements - dependent children

This section tells you about the requirements dependent children of ECAA workers, business persons or their partners must meet when applying for entry clearance or an extension of permission to stay under the ECAA route. These requirements are set out in paragraphs ECAA 9, 11, 12 and 13 of Appendix ECAA Extension of Stay.

## Considering entry clearance

Under ECAA 9, only dependent children of ECAA workers, business persons or their partners can be considered for entry clearance under Appendix ECAA Extension of Stay. Any child who is coming to the UK to join their ECAA parent must first obtain such entry clearance.

## Considering an entry clearance or extension of permission to stay application

You must be satisfied that the dependent child applying for either entry clearance or permission to stay meets the relationship, age and care requirements under ECAA 11, 12 and 13 including:

- the applicant is the child of person who has permission as an ECAA worker, business person or ECAA partner
- both the child's parents must be present in the UK with permission (other than as a visitor) unless:
  - the parent with permission on the ECAA route is the sole surviving parent
  - the parent with permission on the ECAA route has sole responsibility for the child's upbringing
  - the decision maker is satisfied that there are serious and compelling reasons to grant the child permission to come to, or stay in, the UK with the parent who has permission on the ECAA route
- the applicant must be aged under 21 at the date of application, unless they were last granted permission as the dependent child of their parent on the ECAA route
- the child must not be leading an independent life
- if the child is under 18 at the date of application, there are suitable care and accommodation arrangements provided for the child that comply with UK law
- there is adequate accommodation provided by the ECAA sponsor for the child
- where the ECAA parent is a business person, the business is generating sufficient profits to support the applicant and any other dependants

## Children born in the UK who have never held ECAA leave

You may come across applications featuring ECAA workers, business persons or their partners, where they have a child who was born in the UK. In these kinds of cases, such children will still be eligible to apply for permission to stay under Appendix ECAA Extension of Stay.

## **Safeguarding and promoting the welfare of children**

If one of the child's parents is not included in the application, or a new child is included or an old child is missing from an application, you must examine the case history carefully and follow the [safeguarding children guidance](#).

You must be satisfied that:

- the ECAA business person or worker is the applicant's sole surviving parent
- the ECAA business person or worker parent has and has had sole responsibility for the applicant's upbringing
- the absent natural parent has provided a signed declaration stating their agreement to the applicant living with the ECAA business person or worker or other official documents to explain why such a letter cannot be provided (the address of the absent parent should be given on the application form if this is appropriate)
- there are most exceptional, serious or compelling family or other considerations which would make exclusion of the child undesirable and suitable arrangements have been made for the child's care

You must ensure that the applicant has provided any documentary evidence including

- documents confirming that the ECAA sponsor has and has had sole responsibility for the applicant's upbringing such as a death certificate, divorce certificate, custody certificate, or adoption certificate
- signed letter from an absent parent stating their agreement to the applicant living with the ECAA business person or worker or other official documents to explain why such a letter cannot be provided (the address of the absent parent should be given on the application form if this is appropriate)

You must check that the documents are correct and genuine.

### **Related content**

[Contents](#)

[Safeguarding Children](#)

# Entry clearance for children - referring applications

This section tells you about how to refer complex entry clearance applications from children of ECAA workers, business persons or their partners.

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**Official – sensitive: start of section**

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**Official – sensitive: end of section**

## **Biometric data**

Applicants are required to provide biometric data when applying for entry clearance in this category.

## **Fees**

Applications under this category are free of charge.

## **Proviso**

Posts should enter such cases on Proviso.

## **Related content**

[Contents](#)

# Dependents of ECAA workers or business persons - evidence

This section tells you about evidence you will need to see when a dependent partner or child of an ECAA worker or business person applies for an extension of permission to stay in the UK or, for dependent children only, for entry clearance.

## Documents required

- the dependant's current passport
- the dependant's police registration certificate (if they have to register with the police)
- documents confirming the dependant's relationship to the ECAA sponsor such as a full marriage certificate, civil partnership certificate or a 'Livret de Famille' (a Livret de Famille is a document that details the legal status of a family - including proof of marriage - in a European nation, such as France.)
- where the applicant is a dependent partner, documents confirming the applicant and their ECAA sponsor are living together in the UK such as letters from official sources and utility bills addressed jointly to the applicant and the ECAA sponsor or separately to them at the same address
- where the dependant is a child you will need to see a full birth certificate confirming the relationship to the parent(s)

You must check that the documents are correct and genuine. If the submitted document is not in English, you should ask the applicant to submit a translation.

### Related content

[Contents](#)

[Police reg guidance](#)

# Suitability requirements

This section tells you about the suitability requirements for ECAA workers, business persons and dependants applying for permission to stay under the ECAA route and dependent children applying for entry clearance.

These suitability requirements are set out in paragraphs ECAA 2 for ECAA workers and business persons and ECAA 8 for dependants in Appendix ECAA Extension of Stay as well as Part 9: grounds for refusal. Suitability (based on the applicant's conduct) is to be assessed depending on when the conduct took place and the category of their permission to stay.

