

## Evidential Flexibility – Temporary Caseworking Instruction

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**Introduction** In response to significant feedback from the caseworking teams, as well as from our customers, it has been decided to allow, initially to October 2009, more flexibility for PBS caseworkers to invite sponsors and migrants to correct minor errors or omissions in migrant and their associated dependants applications under Tiers 1, 2, 4 and 5, where practicable.

The intention for PBS was that, by making the system clear, objective and simple, we would not need to go out to customers to request missing information or to amend minor errors. This has led to unexpected levels of cases being refused where applicants have made a minor error or minor omission of information or evidence. In many cases these refusal decisions are being overturned at appeal.

On this basis, this instruction explains a more flexible approach to incomplete applications for all PBS migrants (including dependants). This will enable caseworkers to query details or request further information, such as a missing wage slip or bank statement from a sequence. Usually the caseworker will make contact by phone or email. Three working days will be given to the customer to provide what is missing.

This flexibility is only for cases which would be refused solely on the absence of a piece of evidence or information. Where the application would fall for refusal even if the missing evidence was submitted, we should not go out for any further evidence or information. Likewise, if it would be approved anyway, caseworkers should not contact the customer for additional information.

The evidence requested must only relate to the attributes, not general immigration issues or validation.

**NOTE:**

**Although deadlines will be given for customers to respond to our request for further information, if additional information is received within UKBA (not necessarily by the relevant case owner) prior to the case being despatched this must be taken into account by the caseworker. This applies even if a refusal decision has been completed but the case has not been despatched on CID.**

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**Procedure** This procedure describes the steps to take when an application has missing evidence or there is a minor error.

Step	Action
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1	<p>Application forms for PBS are specified and have to meet certain requirements to be considered valid. Invalid forms are rejected and returned to the applicant. Further details regarding validation and how to reject applications can be found in Chapter 1A, Section 1 of the IDIs.</p> <p>To be valid, PBS applications must meet the following requirements:</p> <ul style="list-style-type: none"><li>• Submitted on a specified form</li><li>• Submitted with the specified fee</li><li>• Submitted in the specified manner – via post or where applicable, at a PEO.</li><li>• All mandatory documents provided – the list of mandatory documents is specified in the help text of each application form, but generally includes:<ul style="list-style-type: none"><li>○ Passport</li><li>○ ICFN card (for applicants who hold one)</li><li>○ PRC (for applicants who are required to register with the Police and have been instructed to do so by UKBA)</li><li>○ Valid photos*</li></ul></li><li>• All mandatory sections of the form completed – any mandatory sections are noted on the relevant application forms at the start of the section.**</li><li>• Biometric information provided (on casetypes where ICFNs have been introduced).</li></ul> <p>IDI Chapter 1A, Section 1, paragraph 8.3 sets out circumstances when it will be appropriate to exercise discretion and accept an application as valid even though some of the information is missing. In addition please note the following points:</p> <p>* where the applicant has provided one valid photo rather than two, discretion should be exercised to treat the application as valid – there will be no need to request a further photograph</p> <p>** where the mandatory information has been omitted, but this can be obtained from other documentation provided then the application can be accepted as valid. Examples of this are:</p> <ul style="list-style-type: none"><li>• a passport number was not input onto the form, but the passport was included with the case</li><li>• the immigration history section of the PBS dependant form has been struck through with the words “Born in the UK” – this effectively answers the questions.</li><li>• the applicant has put their name in one box rather than splitting between the “first name” and “last name” boxes</li></ul> <p><b>Discretion should always be exercised (unless on a fee issue) to accept an application as valid if it was made more than three month prior to date of validation.</b></p> <p>Is the missing evidence used for validation purposes and not subject to an exception as stated above?</p> <table border="1"><thead><tr><th>If?</th><th>Then?</th></tr></thead><tbody><tr><td>No</td><td>Go to step 2</td></tr><tr><td>Yes</td><td>Evidence cannot be requested. The application form should be <u>rejected</u> in line with the relevant IDI.</td></tr></tbody></table>	If?	Then?	No	Go to step 2	Yes	Evidence cannot be requested. The application form should be <u>rejected</u> in line with the relevant IDI.
If?	Then?						
No	Go to step 2						
Yes	Evidence cannot be requested. The application form should be <u>rejected</u> in line with the relevant IDI.						

