



Home Office

Suitability: failure to provide required information, attend interview

Version 2.0

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About this guidance

This guidance is for decision makers considering whether to refuse an application for entry clearance, permission to enter or permission to stay on suitability grounds, or to cancel entry clearance or permission held by a person, where that person fails without reasonable excuse to comply with a reasonable requirement to provide information, attend an interview, provide biometrics, undergo a medical examination or provide a medical report.

Contacts

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

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

Publication

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

- version **2.0**
- published for Home Office staff on **22 December 2020**

Changes from last version of this guidance

- Minor amendment to the introduction to clarify that some of this guidance applies to family reunion applications.

Related content

[Contents](#)

Introduction

Failure to provide required information grounds

Paragraph 9.9.1. of Part 9 of the Immigration Rules states that an application for entry clearance, permission to enter or permission to stay may be refused where a person fails without reasonable excuse to comply with a reasonable requirement to do any of the following:

- provide information
- attend an interview
- provide biometrics
- undergo a medical examination
- provide a medical report

Paragraph 9.9.2. of Part 9 states that entry clearance or permission held by a person may be cancelled for the same reasons: see guidance on cancellation.

Paragraphs 9.9.1. and 9.9.2. do not apply to:

- Appendix EU
- Appendix EU (Family Permit)
- Part 11 (Asylum), except 352ZH to 352ZS, and 352I to 352X, and paragraph 9.9.1 applies to 352A to 352FJ
- Applications for entry clearance or permission to stay granted by virtue of the ECAA Association Agreement
- Applications for permission to stay under Appendix ECAA Extension of Stay;
- Appendix S2 Healthcare Visitor
- Appendix Service Providers from Switzerland
- Applications on grounds of private life under paragraphs 276ADE to 276DH.

Family Cases (Appendix FM) and Armed Forces cases (Appendix AF)

Paragraph 9.9.1 doesn't apply to Appendix FM and Appendix AF but Paragraph S-EC.1.6 in Appendix FM and Paragraph 8(i) in Appendix AF contain similar provisions: see guidance below on those cases.

Paragraph 9.9.2 does apply to Appendix FM and Appendix AF: see separate guidance on [appendix-fm-family-members](#) and [appendix-armed-forces](#) appendix-fm-and-276ade and armed-forces

Burden and standard of proof

The burden of proof is on the Home Office to show it imposed a reasonable requirement of the type specified in paragraph 9.9.1. on a person. The standard of proof is the balance of probabilities (it is more likely than not). You must be able to show that the person was required to comply with the specific requirement and that it was reasonable to ask them to do so. This will usually be clear from the context. If you provided more than one opportunity for the person to comply with the requirement you should set that out in your decision.

If the person says they have a reasonable excuse (a good reason) for their failure to comply with the specific requirement the burden of proof is on them to show that they had an excuse on the balance of probabilities (it is more likely than not) for example, that they were ill, there was travel disruption (for example the facts that provide the excuse).

Whether or not the excuse is reasonable is a matter of judgment on which you will need to take a view and explain your reasons.

Considering the application

Where a person has made an application for entry clearance or permission to enter or stay and has failed without reasonable excuse to comply with a reasonable requirement you may refuse the application on that ground under paragraph 9.9.1. of Part 9 of the Immigration Rules.

You must make your decision only after considering all the circumstances of the individual case. Any discretion must be exercised consistently.

You should consider all the relevant circumstances before making a decision. If you want to interview the applicant about their application and they fail without reasonable excuse to comply with a requirement to attend an interview you may refuse the application.

In some cases the requirement may also be a validity or eligibility requirement, for example biometrics may be a mandatory requirement in the application process and if not provided the application may be rejected as invalid and not considered. Where the application is rejected as invalid it is not necessary to consider whether to refuse on suitability grounds. Where the Immigration Rules impose a specific eligibility requirement, for example the entry requirement to provide a TB certificate in certain circumstances, the specific requirement should be considered as part of eligibility and the application should not be refused on suitability grounds.

In some cases, more than one suitability ground may apply. For example the rules do not prevent you from refusing both on grounds of failure to provide a medical report and failure to attend an interview.

Interpreting the rules

The Immigration Rules do not define all the terms in the rules. However the Supreme Court in *Mahad (Ethiopia) v Entry Clearance Officer* [\[2009\] UKSC 16](#) per Lord Brown at [10] said that:

"The Rules are not to be construed with all the strictness applicable to the construction of a statute or a statutory instrument but, instead, sensibly according to the natural and ordinary meaning of the words used, recognising that they are statements of the Secretary of State's administrative policy."

Therefore, where deciding whether there was a reasonable requirement and/or a reasonable excuse you should use the natural and ordinary meaning of those words.

What is a reasonable requirement?