## ECAA workers and their family members – suitability

Where the applicant is an ECAA worker, or a dependent partner or child of an ECAA worker applying for permission to stay:

- conduct before 11pm GMT on 31 December 2020 is to be assessed according to the EU public policy, public security or public health test in accordance with [Article 14 of Decision 1/80](#) (as set out in the Immigration (European Economic Area) Regulations 2016) and related CJEU case-law
- any conduct thereafter (including any criminal convictions relating to it) is to be considered under the UK criminality thresholds as set out in the Immigration Rules, Section 1 of [Part 9](#): grounds for refusal or under ECAA 2.2 in relation to breaches of immigration laws

## ECAA business persons and their family members – suitability

Where the applicant is an ECAA business person, or a dependent partner or child of an ECAA business person and applying for permission to stay:

- conduct before 11pm GMT on 31 December 2020 is to be assessed according to whether or not it is undesirable to grant permission in light of the applicant's character, conduct or associations as set out in [paragraph 4 of the HC510](#), and related CJEU case-law
- any conduct thereafter (including any criminal convictions relating to it) is to be considered under the UK criminality thresholds as set out in the Immigration Rules, Section 1 of [Part 9](#): grounds for refusal or under ECAA 2.2 in relation to breaches of immigration laws

## ECAA dependent child applying for entry clearance – suitability

You must consider applications for entry clearance under ECAA 8.1, meaning that where the applicant is a dependent child applying for entry clearance, the suitability requirements will be met unless the applicant falls for refusal under the Immigration Rules, Part 9: grounds for refusal – this is irrespective of whether the conduct took place before or after 11 pm GMT on 31 December 2020.

## Suitability assessment

The assessment of suitability must be conducted on a case by case basis and be based on the applicant's personal conduct and circumstances in the UK and overseas, including whether they have any relevant prior criminal convictions, and whether they have been open and honest in their application.

Applicants are required to provide information about previous criminal convictions in the UK and overseas and are only required to declare past criminal convictions which appear in their criminal record in accordance with the law of the State of conviction at the time of the application. There is no requirement to declare penalties for offences which are not recorded on their criminal records, for example fixed penalty notices for speeding. A sentence of imprisonment does not include a suspended sentence (unless a court subsequently orders that the sentence or any part of it, of whatever length, is to take effect).

Applicants are also required, as in other immigration applications, to declare whether they have any been involved in any terrorist related activities, war crimes, crimes against humanity or genocide. Applications are subject to a check against the Police National Computer (PNC), the Warnings Index (WI) and the Ident dataset.

UK Visas and Immigration must conduct an initial assessment of suitability to establish whether the application is to be referred to Immigration Enforcement (IE) for full case by case consideration of the individual's conduct, under the relevant test.

Caseworkers can, where appropriate, consider evidence of criminality that they encounter on the PNC or WI even if that evidence was not declared by the applicant. The initial suitability assessment should be conducted from information provided by the applicant and obtained from the PNC and WI.

## Conduct committed before 11pm 31 December 2020 by ECAA workers or business persons

You must ensure that any conduct committed prior to the end of the transition period at 11pm GMT on 31 December 2020 is considered against historic ECAA arrangements which will differ for ECAA workers, business persons and their family members.

For ECAA workers and their family members, any conduct committed before 11pm GMT on 31 December 2020 should be considered against [ECAA employed guidance](#). For ECAA business persons or their family members, any conduct committed before 11pm GMT on 31 December 2020 should be considered against [ECAA business person guidance](#).

## Conduct committed after 11pm on 31 December 2020 (or at any time for entry clearance applications)

You must consider any conduct committed after 11pm GMT on 31 December under the relevant Immigration Rules [Part 9: grounds for refusal](#), which are divided between mandatory and discretionary grounds for refusal and vary according to whether an applicant is applying for entry clearance or has already been granted entry clearance or permission to stay.

Caseworkers should consider carefully whether an individual's circumstances are such as to require mandatory refusal or whether they fall for consideration on the discretionary ground of the refusal. You should consult the specific guidance for [Suitability \(General Grounds\)](#).

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### Official – sensitive: start of section

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### Official – sensitive: end of section

For permission to stay applications by ECAA workers, business persons or their family members, the following Part 9 rules will apply in relation to conduct after 11pm GMT on 31 December 2020 including:

## Mandatory grounds for refusal

- exclusion or deportation order grounds (9.2.1)
- non-conducive grounds (9.3.1)
- criminality grounds – including custodial sentence of 12 months or more, persistent offender or causing serious harm (9.4.1)
- deception used in an application (9.7.2)

## Other discretionary grounds for refusal

- criminality grounds – including custodial sentence of less than 12 months or non-custodial or out of court disposal. (9.4.3)
- involvement in sham marriage or sham civil partnership (4.6.1)
- false representation, false documents or false information submitted in relation to an application (9.7.2)
- debts to the NHS (9.11.1)
- unpaid litigation costs (9.12.1)
- rough sleeping in the UK (9.21.1)

For entry clearance applications under Appendix ECAA Extension of Stay, ECAA 8.1 makes clear that all of the Immigration Rules, Part 9: grounds for refusal is



applicable, because those applicants do not benefit from savings provisions applied to those already exercising ECAA rights prior to the end of the transition period.

