



Home Office

# EEA family permits: guidance for entry clearance officers

Version 2.0

Guidance for entry clearance officers (ECOs) on how to consider applications for EEA family permits

# Contents

Contents.....	2
About this guidance.....	3
Contacts .....	3
Clearance and publication .....	3
Changes from last version of this guidance .....	3
What is an EEA family permit? .....	4
How long are they valid for? .....	4
Who can apply? .....	5
Immigration (European Economic Area) Regulations 2016.....	6
The legal requirements .....	6
Direct family members of EEA nationals .....	6
Direct family members of British citizens.....	6
Accompanying or joining a British citizen sponsor in the UK.....	7
Extended family members.....	8
Family members who have retained a right of residence .....	8
Family members who have acquired a right of permanent residence .....	9
Derivative rights of residence .....	9
Marriages and civil partnerships of convenience .....	10
What evidence is required? .....	11
Direct family members .....	11
Extended family members .....	12
Misuse of rights .....	14
Public Policy, Public Security and Public Health .....	15
Fraudulent evidence .....	15
Refusal Wordings.....	16

# About this guidance

This guidance tells entry clearance officers (ECOs) how to consider applications for EEA Family Permits made under the [Immigration \(European Economic Area\) Regulations 2016](#).

The 2016 regulations apply and interpret the UK's obligations under the [Free Movement of Persons Directive \(2004/38/EC\)](#) (the directive) into domestic law. The rights given to European Economic Area (EEA) nationals under these regulations are known as free movement rights.

Full guidance on the rights of EEA nationals and their family members can be found in the [EEA, Swiss nationals and EC associated agreement guidance](#). When making any decisions relating to an EEA family permit, ECOs must refer to appropriate sections of the full guidance in conjunction with this EEA family permit guidance.

## 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 you can email the Free Movement 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.

## Clearance and publication

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

- version **2.0**
- published for Home Office staff on **13 March 2017**

## Changes from last version of this guidance

- reformatted in line with new processes
- changes made to reflect that the Immigration (European Economic Area) Regulations 2016 have revoked and replaced the Immigration (European Economic Area) Regulations 2006

### Related content

[Contents](#)

### Related external links

[Immigration \(European Economic Area\) Regulations 2006](#)

# What is an EEA family permit?

The [Free Movement of Persons Directive \(2004/38/EC\)](#) (the directive) allows member states, such as the UK, to require family members of European Economic Area (EEA) nationals who are not EEA nationals to hold an entry visa. For admission to the UK, this entry visa is the EEA family permit.

The conditions which must be met in order for an EEA family permit to be issued are set out in regulation 12 of the [2016 regulations](#).

A person who is the family member of an EEA national must be admitted to the UK to join or accompany the EEA national where they present a valid passport and their valid EEA family permit. However, it is possible for them to demonstrate their right of admission under EU law at the UK border if they do not have one of these documents. For further information, see the [legal requirements](#) and [required evidence](#) sections within this guidance.

The directive sets out that these visas must be issued free of charge and on the basis of an accelerated procedure.

## How long are they valid for?

An EEA family permit is valid for 6 months. The non EEA national family member can leave and enter the UK multiple times within that time period.

Under regulation 7(3) or the 2016 regulations , extended family members must apply for a residence card if they want to stay in the UK after their EEA family permit has expired.

### Related content

[Contents](#)

# Who can apply?

The following people can apply for an EEA family permit under the 2016 Regulations:

- [direct family members](#), which includes:
  - spouses and civil partners
  - direct descendants of the EEA national or their spouse or civil partner who are under 21 years of age and dependants of the EEA national or their spouse or civil partner
- dependent direct relatives in the ascending line (e.g. parent, grandparent) of the EEA national or their spouse or civil partner
- direct family members of British citizens claiming a right of admission to the UK under regulation 9 (so-called 'Surinder Singh' CJEU judgement cases)
- [extended family members](#), which includes:
  - relatives who are not direct family members
  - unmarried partners in a durable relationship
- persons who are entitled to a [derivative right of residence](#) under regulation 16

For information on the conditions which must be met in order for an EEA family permit to be issued see [legal requirements](#).

## Related content

[Contents](#)

# Immigration (European Economic Area) Regulations 2016

## The legal requirements

The conditions which must be met in order for an EEA family permit to be issued are set out in [regulation 12 of the 2016 regulations](#).