A requirement can be imposed either orally or in writing.

You must consider:

- how the requirement was imposed (is it clear the person was aware of, and understood, the requirement)
- how long the person was given to comply (was it a reasonable period, did they request an extension)
- was the person aware of the consequences of a failure to comply (were they given a warning and/or a further opportunity to comply)
- will the person be able to comply with the requirement at a later date
- has the person indicated that they are unwilling or unable to comply and, if so, why (ie do they have a reasonable excuse)

If it is not clear that the requirement was reasonable in the particular circumstances, you should consider:

- that this ground will not be made out and you should not refuse leave for this reason
- whether a different requirement should be imposed in order to obtain information necessary to consider the case

and, if so, you should notify the person of the new requirement or grant of leave.

Requirement to provide information or attend an interview

At the border: under paragraph 4(2) of schedule 2 to the Immigration Act 1971 a passenger must give you the information you need to show whether or not they need permission to enter the UK and, if they do, whether they have that permission (and whether or not it should be cancelled) and, if they do not have permission, whether

or not they qualify for a grant of permission. If the passenger is unable or unwilling to provide the information you need it will normally be appropriate to refuse entry.

Overseas/ In-Country: If you are requesting information or asking the applicant to attend an interview etc and they fail to provide information or attend an interview etc you may refuse the application under paragraph 9.9.1. or cancel existing entry clearance or permission under paragraph 9.9.2.

Requesting information previously provided to the Home Office

If you are requesting information which has previously been provided to the Home Office you should make it clear whether you do not have access to a copy of information or need to see the original document again to ensure it is a reasonable requirement to impose.

Requirement to undergo a medical examination or provide a medical report

Medical examinations are carried out to prevent the entry of, or bring to notice, people who if admitted to the UK might:

- endanger the health of other persons in the UK
- be unable for medical reasons to support themselves and/or dependants in the UK
- require major medical treatment (for which an entry clearance application has not been made)

You must not require a person to undergo a medical examination or provide a medical report:

- to establish whether they have borne children
- to establish whether they have had sexual relations
- to establish whether a woman is pregnant (see link to detention-pregnant-women which sets out when a pregnant woman may be detained)
- to X-ray them for age assessment
- which would require any pregnant woman or child aged under 11 to have a chest x-ray
- to prove a relationship by undertaking a DNA test: see updated-dna-guidance

Medical inspectors at the border

You can require an individual who is subject to immigration control to submit to a medical inspector. This is so that advice can be provided on the individual's health in relation to your decision to grant entry clearance. Paragraphs 2 (2) and (3) and 2(A) (4) and (5) of schedule 2 of the [Immigration Act 1971](#) provide Border Force officers and medical inspectors with these powers.

Medical inspectors will only issue certificates when satisfied the person's condition is a significant risk to public health. If they do issue a medical certificate or following a medical examination they recommend the person must not enter because of medical grounds you must refuse entry clearance or permission to stay in the UK.

Please see link to the guidance on referring a case to a Port Medical inspector.

Arranging a Medical Examination Referral Overseas

This is a check to find if there is any evidence for refusing a person under paragraph 9.9.1. of Part 9 of the Immigration Rules. When a medical referral is required you must not issue an entry clearance without medical clearance. You must not make any medical judgements.

To provide medical judgements each post must appoint both of the following:

- a medical officer who carries out the medical examination
- a medical referee who makes a recommendation to an ECO on whether a person must be refused entry to the UK on medical grounds

The above roles can be combined and posts may adopt their own procedure provided the recommendation is always made by a reputable doctor.

Detailed guidance on the referral process can be found here [medical-issues-med](#)

What is a reasonable excuse?

The Immigration Rules do not define what is a reasonable excuse. It will be fact specific including the nature of the requirement, how long the person was given to comply, their reasons for not complying, etc.

It may be appropriate, depending on the circumstances, to give the person a further opportunity to comply with a requirement, for example if:

- the person has provided satisfactory medical evidence that they were unable to attend an interview due to illness, but they are willing to attend as soon as they have recovered
- the person was unable to attend the interview and provided evidence that it was due to severe transport disruption
- the person has arranged for a medical report to be produced, and has provided evidence that the doctor needs slightly longer than the given deadline

It will not be appropriate to provide a further opportunity to comply with a requirement if the person has clearly indicated that they are unwilling to do so.

If you accept that the person has provided a reasonable excuse for continued non-compliance (for example they could not meet it even if given more time or it would cause undue delay in the consideration of the application, so that in effect the

requirement should be waived) and you decide that they should not be refused you should note on the relevant casework system the reason why you have decided not to refuse on suitability grounds and continue to assess their application in the normal way.