**Related content**

[Contents](#)

[ECAA employed guidance](#)

[ECAA business person guidance](#)

[Part 9: grounds for refusal](#)

# Applicant receiving public funds

This section tells you about how to consider applications from ECAA workers or business persons when the applicant has received public funds while living in the UK (paragraphs ECAA 6.4(c) or ECAA 4.2 (e)).

Turkish nationals on low income are entitled to claim a range of benefits while living in the UK because of an agreement between the UK and Turkey. These include:

- Attendance Allowance
- Carer's Allowance
- Child Benefit
- Child Tax Credit
- Council Tax Benefit
- Disability Living Allowance
- Housing Benefit
- Income-based Jobseekers Allowance
- Income related allowance ESA (IR) – formerly income support
- Personal Independence Payment
- Social Fund payment (or discretionary support payment which replaces the Social Fund)
- Universal Credit
- Working Tax Credit

## ECAA workers

If the applicant is applying for permission to stay as an ECAA worker and is receiving public funds you must assess whether they have been abiding by the conditions of either their previous ECAA leave or permission to stay granted under this Appendix, and whether they have been lawfully employed throughout the relevant period (ECAA 3.1) if they have relied on public funds.

## ECAA business persons

If you find the applicant has received public funds in the past and they are seeking permission to stay as an ECAA business person, ECAA 4.2 (e) means you must consider if they could maintain and accommodate themselves and any dependants from their share of the profits of the business if they were to immediately stop claiming those funds.

ECAA business person applicants are not allowed to 'top up' their business profits with benefits in order to show that their business is making sufficient profits.

In all cases if you find that the applicant has received public funds in breach of their conditions or they are accessing public funds to which they are not entitled and they are unable to maintain and accommodate themselves without those funds you must refuse the application. For example, where an applicant is reliant on public funds

because the profit from a business is insufficient to support themselves or any dependants, refusal would be under paragraph ECAA 4.2(e). Alternatively, where an ECAA worker or businessperson who was previously granted under the ECAA route but has breached their conditions by accessing public funds they were not entitled to, you can refuse under paragraph ECAA 2.2(a).

You must not refuse an application if the person can maintain and accommodate themselves if they were to stop claiming public funds, unless there are other reasons for refusal.

### **Related content**

[Contents](#)

[Evidence applicant is devoting sufficient funds or assets to the business](#)

[Evidence the funds or assets belong to the applicant](#)

[Evidence of business accounts for the previous year](#)

[Evidence the applicant can bare their share of debts and liabilities](#)

[Proposed business is disguised employment](#)

[Evidence of sufficient profits to support applicant and any dependants](#)

[Refusal wording](#)

### **Related external links**

Public funds

# Granting applications

This section tells you what periods of permission to grant to those who successfully apply under Appendix ECAA Extension of Stay and what conditions to attach to such grants. These are laid out at paragraphs ECAA 6.1 to 6.4 and ECAA 17.1 to 17.3.

## ECAA workers- length of grant

Where you wish to grant an ECAA worker an extension of permission to stay, the length will depend on how long the applicant has been employed:

- if the applicant has been lawfully employed in the UK for 3 years or more, but less than 4 years you should grant permission to stay for up to 12 months
- if the applicant has been lawfully employed in the UK for 4 years or more you should grant permission to stay for up to 36 months

In circumstances where the applicants cannot demonstrate they meet ECAA 3.1 (b) and were employed for at least 3 years, you may use your discretion to grant permission to stay for up to 12 months under ECAA 6.1.

## Conditions attached to the grant

You must ensure that the correct conditions are applied to permissions, depending on how long the applicant has been employed under ECAA 6.4:

- after 3 years of legal employment a worker can take up employment with any employer within the same occupation
- after 4 years of legal employment a worker can take up any offer of employment

You must grant code 2 conditions where the ECAA worker has been lawfully employed in the UK for less than 4 years, meaning work is allowed only for the applicant's current employer, or in the same occupation with a different employer.

You must grant code 1 conditions where the ECAA worker has been lawfully employed in the UK for 4 years or more, and they are allowed to work for any employer in any occupation.

The applicant should have no access to [public funds](#) (subject to any bilateral agreements).

Study is permitted, subject to the Academic Technology Approval Scheme ( ATAS) condition in [Appendix ATAS](#).

The applicant will be required to [register with the police](#), where relevant.

## **ECAA business persons - length of grant**

You will usually grant permission of stay for 36 months under ECAA 6.3 where the applicant meets the relevant ECAA business person requirements.