## Direct family members of EEA nationals

Regulation 12(1) sets out that you must issue an EEA family permit to a family member of an EEA national where:

- (a) the EEA national –
  - (i) is residing in the UK in accordance with the Regulations, or
  - (ii) will be travelling to the UK within 6 months of the date of the application and will be an EEA national residing in the UK in accordance with the Regulations on arrival, and
- (b) the family member will be accompanying the EEA national in the UK or joining the EEA national there.

See the [guidance on direct family members of EEA nationals](#) for further information.

## Direct family members of British citizens

The conditions for family members of British citizens to be treated as though they are family members of EEA nationals changed with effect from 25 November 2016 and are set out in [regulation 9 of the 2016 regulations](#).

The conditions are that:

- (a) the British citizen:
  - (i) is residing in an EEA state other than the UK as a worker, self-employed person, self-sufficient person or student, or so resided immediately before returning to the UK; or
  - (ii) has acquired the right of permanent residence in an EEA state other than the UK;
- (b) the family member and the British citizen resided together in the EEA state; and
- (c) the family member and the British citizen's residence in the EEA state was genuine.

Factors relevant to whether residence in the EEA state is or was genuine include:

- (a) whether the centre of the British citizen's life transferred to the EEA state;
- (b) the length of the family member and British citizen's residence in the EEA state;

- (c) the nature and quality of the family member and British citizen's accommodation in the EEA state, and whether it is or was the British citizen's principal residence;
- (d) the degree of the family member and the British citizen's integration in the EEA state; and
- (e) whether the family member's first lawful residence in the EU with the British citizen, was in the EEA state.

For further information on assessing whether residence in the EEA state was genuine, including the ability to conduct credibility interviews see [Free Movement Rights: Family members of British citizens](#)

This regulation does not apply where the purpose of the residence in the EEA state was as a means for circumventing any immigration rules applying to non EEA nationals to which the family member would otherwise be subject to. An example of this would where a British citizen and their spouse took up residence in another EEA state to enable them to come to the UK under free movement because they can not meet the requirements of the relevant immigration rules. This may be evident where previous entry clearance applications made under the Immigration Rules have been refused for these reasons.

Regulation 9 also does not apply to extended family members, even where they have been issued documentation as an extended family member under regulation 7(3) of the 2016 Regulation and so would subsequently be treated as family members.

Upon their return to the UK, when treating the British citizen as an EEA national, beyond an initial 3 months, the British citizen must show that they would be a 'qualified person' as a jobseeker, worker, self-employed person, self-sufficient person or student to continue being treated as an EEA national.

### Accompanying or joining a British citizen sponsor in the UK

Where a person applies for an EEA family permit as a family member of an EEA national but they are either:

- accompanying their British citizen sponsor's return to the UK
- joining their British citizen sponsor in the UK

you must first satisfy yourself that the British citizen can be treated as an EEA national because they meet the conditions in [regulation 9 of the 2016 Regulations](#), before deciding whether to issue the EEA family permit.

Where the applicant is accompanying the British citizen on a visit to the UK and can prove that they will only be visiting the UK, you do not need to ask for evidence that the British citizen is, or would be, a qualified person in the UK. This is because, if you are treating the British citizen as an EEA national, they are permitted an initial 3 months without condition, the same as any other EEA national.

Where the sponsoring British citizen has been in the UK for longer than 3 months and the applicant is joining them, the applicant must provide evidence that the British citizen is a qualified person in the UK.

For further information on assessing whether the British citizen is a qualified person see [Free Movement Rights: Family members of British citizens](#) and [Free Movement: Qualified persons](#)

If the conditions in regulation 9 are met which enable the British citizen sponsor to be treated as an EEA national, you must then decide whether to issue an EEA family permit.

### Extended family members

[Regulation 12\(4\)](#) of the 2016 regulations sets out that you may issue an EEA family permit to an extended family member of an EEA national if all of the below conditions are met:

- the EEA national is residing in the UK in accordance with the 2016 regulations, or will be travelling to the UK within 6 months of the date of application and will be residing in the UK in accordance with the regulations
- the extended family member wishes to accompany the EEA national to the UK or to join them there
- in all the circumstances, it appears to you to be appropriate to issue the EEA family permit

For further information on how to assess whether a person meets the requirements of regulation 8 of the 2016 regulations as an extended family member, please see: [Extended family members of EEA nationals](#).

### Family members who have retained a right of residence

Regulation 12(3)(a) of the 2016 regulations states that you must issue an EEA family permit to a family member who has retained a right of residence.

Family members who have retained a right of residence do not need to show that they will be joining the EEA national family member or accompanying them to the UK. This is because family members who retain a right of residence do so in a personal capacity and their right is no longer dependent on the EEA national residing in the UK.