Cancelling entry clearance or permission

Cancellation in Part 9 means cancellation, variation in duration, or curtailment, of entry clearance or permission held by a person, which can take effect immediately or at a specified date in the future.

The power to cancel may be governed by, or constrained by, other provisions:

- Schedule 2 of the Immigration Act 1971 set out the powers to cancel entry clearance on arrival in the UK
- Section 4 of the Immigration Act 1971 sets out the power to cancel permission to enter or stay
- The Immigration (Leave to Enter and Remain) Order 2000 also contains power to cancel entry clearance and permission to enter or stay.
- Section 76 of the Nationality, Immigration and Asylum Act 2002 sets out the power to revoke indefinite leave: see guidance on revocation

Any entry clearance or limited permission to enter or stay in the UK held by a person may be cancelled where the person fails without reasonable excuse to comply with a reasonable requirement to do any of the following:

- provide information
- attend an interview
- provide biometrics
- undergo a medical examination
- provide a medical report

You should consider all the relevant circumstances before making a decision. If you want to interview the applicant about their current application and they fail without reasonable excuse to comply with a reasonable requirement to attend an interview you may consider it appropriate to cancel their current permission, but it will depend upon all the circumstances of the case.

You must consider:

- how the requirement was imposed (is it clear the person was aware of, and understood, the requirement)
- how long the person was given to comply (was it a reasonable period, did they request an extension)
- has the person been warned that a failure to comply may result in their current entry clearance or permission being cancelled
- has the person been given a further opportunity to comply

- has the person been given an opportunity to provide reasons why, despite their failure to comply, their current entry clearance or permission should not be cancelled
- has the person indicated that they are unwilling or unable to comply and, if so, why (ie do they have a reasonable excuse): see guidance on what is a [reasonable excuse](#)

A person who fails to comply with a reasonable requirement without reasonable excuse may demonstrate a reluctance to provide information which may call into question whether their current entry clearance or permission should be cancelled. You should take into account any explanation for the failure, or any reasons given as to why their current entry clearance or permission should not be cancelled, before making your decision.

If the person claims that the decision to cancel their current entry clearance or permission to enter or stay in the UK would be a breach of their human rights and the claim is sufficiently particularised, it should be treated as a human rights claim. Guidance on what amounts to a human rights claim is available in Rights of appeal. Guidance on how to consider a human rights claim is available for family and private life cases and for medical and other cases.

If a human rights claim has been made and, having considered all the circumstances of the case, you decide to cancel the entry clearance or permission to enter or stay you will also need to refuse the human rights claim. There may be a right of appeal against the refusal of the human rights claim: see guidance in Rights of appeal.

If no human rights claim has been made there will be a right of administrative review against a decision to cancel entry clearance or permission to enter or stay: see guidance on administrative review and reconsiderations

Refusing applications for entry clearance or permission to stay

Any application for entry clearance or permission to enter or stay in the UK may be refused where the person fails without reasonable excuse to comply with a reasonable requirement to do any of the following:

- provide information
- attend an interview
- provide biometrics
- undergo a medical examination
- provide a medical report.

You should consider all the relevant circumstances before making a decision. If you want to interview the applicant about their current application and they fail without reasonable excuse to comply with a reasonable requirement to attend an interview you may consider it appropriate to refuse their current application, but it will depend upon all the circumstances of the case.

You must consider:

- how the requirement was imposed (is it clear the person was aware of, and understood, the requirement)
- how long the person was given to comply (was it a reasonable period, did they request an extension)
- has the person been warned that a failure to comply may result in their current application being refused
- has the person been given a further opportunity to comply
- has the person been given an opportunity to provide reasons why, despite their failure to comply, their current application for entry clearance or permission should not be refused
- has the person indicated that they are unwilling or unable to comply and, if so, why (ie do they have a reasonable excuse): see guidance on [what is a reasonable excuse](#)

A person who fails to comply with a reasonable requirement without reasonable excuse may demonstrate a reluctance to provide information which may call into question whether their application should be refused . You should take into account any explanation for the failure, or any reasons given as to why their current entry clearance or permission should not be refused, before making your decision.

If the person claims that the decision to cancel their current entry clearance or permission to enter or stay in the UK would be a breach of their human rights and the claim is sufficiently particularised, it should be treated as a human rights claim. Guidance on what amounts to a human rights claim is available in Rights of appeal. Guidance on how to consider a human rights claim is available for family and private life cases and for medical and other cases.

If a human rights claim has been made and, having considered all the circumstances of the case, you decide to cancel the entry clearance or permission to enter or stay you will also need to refuse the human rights claim. There may be a right of appeal against the refusal of the human rights claim: see guidance in Rights of appeal.

If no human rights claim has been made there will be a right of administrative review against a decision to cancel entry clearance or permission to enter or stay: see guidance on Administrative Review.