Granting a shorter period of permission for [12 months](#) may also be appropriate in some cases. This could include where the business is established but has experienced difficulties during the initial 12 months of operating and its ongoing success is still to be proven.

## **Conditions attached to the grant**

Under ECAA 6.4, business persons are allowed to work for the business or businesses they have established, joined or taken over and subject to the following conditions:

- permission is granted on code 2 conditions
- no access to public funds (subject to any bilateral agreements)
- study is permitted, subject to the Academic Technology Approval Scheme ( ATAS) condition in Appendix ATAS
- required to register with the police, where relevant

## **Dependant partners - length of grant**

Under ECAA 16.1 if the dependent partner meets all the relevant requirements you must grant permission to stay in line with the ECAA sponsor and ensure that the permission ends on the same day as the permission of the ECAA worker or business person.

## **Conditions attached to the grant**

Under ECAA 16.2 any permission granted will be subject to the following conditions:

- work is allowed and permission is granted on code 1 conditions
- no access to public funds (subject to any bi-lateral agreements)
- Study is permitted, subject to the ATAS condition in Appendix ATAS
- required to register with the police, where relevant

## **Dependent children - length of grant**

If the child meets all the relevant requirements for either entry clearance or permission to stay you must grant permission to stay in line with the ECAA parent.

Under ECAA 16.1 the grant will be for a period which ends on the same day as the permission of the ECAA worker or ECAA business person on the ECAA route.

## Conditions attached to the grant

Under 16.2, any permission granted to a dependent child will be subject to the following conditions:

- work is allowed and permission is granted on code 1 conditions
- no access to public funds (subject to any bilateral agreements)
- study is permitted, subject to the ATAS condition in Appendix ATAS
- required to register with the police, where they are aged over 16 where relevant

### Related content

[Contents](#)

Public funds

[Granting a period of 12 months in business cases](#)

# Administrative review

This section tells you whether a person applying for permission to stay as an ECAA worker or business person under Appendix ECAA Extension of Stay is entitled to an administrative review.

## Decision letters

If you are making a decision on an ECAA application you must use notice **0007**. This notice contains important information for applicants regarding the administrative review process.

## Administrative reviews

Administrative review will consider whether an 'eligible decision' is wrong because of a caseworking error and, if it is, correct that error. An eligible decision covers in country and entry clearance applications under Appendix ECAA Extension of Stay which have resulted in a refusal.

## The applicant's status while an administrative review is being undertaken

If the applicant has permission to stay and makes an application for administrative review within the time limit, they will continue to have permission to stay until the administrative review is concluded, or they withdraw their application. Paragraph AR2.9 of Appendix AR of the Immigration Rules states that the Home Office will not seek to remove an applicant from the UK while a valid application for administrative review is pending. This is to provide the applicant with the same protection from removal as if they had appealed the decision.

Once the administrative review process is concluded, you must restart removal action unless permission to stay has been granted.

## Who should consider the request for administrative review

Where a request for an administrative review is made on an ECAA case, it will be carried out by the Administrative Review team. This is a separate team that is independent from the team who made the original decision. This is because a review must be considered by a different person to the one who made the original decision. This will make sure there is independence and transparency in the review process.

### Related content

[Contents](#)

[Administrative review guidance on GOV.UK](#)

[Apply for an administrative review](#)

[Immigration Rules: Appendix AR](#)

# Refusal wordings

This section contains suggested refusal wording for refusal notices when you refuse a person who has applied for permission (including entry clearance) under the ECAA route.

The refusal wordings set out:

- specific reasons for refusal based on the requirements of Appendix ECAA Extension of Stay
- suggested wording for refusal notices describing why the requirements have not been met

The reasons for refusal must always be expanded to accurately reflect the detailed circumstances why the application falls for refusal against the requirements.

You must make sure the wordings are relevant and specific to the case in question. The wording must explain exactly which requirements have not been met and why they have not been met in the light of the evidence provided.

In cases where none of the examples are relevant, you can draft alternative wordings, explaining which requirements have not been met and why they have not been met.

## **Related content**

[Contents](#)



# Refusals under Appendix ECAA

## Extension of Stay

### ECAA workers

This section gives you examples of refusal paragraphs you can use when dealing with applications under Appendix ECAA Extension of Stay

You must use the following introductory paragraph in notices to applicants or their representatives:

'You applied for/Name of representative applied on your behalf for further permission to stay in the United Kingdom as a worker under Appendix ECAA Extension of Stay, but your application has been refused because I am not satisfied that:'