Applications for an EEA family permit on this basis may be from a person who has previously been issued with a residence card and that residence card has expired or has been lost. You may also receive applications from persons claiming to retain a right of residence but who have not previously made an application on this basis.

You must consider whether the applicant meets the conditions to retain a right of residence under regulation 10 of the 2016 regulations.

Where the applicant has previously been issued a residence card on the basis of a retained right of residence on the condition that the applicant must be a worker, self-



employed person or self-sufficient person, you must consider whether this condition continues to be met.

For further information on family members who have retained a right of residence, see [Family members who have retained a right of residence](#).

## Family members who have acquired a right of permanent residence

Regulation 12(3)(b) of the 2016 regulations states that you must issue an EEA family permit to a family member who is not an EEA national but who has acquired a right of permanent residence.

Family members who have a right of permanent residence do not need to show that they will be joining the EEA national family member or accompanying them to the UK. This is because a family member who has a right of permanent residence does so in a personal capacity and their right is no longer dependent on the EEA national residing in the UK.

Applications for an EEA family permit on this basis may be from a person who has previously been issued with a permanent residence card and that permanent residence card has expired or has been lost. You may also receive applications from persons claiming to have acquired a right of permanent residence but who have not previously made an application on this basis.

You must consider whether the applicant meets the conditions to retain a right of residence [under regulation 15 of the 2016 regulations](#).

You must also consider whether the applicant has been outside of the UK for a continuous period of two years or more. If so the applicant will have lose their right of permanent residence in the UK.

For further information on family members who have retained a right of residence, see [Family members who have retained a right of residence](#).

## Derivative rights of residence

Regulation 12(2) of the 2016 regulations states that you must issue an EEA family permit to a person who shows that, at the time which they first intend to use the EEA family permit they:

- would be entitled to enter the UK by virtue of regulation 11(5) which relates to people who have previously resided in the UK under a derived right of residence
- will (apart from a person who would be entitled to be admitted to the UK virtue of regulation 11(5)(a)) (child of an EEA national worker in the UK) be accompanying , or joining in the UK, any person from whom this right to be admitted will be derived

This means that the applicant must prove that they have a right of admission on the basis that they would, were they in the UK, meet the conditions for a [derivative right of residence](#) and that they will be accompanying or joining the person from whom they derive that right. For example, a person claiming a derivative right of residence as the primary carer of a British citizen under regulation 16(5) ('Zambrano' cases) must show that they meet the conditions in regulation 16(5) and that they are accompanying the British citizen to, or joining them in, the UK.

## **Marriages and civil partnerships of convenience**

A person who is a party to marriage or civil partnership of convenience is excluded from the definition of 'spouse' or 'civil partner' under regulation 2 of the 2016 regulations.

If you suspect that a marriage or civil partnership is one of convenience, you can request that the applicant provide evidence about their relationship or attend an interview on this basis.

If the applicant fails to comply with a request to provide evidence or to attend a marriage interview on 2 separate occasions, regulation 22(4)(b) allows you to draw 'factual inferences' about the applicant's entitlement to reside as may appear appropriate in the circumstances. This means that taking the failure of the applicant to provide evidence or attend an interview, along with any other reasons to suspect that the marriage or civil partnership is one of convenience, can lead you to decide that the applicant does not have a right to an EEA family permit.

If, following an interview, you decide that the marriage or civil partnership is one of convenience you must refuse the application, clearly setting out in the refusal letter the reasons for concluding that the marriage or civil partnership is not genuine.

For further information on assessing marriages and civil partnerships of convenience see [Free Movement Rights: Direct family members of European Economic Area \(EEA\) nationals](#).

### **Related content**

[Contents](#)

# What evidence is required?

When applying for an EEA family permit the applicant must provide the following:

- a valid passport for applicant
- a valid passport or EEA national identity (ID) card for the EEA national sponsor (a photocopy is acceptable for the purposes of an EEA family permit application)
- evidence of the relationship between the family member and their sponsor

For further information on rejecting applications as invalid where mandatory documentation or evidence has not been provided see [Processes and procedures for EEA documentation applications](#).