## Evidential Flexibility – Temporary Caseworking Instruction (continued)

### Procedure (Cont)

2	<p>Would the application fall for refusal even if the missing information was provided, or minor error corrected?</p> <p>An example of this may be where the applicant has failed to provide three months bank statements for maintenance, but in addition has not declared on their application that they have a conviction which is not spent.</p> <p>Additionally, if there are any reasonable doubts over the information currently held that would cause caseworkers to seek further verification, this should take place prior to any request for further evidence. This also applies where the application hits a risk profile.</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th>If?</th> <th>Then?</th> </tr> </thead> <tbody> <tr> <td>No</td> <td>Go to step 3</td> </tr> <tr> <td>Yes</td> <td>Evidence cannot be requested. The application should be <u>refused</u>. All grounds should be included including any attributes where there was any missing evidence or minor errors.</td> </tr> </tbody> </table>	If?	Then?	No	Go to step 3	Yes	Evidence cannot be requested. The application should be <u>refused</u> . All grounds should be included including any attributes where there was any missing evidence or minor errors.
If?	Then?						
No	Go to step 3						
Yes	Evidence cannot be requested. The application should be <u>refused</u> . All grounds should be included including any attributes where there was any missing evidence or minor errors.						
3	<p>We will only go out for additional information in certain circumstances. The lists below are not exhaustive, however if any item of evidence not expressly stated in the attached list is required, the caseworker would need &lt;Out of Scope&gt; Senior Caseworker approval.</p> <p>&lt;Document copied separately:</p> <p>Evidential flexibility - Documents which it maybe appropriate to request for each Tier&gt;</p> <p>Is the evidence missing information or a minor error included in the list above?</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th>If?</th> <th>Then?</th> </tr> </thead> <tbody> <tr> <td>Yes</td> <td>Go to step 5</td> </tr> <tr> <td>No</td> <td>Go to step 4</td> </tr> </tbody> </table>	If?	Then?	Yes	Go to step 5	No	Go to step 4
If?	Then?						
Yes	Go to step 5						
No	Go to step 4						

## Evidential Flexibility – Temporary Caseworking Instruction (continued)

### Procedure (Cont)

Step	Action						
4	<p>The case should be referred to &lt;Out of Scope&gt; Senior Caseworker for a decision to be made on whether requesting further evidence or correcting an error is appropriate.</p> <p>Is this appropriate?</p> <table border="1"><thead><tr><th>If?</th><th>Then?</th></tr></thead><tbody><tr><td>No</td><td>Evidence cannot be requested or errors corrected. The application form should be <u>refused</u>. All grounds should be included including any attributes where there was any missing evidence or minor errors.</td></tr><tr><td>Yes</td><td>Go to step 5</td></tr></tbody></table>	If?	Then?	No	Evidence cannot be requested or errors corrected. The application form should be <u>refused</u> . All grounds should be included including any attributes where there was any missing evidence or minor errors.	Yes	Go to step 5
If?	Then?						
No	Evidence cannot be requested or errors corrected. The application form should be <u>refused</u> . All grounds should be included including any attributes where there was any missing evidence or minor errors.						
Yes	Go to step 5						
5	<p>Are multiple pieces of evidence missing or have multiple errors been made?</p> <table border="1"><thead><tr><th>If?</th><th>Then?</th></tr></thead><tbody><tr><td>Yes</td><td>Go to step 6</td></tr><tr><td>No</td><td>Go to step 7</td></tr></tbody></table>	If?	Then?	Yes	Go to step 6	No	Go to step 7
If?	Then?						
Yes	Go to step 6						
No	Go to step 7						