Reason	Suggested wordings
You have not shown you have valid ECAA permission to stay as a worker.  ECAA 3.1 (a)	In order to be granted further permission to stay as an ECAA worker you need to have previous permission to stay in that category. However, you have failed to prove that you have permission to stay or leave as an ECAA worker/were ever granted permission to stay as an ECAA worker
You have not shown that you have been lawfully employed in line with your current/last period of stay as an ECAA worker.  ECAA 3.1(b) or (c)	You were granted permission to stay as an ECAA worker from [insert] to [insert]. This gave you the right to work for [insert employer or field of employment]. However [insert reasons why we think they were not lawfully employed e.g. they worked in breach or the company no longer exists]
You have not provided sufficient evidence to show that your period of employment matches the period required  ECAA 3.1(b) or (c)	You have only provided evidence to show that you have been employed by [employer's name] for a period of [length of employment]. You do not therefore qualify for permission to stay to continue working for [employer]/to pursue employment within the same occupation/to pursue any offer of employment in the United Kingdom.
You have not provided sufficient evidence to show that your period of employment has been continuous	You have provided evidence to show that you have been in employment with [employer's name] for [period of time] but you have not provided sufficient

Reason	Suggested wordings
ECAA 3.1(b) or (c)	evidence to show that this period of employment has been on a continuous basis.
<p>You have not provided sufficient evidence to show that your employment is continuing</p> <p>ECAA 3.2</p>	<p>You have provided evidence to show that you have been in employment with [employer's name] for [period of time] but you have not provided evidence to show that you will continue to work for [employer's name]</p>
<p><b>Where adverse conduct occurred before 11 pm GMT on 31 December 2020 and such conduct merits refusal under Article 14(1) of Decision 1/80</b></p>	<p>The Home Office has reviewed your application as a whole, taking into account all the relevant circumstances, which includes your record of past criminality. You were convicted for [type of offence and date convicted].</p> <p>In reviewing previous criminal convictions, the Home Office considers a variety of factors, these may include for example, the type and severity of the crime committed, the sentencing court's view of the seriousness of the offence as reflected in the sentence imposed, the result of any appeal upon that sentence, the length of time which has passed since evidence of criminality, the culpability of the offender, the propensity to re-offend, the harm to the victim and the effect of that type of crime on the wider community. These considerations have been weighed up against the need to protect the public.</p> <p>All the facts known about your past conviction(s) have been reviewed and in your case, [provide detail quoting from the sentencing judge's judgment]</p> <p>The Secretary of State, having taken into account all the circumstances of your case, has therefore deemed that refusal is appropriate on the basis that article 14(1) of decision 1/80 of the Association Council permits limitation of rights on the ground of [public policy, public security or public health]. Furthermore, in line with article 14 of decision 1/80, your accrued employment rights have been lost.</p>

Reason	Suggested wordings
<p data-bbox="228 237 740 338"><b>Where adverse conduct occurred after 11pm GMT on 31 December 2020</b></p> <p data-bbox="228 383 762 454">You have failed to meet the suitability requirements for this category</p> <p data-bbox="228 495 794 631">ECAA 2.1/2.2 with reference to [insert paragraph] of Part 9 grounds for refusal if conduct was committed after 11pm GMT on 31 December 2020</p>	<p data-bbox="826 237 1390 454">You have failed to meet the suitability requirements of the ECAA route because [insert reasons e.g. working in breach] and your conduct was committed after 11pm GMT on 31 December 2020.</p>

**Related content**

[Contents](#)

[Refusals under Appendix ECAA Extension of Stay: Dependants](#)

[Administrative Review](#)

# ECAA business persons

This section gives you examples of refusal paragraphs you can use when dealing with applications under Appendix ECAA Extension of Stay

You must use the following introductory paragraph in notices to applicants or their representatives:

‘You applied for/Name of representative applied on your behalf for permission to stay in the United Kingdom as a business person under Appendix ECAA Extension of Stay, but your application has been refused because I am not satisfied that:’

Reason	Suggested wordings
<p>There is insufficient evidence to show that you intend to establish, take over or become a partner in a genuine business</p> <p>ECAA 4.1(b)</p>	<ul style="list-style-type: none"> <li>• there is evidence to show that the company does not/no longer exists [insert reasons]</li> </ul>
<p>There is insufficient evidence to demonstrate that your established business / new business proposal is viable</p> <p>ECAA 4.1(c)</p>	<ul style="list-style-type: none"> <li>• the documentation you have submitted does not reflect a business proposal with a realistic chance of success because [state reasons]</li> <li>• you are not named on the partnership agreement</li> <li>• the partnership agreement does not satisfactorily outline what your level of involvement in the business will be</li> <li>• the documentation which you have submitted does not include [state documents]. This documentation is considered to be essential evidence to show that you can run a business of this nature because [state reasons]</li> <li>• you claim to be establishing in business as [state facts] but you have not shown that you have the relevant [qualifications] [experience] which are considered essential to running such a business</li> <li>• your level of English is not sufficient to allow you to run your business with a realistic chance of success because [state reasons]</li> </ul>
<p>You will not be actively concerned in the operation of the business/you are not actively concerned in the operation of the business</p>	<ul style="list-style-type: none"> <li>• you have not provided any evidence in support of the business activities that you claim to be undertaking</li> <li>• the evidence that you have provided does not support the level of involvement that you claim</li> </ul>