## Direct family members

For direct family members, the following evidence must be provided:

- original evidence of the relationship to the EEA national – examples of this would include marriage certificates, birth certificates or adoption certificates
- evidence, either in the form of an EEA national identity card or EEA passport that the sponsor is an EEA national - certified copies can be accepted where the EEA national cannot produce their passport or ID card (for example because they are already in the UK)
- evidence that the EEA national is either:
  - residing in the UK in accordance with the 2016 regulations as a [qualified person](#) – the evidence required in such cases would depend on the basis that they are claiming they are a qualified person
  - will be travelling to the UK within 6 months of the date of application – evidence to show this may include, but is not limited to, flight bookings to the UK and hotel bookings in the UK

For spouses and civil partners the following must be provided:

- evidence that the relationship is genuine and subsisting - examples of this include evidence of cohabitation such as joint tenancy or mortgage agreements, utility bills, bank statements (this is not an exhaustive list, and there may be other documents a spouse or civil partner may provide to show they are in a genuine relationship with the EEA national – each case must be considered on its merits)

For dependent direct family members (direct descendants age 21 or over and dependent relatives in the ascending line) the following evidence must be provided:

- proof that they are dependent on the EEA national sponsor or their spouse or civil partner, such as:
  - bank or building society statements
  - evidence of money transfers
  - evidence of living in the same household if applicable

- other evidence to show their EEA national sponsor has enough money to support them and the applicant is reliant on them for this

For further information see guidance:

- [Processes and procedures for EEA documentation applications](#)
- [Free Movement Rights: Direct family members of European Economic Area \(EEA\) nationals](#)
- [European Economic Area nationals: qualified persons](#)

## Extended family members

For extended family members the following must be provided:

- an EEA national identity card or EEA passport showing that the sponsor is an EEA national - certified copies can be accepted where the EEA national cannot produce their passport or ID card (for example because they are already in the UK)
- evidence of relationship between the applicant and the EEA national – for relatives, this may be marriage certificates, birth certificates or adoption certificates (for example a cousin may provide a birth certificate showing their mother's details and their mother's birth certificate showing the relationship to her sister who is the aunt of the applicant)
- for durable partners, evidence of 2 years cohabitation must be provided – examples of this include, but is not limited to utility bills (showing joint residence), tenancy or mortgage statements or joint caring of dependent children (there is no definitive list of evidence that must be accepted to prove cohabitation and the documents presented may vary depending on the individual facts of the case – where there is less than 2 years evidence of cohabitation but you are satisfied that the relationship is still durable you can issue the residence permit)
- evidence that the EEA national is either:
  - residing in the UK in accordance with the 2016 regulations (such as payslips, evidence of self-employment, evidence of sufficient resources and comprehensive sickness insurance)
  - will be travelling to the UK within 6 months of the date of application (such as flight bookings to the UK and hotel bookings in the UK)
- where the applicant is applying as the dependant of the EEA national, evidence that the extended family member is financially dependent on the EEA national to meet their essential needs examples of this can include bank statements or money transfers from the EEA national to the applicant
- where the applicant is a member of the EEA national's household, evidence that the extended family member is living with the EEA national in the EEA nationals' household – examples of this can include utility bills, social services letters, mortgage or tenancy agreements
- where the applicant is applying on the basis they strictly require the personal care of the EEA national or their spouse or civil partner, evidence must be provided to show what care is provided and that the EEA national or their

spouse or civil partner must provide that care, for example, medical letters from a qualified practitioner

- where the applicant is applying as a relative of an EEA national and would meet the requirements of the Immigration Rules for indefinite leave as a dependent relative of the EEA national were the EEA national present and settled in the UK, evidence should include details of dependency (such as bank statements) and how the Rules for indefinite leave had been met

For further information on assessing applications from extended family members, see:

- [Processes and procedures for EEA documentation applications](#)
- [Extended family members of EEA nationals](#)
- [European Economic Area nationals: qualified persons](#)

### **Related content**

[Contents](#)

### **Related external links**

[Immigration \(European Economic Area\) Regulations 2016](#)  
[Free Movement of Persons Directive \(2004/38/EC\)](#)

# Misuse of rights

Regulation 26(1) defines [misuse of a right](#) to reside as where a person:

- observes the requirements of the 2016 regulations in circumstances which do not achieve the purpose of the regulations
- intends to obtain an advantage from the 2016 regulations by engaging in conduct which artificially creates the conditions required to satisfy the criteria set out in the regulations.

Such misuse includes attempting to enter the UK within 12 months of being removed under regulation 23(6)(a) of the 2016 regulations. This applies where the person attempting to do so is unable to provide evidence that, upon re-entry to the UK, the conditions for a right to reside, other than the initial right of residence under regulation 13, will be met.

Regulation 26(3) of the Regulations sets out that the Secretary of State may take an EEA decision on the grounds of misuse of rights where there are reasonable grounds to suspect the misuse of a right to reside and it is proportionate to do so.