## Evidential Flexibility – Temporary Caseworking Instruction (continued)

### Procedure (Cont)

Step	Action						
6	<p>The case should be referred to &lt;Out of Scope&gt; Senior Caseworker for a decision to be made on whether requesting multiple further evidence or correcting multiple errors is appropriate.</p> <p>Is this appropriate?</p> <table border="1" data-bbox="600 685 1378 1055"> <thead> <tr> <th data-bbox="600 685 962 719">If?</th> <th data-bbox="962 685 1378 719">Then?</th> </tr> </thead> <tbody> <tr> <td data-bbox="600 719 962 994">No</td> <td data-bbox="962 719 1378 994">Multiple evidence cannot be requested or multiple errors corrected. The application form should be <u>refused</u>. All grounds should be included including any attributes where there was any missing evidence or minor errors.</td> </tr> <tr> <td data-bbox="600 994 962 1055">Yes</td> <td data-bbox="962 994 1378 1055">Go to step 7</td> </tr> </tbody> </table>	If?	Then?	No	Multiple evidence cannot be requested or multiple errors corrected. The application form should be <u>refused</u> . All grounds should be included including any attributes where there was any missing evidence or minor errors.	Yes	Go to step 7
If?	Then?						
No	Multiple evidence cannot be requested or multiple errors corrected. The application form should be <u>refused</u> . All grounds should be included including any attributes where there was any missing evidence or minor errors.						
Yes	Go to step 7						
7	<p>The caseworker must contact the applicant/rep/sponsor initially by telephone.</p> <p>The applicant/rep/sponsor should be informed that they have a maximum of 3 working days to respond i.e. the missing information should be with the UKBA within this timeframe. We will use the date of receipt at UKBA , not the date of postage.</p> <p>We strongly recommend that the information requested be sent by next day special delivery.</p> <p>Original documentation must be provided – we will not accept faxed, scanned or photocopied docs.</p> <p>Go to step 8</p>						

## Evidential Flexibility – Temporary Caseworking Instruction (continued)

### Procedure (Cont)

8	<p>When attempting to contact the applicant/rep/sponsor by phone, caseworkers should normally make no more than three attempts using the relevant telephone number. If an applicant has a rep the caseworker should initially contact them rather than the applicant</p> <p>Each time and date of call, and the relevant number contacted should be recorded on CID as if the case is eventually refused, these details will need including in the Immigration History section of the refusal notice.</p> <p>Where ever possible, caseworkers should speak directly to a relevant person, rather than leave a message.</p> <p>Where an email address is held for the applicant/rep/sponsor the telephone call should be followed up by email.</p> <p>Note that there are particular points that need to be made to the customer/representative/sponsor when requesting further information, these are in the standard telephone scripts below.</p> <p><b>Tier 1 Version</b></p> <p>&lt;Out of Scope&gt;</p> <p><b>Tier 2/5 Version</b></p> <p>&lt;Out of Scope&gt;</p> <p><b>Tier 4 Version</b></p> <p>&lt;Out of Scope&gt;</p> <p>Step 8 continued on the next page</p>
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## Evidential Flexibility – Temporary Caseworking Instruction (continued)