Reason	Suggested wordings
ECAA 4.1(d)	<p>you will have</p> <ul style="list-style-type: none"> <li>• the content of the partnership you have provided does not show how you will be actively involved in running the business</li> <li>• you have failed to show that you will be fully integrated into the business and have an active involvement in the business</li> <li>• your involvement in the business does not amount to establishment in business because [state reasons]</li> </ul>
<p>You have not devoted assets of your own to the business as proposed proportionate to your interest</p> <p>ECAA 4.2(a) or (b)</p>	<ul style="list-style-type: none"> <li>• your business proposal does not require any investment</li> <li>• you have not shown that you have sufficient funds to invest in the business</li> <li>• you have not shown that you have invested any money into the business</li> <li>• you have not shown that your money has been invested in the business in a way that will grow the profit and goodwill of the business because [state reasons]</li> <li>• you have shown that money has been invested in the business but this money does not represent your own assets because [state reasons]</li> <li>• you have devoted assets of your own to the business but do not have a controlling or equal interest in the business because [state reasons]</li> </ul>
<p>You cannot bear your share of any liabilities that the business may incur/you cannot bear your share of any liabilities that the business has incurred</p> <p>ECAA 4.2 (c)</p>	<p>You have provided documents to show that your business carries with it significant debts or liabilities. However, insufficient evidence has been provided to show that you can bear your share of these liabilities because [state reasons]</p>
<p>Your share of the profits of your business will be insufficient to support you and any dependants/your share of the profits of your business are insufficient to support you and any dependants</p> <p>ECAA 4.2(e)</p>	<ul style="list-style-type: none"> <li>• your share of the net profit of your business was [£XXX] but your annual living costs were [£XXX] and you have not provided sufficient evidence to show that you can maintain and accommodate yourself and your dependants without recourse to employment or public funds</li> <li>• you claim that the net profit of your business was [£XXX] and your annual living costs were [£XXX] but you have not taken account of your loan repayments</li> <li>• you have not provided evidence to substantiate</li> </ul>

Reason	Suggested wordings
	<p>your living costs in the form of a tenancy agreement</p>
<p>Your part in the business will amount to disguised employment/your part in the business does amount to disguised employment</p> <p>ECAA 4.2(d)</p>	<ul style="list-style-type: none"> <li>• on the basis of your proposed day to day involvement in the business, insufficient evidence has been provided to show that your part in the business will not amount to disguised employment</li> <li>• you claim to have established in business but insufficient evidence has been provided to show that your part in the running of the business does not amount to disguised employment</li> <li>• there are transactions on your bank account statements showing regular credits from [state facts] indicating paid employment</li> <li>• the contract you have submitted shows employment terms and conditions, for example contracted hours, holiday entitlement</li> <li>• the invoices you have provided do not generate the business turnover indicated in your business accounts and you have not provided an explanation for the discrepancy</li> <li>• you have provided wage slips from [state facts] showing that national insurance/tax has been paid as an employee</li> </ul>
<p>You need to supplement your business activities by employment for which a work permit is required/you have supplemented your business activities by employment for which a work permit is required</p> <p>ECAA 4.2(e)</p>	<ul style="list-style-type: none"> <li>• you have not shown that your business will generate sufficient profits to support you and any dependants without recourse to paid employment or public funds</li> <li>• you have declared that you are in receipt of public funds</li> </ul>
<p><b>Where adverse conduct occurred before 11pm GMT on 31 December 2020</b></p> <p>Paragraph 4 of HC510</p>	<ul style="list-style-type: none"> <li>• Your application has been refused on public policy grounds because [insert reasons]</li> <li>• In deciding these matters account is to be taken of all the relevant facts; the fact that you satisfy the formal requirements for further stay, in the proposed capacity is not conclusive in your favour. It will, for example, be relevant whether you have observed the time limit and conditions subject to which you were admitted; whether in the light of your</li> </ul>

Reason	Suggested wordings
	<p>character, conduct or associations it is undesirable to permit you to remain; whether you represent a danger to national security; or whether, if allowed to remain for the period for which you wish to stay, you might not be returnable to another country.</p>
<p><b>Where adverse conduct occurred after 11pm GMT on 31 December 2020</b></p> <p>You have failed to meet the suitability requirements for this category</p> <p>ECAA 2.1/2.2 with reference to the Grounds for Refusal if conduct was committed after 11pm GMT on 31 December 2020</p>	<ul style="list-style-type: none"> <li>You have failed to meet the suitability requirements of the ECAA route because [insert reasons e.g. submitting fraudulent documents] and your conduct was committed after 11pm GMT on 31 December 2020.</li> </ul>

