

OPI 260: Evidential Flexibility in PBS Applications

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Background

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The then Director of Visa Services issued a message in May introducing evidential flexibility for PBS Tier 4 applications to help manage any teething problems following the introduction of Tier 4. <out of scope>

Since the message, posts have used the instruction in different ways. For example, some posts have contacted applicants for all categories of PBS applications, some for only Tier 4 applications, and others not at all.

International Group accepted this recommendation and agreed to review and issue refreshed guidance for staff where the only reason for refusal is a minor omission of a document or a known piece of evidence which, if provided, would lead to an approval of the application. This will help ensure a consistent approach to evidential flexibility. This OPI is the guidance supersedes any previous guidance to International Group.

Summary:

We are not introducing caseworker discretion - the points criteria must be met in every case - but the instruction below shows how to address minor omissions to ensure that applications can be processed quickly and effectively and genuine minor errors or omissions corrected, where appropriate and practicable.

Where there are minor errors or omissions in any category of PBS application and there is sufficient evidence to show that without them, the application would be granted, entry clearance staff may contact the migrant or the sponsor to seek clarification or request missing documentation and information. By contrast do not seek information which is not required by the guidance. The applicant/sponsor only has to satisfy the requirements as set out.

Key points to the evidential flexibility OPI:

1. Applies to all categories of PBS applications
2. If the application would fall for refusal even if the minor omission was corrected, do not request additional documentation
3. Where the points are not met, but there is reason to believe that the applicant would meet the criteria if given the opportunity to correct an omission then request missing documentation. For example:
 - a) Student going to Oxford forgets to send all bank statements. By the very fact that he has been accepted to Oxford, the ECO would have 'reason to believe' that he perhaps has the funds. Therefore contact him.
 - b) Student going to take lower level English language course presents bank statements which lack the necessary funds. There is nothing in this student's profile to suggest that he could meet the criteria if given the chance. Therefore refuse.
4. Spelling mistakes etc (such as a miss spelt name or error in passport no.) may be clarified via email or phone call or ignored if posts are confident that it is a genuine error and no identity fraud is taking place.
5. Assume a seven day target for receipt of documents unless operational demands dictate different timeframes.

Regional management can define operational demands and the specific circumstances when to contact an applicant regarding points 3, 4 and 5 above.

Contact <Redacted – Exemption section 40>

Last Updated: 19 April 2011