### Procedure (Cont)

<p>8 (Cont)</p>	<p>Additionally please see the attached “lines to take” document which should answer common questions caseworkers may be asked in response:</p> <p>&lt;Document copied separately: Standard Lines 10 August 2009&gt;</p> <p>Have three attempts been made?</p> <table border="1" data-bbox="600 667 1378 1039"> <thead> <tr> <th data-bbox="600 667 963 698">If?</th> <th data-bbox="963 667 1378 698">Then?</th> </tr> </thead> <tbody> <tr> <td data-bbox="600 698 963 853">Yes – &lt;out of scope&gt; Senior Caseworker is satisfied an appropriate number of attempts have been made</td> <td data-bbox="963 698 1378 853">Go to step 10</td> </tr> <tr> <td data-bbox="600 853 963 1008">Yes – &lt;out of scope&gt; Senior caseworker is not satisfied an appropriate number of attempts have been made</td> <td data-bbox="963 853 1378 1008">Take action as directed by &lt;out of scope&gt; Senior Caseworker</td> </tr> <tr> <td data-bbox="600 1008 963 1039">No</td> <td data-bbox="963 1008 1378 1039">Go to step 9</td> </tr> </tbody> </table>	If?	Then?	Yes – <out of scope> Senior Caseworker is satisfied an appropriate number of attempts have been made	Go to step 10	Yes – <out of scope> Senior caseworker is not satisfied an appropriate number of attempts have been made	Take action as directed by <out of scope> Senior Caseworker	No	Go to step 9
If?	Then?								
Yes – <out of scope> Senior Caseworker is satisfied an appropriate number of attempts have been made	Go to step 10								
Yes – <out of scope> Senior caseworker is not satisfied an appropriate number of attempts have been made	Take action as directed by <out of scope> Senior Caseworker								
No	Go to step 9								
<p>9</p>	<p>Continue attempting to phone customer.</p> <p>Ensure that all contact numbers available are used and that where multiple attempts are required the calls are made at different times of the day (e.g. do not make three attempts 15 minutes apart)</p> <p>Return to step 8</p>								
<p>10</p>	<p>Has verbal contact with the applicant/rep/sponsor been made by phone and have you followed this up via an email, if an address is available?</p> <table border="1" data-bbox="600 1503 1378 1599"> <thead> <tr> <th data-bbox="600 1503 963 1534">If?</th> <th data-bbox="963 1503 1378 1534">Then?</th> </tr> </thead> <tbody> <tr> <td data-bbox="600 1534 963 1568">Yes</td> <td data-bbox="963 1534 1378 1568">Go to step 15</td> </tr> <tr> <td data-bbox="600 1568 963 1599">No</td> <td data-bbox="963 1568 1378 1599">Go to step 11</td> </tr> </tbody> </table>	If?	Then?	Yes	Go to step 15	No	Go to step 11		
If?	Then?								
Yes	Go to step 15								
No	Go to step 11								
<p>11</p>	<p>Has an email address been provided?</p> <table border="1" data-bbox="600 1756 1378 1852"> <thead> <tr> <th data-bbox="600 1756 963 1787">If?</th> <th data-bbox="963 1756 1378 1787">Then?</th> </tr> </thead> <tbody> <tr> <td data-bbox="600 1787 963 1821">Yes</td> <td data-bbox="963 1787 1378 1821">Go to step 12</td> </tr> <tr> <td data-bbox="600 1821 963 1852">No</td> <td data-bbox="963 1821 1378 1852">Go to step 13</td> </tr> </tbody> </table>	If?	Then?	Yes	Go to step 12	No	Go to step 13		
If?	Then?								
Yes	Go to step 12								
No	Go to step 13								

## Evidential Flexibility – Temporary Caseworking Instruction (continued)

### Procedure (Cont)

12	<p>When attempting to contact the applicant/rep/sponsor by email, one attempt to each available address can be made. Care should be taken to ensure the correct email address is used.</p> <p>Details of any emails sent should be recorded on CID and copies of emails sent and received should be printed off and stored with the casefile. If the case is eventually refused, these details will need including in the Immigration History section of the refusal notice and copies of emails would be included in any bundle.</p> <p>All emails should be sent via the team mailbox, not from an individual's personal mailbox. This allows other team managers and caseworkers to access any responses in the case owner's absence.</p> <p>Caseworkers should refer to the standard email /letter templates below when contacting to customers.</p> <p><b>Tier 1 Version</b></p> <p>&lt;out of scope&gt;</p> <p><b>Tier 2/5 Version</b></p> <p>&lt;out of scope&gt;</p> <p><b>Tier 4 Version</b></p> <p>&lt;out of scope&gt;</p> <p>Additionally please see the attached "lines to take" document which should answer common questions caseworkers may be asked in response:</p> <p>&lt;Document copied separately: Standard Lines 10 August 2009&gt;</p> <p>Has the email bounced back / been returned as undeliverable?</p> <table border="1" style="margin-left: auto; margin-right: auto;"><thead><tr><th>If?</th><th>Then?</th></tr></thead><tbody><tr><td>Yes</td><td>Go to step 13</td></tr><tr><td>No</td><td>Go to step 15</td></tr></tbody></table>	If?	Then?	Yes	Go to step 13	No	Go to step 15
If?	Then?						
Yes	Go to step 13						
No	Go to step 15						