## Refusal wordings: ECAA business persons joining a new business

Reason	Suggested wording
<p>You have not provided accounts that establish the financial position of the business that you will be joining</p> <p>ECAA4.2(f)(ii)</p>	<ul style="list-style-type: none"> <li>you have not provided business accounts for the business you claim to be joining. Without these accounts there is insufficient evidence to establish the current financial position of the business that you will be joining</li> <li>the business accounts that you have provided relate to the financial years [state dates] and so do not indicate the current financial position of the business that you will be joining</li> <li>the business accounts you have provided are incomplete because they do not take account of other items of expenditure that you have referred to elsewhere in your application. Without these figures it is not possible to establish the financial position of the business that you will be joining</li> </ul>
<p>You have not provided a written statement of the terms on which you will enter the business</p> <p>ECAA4.2 (f)(i)</p>	<ul style="list-style-type: none"> <li>you have not provided any legal documents such as a partnership agreement or a written statement to show the terms on which you will be joining the business</li> <li>you have not provided sufficient evidence to show the terms on which you will enter the</li> </ul>

Reason	Suggested wording
	<p>business that you claim to be joining</p> <ul style="list-style-type: none"> <li>• you have not shown that you will be establishing in business by virtue of a legitimate involvement in the business that you will be joining</li> </ul>
<p>There is a not genuine need for your services and investment/there was not a genuine need for your services and investment</p> <p>ECAA 4.2(f)(iii)</p>	<ul style="list-style-type: none"> <li>• the nature of the business that you claim to be joining does not require the involvement of any more business partners</li> <li>• you are joining a business which is already profitable and you have not provided sufficient evidence to show there is a genuine need for your services and investment</li> <li>• you have failed to demonstrate how the proposed investment will be used to grow and increase the net profit of the business</li> </ul>

**Related content**

[Contents](#)

[Refusals under Appendix ECAA Extension of Stay: Dependants](#)

[Administrative Review](#)



# Dependants

You should use the following introductory paragraph:

'You have applied for permission to stay as the dependant of an ECAA worker/business person under Appendix ECAA Extension of Stay. However, your application is refused because'

Paragraph Number	Reason	Suggested wording
ECAA 10.1	You are not the spouse/civil partner/unmarried partner of a person who has permission as an ECAA worker/businessperson or who successfully applies for such permission	<ul style="list-style-type: none"> <li>• you applied for permission to stay in the United Kingdom as the dependent spouse/civil partner/unmarried partner of [name] under the provisions of Appendix ECAA Extension of Stay, but their application has been refused. In view of this I am not satisfied that you are the dependent spouse/civil partner/unmarried partner/same sex partner of a person with permission to stay under paragraph ECAA [insert]. Your application is therefore being refused because you are being refused in line with the main applicant</li> <li>• you applied for permission to stay in the United Kingdom as the dependent spouse/civil partner/unmarried partner of [name] under the provisions of the ECAA category. However, in view of the fact that [state reasons] I am not satisfied that your marriage/civil partnership/relationship is subsisting at the time of the application</li> </ul>
ECAA 11.1	You are not the child of a person who has permission as an ECAA businessperson	You applied for permission to stay in the United Kingdom as the dependent child of [name] under the ECAA route but their application has been refused. In view of this I am not satisfied that you are the dependent child of a person with permission to stay in the UK under the ECAA category. Your application is therefore being refused because you are being refused in line with the main applicant.

Paragraph Number	Reason	Suggested wording
ECAA 14.1	The accommodation provided for the applicant is insufficient.	Your ECAA worker/business person is obliged to provide adequate accommodation for any dependants living with them. However [insert reasons]. In light of this, I am not satisfied this condition has been met.
ECAA 10.2 (a)	You/your unmarried partner was not aged 18 or over at the time of the application	You/your partner claim to have been aged [insert] at the time of the application. However [insert reasons]. In light of this I am not satisfied that you/your partner were aged 18 or over when the application was made.
ECAA 10.2 (b)	Any previous relationship with another person has not broken down	You claim to be the unmarried partner of [insert name]. However [insert reasons]. In light of this, I am not satisfied that you/your partner's previous relationship has permanently broken down.
ECAA 10.2 (c)	You/your partner are sufficiently closely related to prevent you from marrying or forming a civil partnership	You claim to be the unmarried partner of [insert name]. However [insert reasons]/ In light of this, I am not satisfied that you and your partner are not sufficient closely related to prevent you from marrying or forming a civil partnership.
ECAA 10.3	You have applied for permission to stay as an ECAA dependant, but your relationship is not genuine/subsisting	You applied for permission to stay in the United Kingdom as the dependent spouse/civil partner/unmarried partner of [name] under the ECAA route. However, [insert reasons], I am not satisfied that your claimed relationship is genuine/was subsisting at the time of the application.
ECAA 10.4	You do not intend to live together with the ECAA worker/business person during the length of your stay.	You claim to live with your ECAA partner at [insert address.] However [insert reasons] In light of this, I am not satisfied that you intend to live with your ECAA sponsor for the length of your stay in the UK.
Dependant of an ECAA worker Paragraph 14(1) of Decision 1/80  Dependant of an ECAA business person	<b>Where adverse conduct occurred before 11pm on 31 December 2020</b>  You have failed to meet the suitability requirements for this category	<b>Dependant of an ECAA worker</b>  The Home Office has reviewed your application as a whole, taking into account all the relevant circumstances, which includes your record of past criminality. You were convicted for [type of offence and date convicted].  In reviewing previous criminal convictions,