For further information on abuse of rights and fraud, please see [Misuse and verification of rights](#).

## **Related content**

[Contents](#)

## **Related external links**

[Immigration \(European Economic Area\) Regulations 2016](#)  
[Free Movement of Persons Directive \(2004/38/EC\)](#)

# Public Policy, Public Security and Public Health

In line with regulation 21, family members of an EEA national can be refused an EEA family permit on the grounds of:

- public policy
- public security
- public health

Before issuing an EEA family permit you must be certain there are no reasons to refuse on the grounds of public policy, security or health.

For further information see [EEA decisions on grounds of public policy and public security](#).

## Fraudulent evidence

Where you have reasonable grounds to suspect that the applicant has submitted fraudulent evidence in support of an application for an EEA family permit, you can refuse the application on public policy and public security grounds.

For further information on public policy and public security see [EEA decisions on grounds of public policy and public security](#).

## Related content

[Contents](#)

## Related external links

[Immigration \(European Economic Area\) Regulations 2016](#)  
[Free Movement of Persons Directive \(2004/38/EC\)](#)

# Refusal Wordings

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

## No evidence of sponsor's nationality

- You state that your sponsor **[name]** is residing in the United Kingdom and is a **[country]** national. You have provided no evidence that s/he holds either a **[country]** passport or EEA identity card and I am therefore not satisfied that s/he is an EEA National.

## No evidence that sponsor is exercising treaty rights

- You have stated that your sponsor **[name]** is residing in the United Kingdom. However you have not presented satisfactory evidence that he/she is a qualified person in accordance with regulation 6 of the Immigration (European Economic Area) Regulations 2016 because **[reason]**.
- I have carefully studied the documents you have provided in support of your application however I am not satisfied that your sponsor, **[name]**, is residing in, or will be accompanying, you to the United Kingdom within 6 months.
- On your application you state that your sponsor is employed by **[xxxx]**. However, you have provided no evidence that he/she is either employed by **[xxxx]** or that he/she is in receipt of an income from them. Therefore I am not satisfied that s/he is a qualified person in accordance with regulation 6 of the Immigration (European Economic Area) Regulations 2016 or residing in the United Kingdom in accordance with these Regulations.
- You have failed to provide evidence that your sponsor is a qualified person in accordance with regulation 6 of the Immigration (European Economic Area) Regulations 2016. I am, therefore, not satisfied that s/he is residing in the United Kingdom in accordance with these Regulations.

## Evidence that EEA sponsor's earnings are below Primary Earnings Threshold:

- You state on your application that your sponsor, **[name]**, is employed in the United Kingdom. I have assessed whether this employment means they are a qualified person under the 2016 Regulations. In order to be considered in effective employment your sponsor is expected to reach the HMRC Primary Earnings Threshold (PET) on a consistent basis throughout the period of their employment. The current PET is £155 gross per week, or £672 gross per calendar month.
- You have submitted evidence of your sponsor's employment in the form of **[evidence submitted]**. However, I note his/her salary is **[amount] and where appropriate [and is not shown as being paid into his/her bank statement]**. I therefore consider his/her employment to be marginal and/or supplementary and not to meet the Primary Earnings Threshold. I further note that your sponsor's bank statements show that he/she is receiving **£xxx** per month in working tax credits, which is the majority of his/her monthly income. Therefore, you have failed to provide evidence that your sponsor is a qualified person in accordance with Regulation 6 of the Immigration (European



Economic Area) Regulations 2016. I am, therefore, not satisfied that s/he is residing in the United Kingdom in accordance with these Regulations.

### **Sponsor is a student**

- You have stated that you propose to join your sponsor, **[name]**, who is a **[country]** national, in the United Kingdom. You have provided evidence that your sponsor is a student at **[name of]** and you have provided a letter from the university/educational establishment in support of this. You have provided no evidence that your sponsor is currently working whilst a student or has comprehensive sickness cover. As a non-working student your sponsor must provide evidence that he/she has sufficient resources not to become a burden on the social assistance system of the United Kingdom during his/her period of residence in order to establish that he/she is a qualified person in accordance with Regulation 6 of the Immigration (European Economic Area) Regulations 2016. I am, therefore, not satisfied that your sponsor is residing in the United Kingdom in accordance with these Regulations

### **Related content**

[Contents](#)

### **Related external links**

[Immigration \(European Economic Area\) Regulations 2016](#)  
[Free Movement of Persons Directive \(2004/38/EC\)](#)