Outside the UK, applications based on a human rights claim must form part of a valid application for entry clearance. The list in the Rights of Appeal guidance under section overseas: application under the Immigration Rules gives the forms available for human rights applications under the rules. Where applicants cannot find an appropriate form or believe that they cannot meet the requirements of the Immigration Rules, they must complete the form for the route which most closely matches their circumstances and pay the relevant fee and charges. Any compelling compassionate factors they wish to be considered, including any documentary evidence, must be provided as part of the application for entry clearance on that

route. Any dependants of the main applicant seeking entry clearance at the same time, must follow the same process and pay the relevant fees and charges.

For example, Part 9 of a visit visa application form allows the applicant to set out any other information that should be considered as part of the application. This can include a human rights claim that leave as a visitor should be granted outside the rules.

Where an application which engages human rights has been made and is refused there will be a right of appeal. With visitors as the rules do not of itself of themselves engage human rights there will only be a right of appeal if the human rights claim is particularised. For further information see [considering human rights in visitor applications](#).

Where the application does not engage human rights there may be a right of administrative review, for further details see the guidance on administrative review and reconsiderations

Armed Forces (Appendix AF) and Family cases (Appendix FM)

In armed forces and family cases you have a mandatory power of refusal for failure to comply cases as set out in Appendix FM and Appendix AF. However, you will need to balance this against whether it is proportionate to do so on human rights grounds in family cases. See Family life (as a partner or parent), private life and exceptional circumstances guidance

Paragraph 9.9.2. applies to Appendix AF and Appendix FM giving you the power to cancel existing entry clearance or limited permission to enter or stay in accordance with the guidance above if there is a failure to comply without reasonable excuse with a reasonable requirement to provide documents, etcetera.

Your decision

Where you are refusing an application or cancelling entry clearance or permission to enter or stay for failure to comply with a specified reasonable requirement you must explain in your decision notice what the requirement was, when and how it was imposed and set out any excuse provided by the person as well as any other points raised by them and your response to those points. You must fully explain any steps taken to enable the person to comply with the requirement to show that you have acted fairly and reasonably. You should use plain English and concise language and avoid jargon and acronyms.

Example refusal wording: failure to attend an interview (no show)

You were contacted by post/email/phone on [date] and required to attend an interview on [date] in relation to your application for [route]. You failed to attend and

have not provided any reasons for your non-attendance. You were contacted again on [date] and given a further opportunity to attend an interview on [date]. You failed to attend that interview and have not provided any reasons for your non-attendance.

I have considered all the circumstances of your case and [explain any relevant factors]. As a result of your failure without reasonable excuse to comply with the reasonable requirement to attend an interview I am refusing your application on suitability grounds under paragraph 9.9.1. of Part 9 of the Immigration Rules.

Example refusal wording: failure to attend an interview (excuse not reasonable)

You were contacted by post/email/phone on [date] and required to attend an interview on [date] in relation to your application for [route]. You failed to attend and contacted the Home Office on [date] by post/email/phone to say that the reason for your non-attendance was that you were unwell because [explanation given]. You were contacted again on [date] and given a further opportunity to attend an interview on [date]. You failed to attend that interview and said that the reason you did not attend is that you were unwell because [explanation given]. You were asked to provide medical evidence that you were unwell but have not done so/the evidence you have provided does not show that you were unable to attend the interview because [explain]. I am therefore not satisfied that you had a reasonable excuse for your failure to comply with the reasonable requirement to attend an interview.

I have considered all the circumstances of your case and [explain any relevant factors]. As a result of your failure without reasonable excuse to comply with the reasonable requirement to attend an interview I am refusing your application on suitability grounds under paragraph 9.9.1. of Part 9 of the Immigration Rules.

Example cancellation wording: failure to provide a medical report

You were contacted by post/email/phone/in person on [date] and required to provide a medical report in relation to your application for [route] by [date] to show that you no longer have [a contagious disease]. You did not provide the medical report by the specified date. You were contacted again on [date] and given a further opportunity to provide the medical report by [date]. You were warned that a failure to provide such a report could result in your permission to stay in the UK as [route] being cancelled. You have failed to provide the medical report and you have not provided any reason for that failure. I am therefore not satisfied that you had a reasonable excuse for your failure to comply with the reasonable requirement to provide a medical report.

As you have not provided a medical report to show that you no longer have [a contagious disease] and you have not provided any reasons why your permission to stay as [route] should not be cancelled, having considered all the circumstances of your case and [explain any relevant factors], I have decided that as a result of your failure without reasonable excuse to comply with the reasonable requirement to provide a medical report, I am cancelling your permission to stay as [route] with

immediate effect on suitability grounds under paragraph 9.9.2. of Part 9 of the Immigration Rules.

Related content

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