Paragraph Number	Reason	Suggested wording
Paragraph 4 of HC510		<p>the Home Office considers a variety of factors, these may include for example, the type and severity of the crime committed, the sentencing court's view of the seriousness of the offence as reflected in the sentence imposed, the result of any appeal upon that sentence, the length of time which has passed since evidence of criminality, the culpability of the offender, the propensity to re-offend, the harm to the victim and the effect of that type of crime on the wider community. These considerations have been weighed up against the need to protect the public.</p> <p>All the facts known about your past conviction(s) have been reviewed and in your case, [provide detail quoting from the sentencing judge's judgment]</p> <p>The Secretary of State, having taken into account all the circumstances of your case, has therefore deemed that refusal is appropriate on the basis that article 14(1) of decision 1/80 of the Association Council permits limitation of rights on the ground of [public policy, public security or public health]. Furthermore, in line with article 14 of decision 1/80, your accrued employment rights have been lost.</p> <p><b>Dependant of an ECAA business person</b></p> <p>Your application has been refused on public policy grounds because [insert reasons]</p> <p>In deciding these matters account is to be taken of all the relevant facts; the fact that you satisfy the formal requirements for further stay, in the proposed capacity is not conclusive in your favour. It will, for example, be relevant whether you have observed the time limit and conditions subject to which you were admitted; whether in the light of your character,</p>

Paragraph Number	Reason	Suggested wording
		conduct or associations it is undesirable to permit you to remain; whether you represent a danger to national security; or whether, if allowed to remain for the period for which you wish to stay, you might not be returnable to another country.
ECAA 8.2 – 8.3 with reference to Part 9 of these Rules where relevant	<p><b>Where adverse conduct occurred after 11pm GMT on 31 December 2020</b></p> <p>You have failed to meet the suitability requirements for this category</p>	You have failed to meet the suitability requirements of the ECAA route because [insert reasons e.g. submitting fraudulent documents] and your conduct was committed after 11pm GMT on 31 December 2020.

**Related content**

[Contents](#)

# Refusal wordings: entry clearance for children

This section tells you about suggested refusal wordings for refusal notices on general reasons when you refuse a child who has applied for entry clearance as a child of an ECAA worker or businessperson.

‘You have applied for entry clearance as the child of an ECAA worker/ businessperson/partner of an ECAA worker/businessperson under the ECAA route. I have assessed your application in accordance with the entry clearance provisions of Appendix ECAA Extension of Stay. However, your application is refused because’

Paragraph number	Reason	Suggested wording
ECAA 12.1	You are not under the age of 21	You claim to be under the age of 21. However [insert reasons]/ As a result, I am not satisfied that you are under 21.
ECAA 10.1	You are not related as claimed to your sponsor	You claim to be the child of [insert name]. However, in light of [insert reasons] I am not satisfied that you are related as claimed.
ECAA 10.1	You are not the child of a person who has valid leave to remain as an ECAA worker, business person or their partner	You applied for entry clearance as the dependent child of [name] under the ECAA route. In view [insert reasons] I am not satisfied that your sponsor has valid ECAA leave. Your application is therefore being refused.
ECAA 11.2	Both your parents are not lawfully in the UK or applying for permission to stay in the UK	In order to obtain entry clearance, you must be able to show that your parents either have permission to stay in the UK or are applying for it. However, [insert reasons]. As a result, I am not satisfied that you have met this condition.
ECAA 11.2(a)	The parent the child wishes to remain with is not the sole surviving parent as claimed.	It is claimed that ‘insert name] is your sole surviving parent. However [insert reasons]. As a result, I am not satisfied that you have met this condition.
ECAA 11.2(b)	The sole parent the child wishes to stay with does not have sole responsibility for the child.	Your parent [insert name] claims to have sole responsibility over you. However, [insert reasons.] As a result, I am not satisfied that

Paragraph number	Reason	Suggested wording
		s/he has such sole responsibility.
ECAA 13.1	Care arrangements for the child do not comply with UK law	In order for you to be granted entry clearance, you must be able to satisfy the condition that any care arrangements comply with UK law. However [insert reasons.] Therefore, I am not satisfied that this consideration is met.
ECAA 122	You are not living an independent life	In light of the fact that [insert reasons] you are not leading an independent life. Therefore, you have not met the relevant requirements of Appendix ECAA Extension of Stay.
ECAA 8.1 with reference to Part 9 of these Rules	You have failed to meet the suitability requirements of this category	In light of [insert reasons] your conduct means that you have failed to meet the suitability requirements of this category

#### **Related content**

[Contents](#)

[Refusals under Appendix ECAA Extension of Stay: ECAA Workers](#)

[Refusals under Appendix ECAA Extension of Stay: ECAA Business persons](#)

[Refusals under Appendix ECAA Extension of Stay: ECAA Business persons joining a new business](#)

[Administrative Review](#)