## Evidential Flexibility – Temporary Caseworking Instruction (continued)

### Procedure (Cont)

13	<p>The case should be referred to &lt;out of scope&gt; Senior Caseworker for a decision to be made on whether requesting further evidence via post is appropriate.</p> <p>It should be noted that if a letter is sent, the three day deadline starts from the date of the letter (even if the caseworker has tried to contact the customer via other methods prior to this).</p> <p>Should a letter be sent by post?</p> <table border="1" style="margin-left: auto; margin-right: auto;"><thead><tr><th style="padding: 2px;">If?</th><th style="padding: 2px;">Then?</th></tr></thead><tbody><tr><td style="padding: 2px;">Yes</td><td style="padding: 2px;">Go to step 14</td></tr><tr><td style="padding: 2px;">No</td><td style="padding: 2px;">Go to step 15</td></tr></tbody></table>	If?	Then?	Yes	Go to step 14	No	Go to step 15
If?	Then?						
Yes	Go to step 14						
No	Go to step 15						

## Evidential Flexibility – Temporary Caseworking Instruction (continued)

### Procedure (Cont)

14	<p>When attempting to contact the applicant/rep/sponsor by post, one attempt to the contact address stated on the application form can be made. Care should be taken to ensure the correct address is used.</p> <p>Details of any letter sent should be recorded on CID and copies of letters sent and received should be printed off and stored with the casefile. If the case is eventually refused, these details will need including in the Immigration History section of the refusal notice and copies of letters would be included in any bundle.</p> <p>All letters should be sent via special delivery as the applicant will be given a short deadline to respond.</p> <p>Caseworkers should refer to the standard email/letter template below when contacting to customers. The contents of this template should be copied into &lt;out of scope&gt; to ensure that a record of this contact is kept on the system. Caseworkers should ensure that the telephone number included on the letter is correct.</p> <p>Tier 1 and 4 – Immigration Enquiry Bureau = 0870 606 77 66 Tier 2/5 – Customer contact Centre = 0114 207 4074</p> <p><b>Tier 1 Version</b></p> <p>&lt;out of scope&gt;</p> <p><b>Tier 2/5 Version</b></p> <p>&lt;out of scope&gt;</p> <p><b>Tier 4 Version</b></p> <p>&lt;out of scope&gt;</p> <p>Additionally please see the attached “lines to take” document which should answer common questions caseworkers may be asked in response:</p> <p>&lt;copied separately&gt;</p> <p>Go to step 15</p>
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## Evidential Flexibility – Temporary Caseworking Instruction (continued)

### Procedure (Cont)

15	<p>Case should be placed in BF following relevant procedures.</p> <p>Each operational team Tier has a specific BF spreadsheet to recorded cases of this type. This should be completed fully and care taken to ensure details are correct.</p> <p>Go to step 16</p>								
16	<p>After three working days (with the day of contact starting as day one), have elapsed since the customer was contacted (either spoken to verbally on the telephone, time email was sent or time the letter was sent), case to be taken out of BF and reassessed.</p> <p>If a caseworker receive the requested information/evidence before the three days have elapsed the case can continue to be considered.</p> <p>Caseworkers should take care to check CID comments to see if additional information has been received.</p> <p>Has the relevant information been received by UKBA?</p> <table border="1" data-bbox="600 1099 1378 1256"><thead><tr><th data-bbox="600 1099 963 1128">If?</th><th data-bbox="963 1099 1378 1128">Then?</th></tr></thead><tbody><tr><td data-bbox="600 1128 963 1158">Yes</td><td data-bbox="963 1128 1378 1158">Go to step 17</td></tr><tr><td data-bbox="600 1158 963 1223">No and contacted by phone/email</td><td data-bbox="963 1158 1378 1223">Go to step 17</td></tr><tr><td data-bbox="600 1223 963 1256">No and contacted by letter</td><td data-bbox="963 1223 1378 1256">Go to step 18</td></tr></tbody></table>	If?	Then?	Yes	Go to step 17	No and contacted by phone/email	Go to step 17	No and contacted by letter	Go to step 18
If?	Then?								
Yes	Go to step 17								
No and contacted by phone/email	Go to step 17								
No and contacted by letter	Go to step 18								

## Evidential Flexibility – Temporary Caseworking Instruction (continued)

### Procedure (Cont)

17	<p>If the information is with UKBA but not yet with the relevant caseworker, hold the case until post received.</p> <p>Case should then be considered as normal including the additional information supplied.</p> <p>If the case is to be refused, all attempts to contact the applicant and any responses they gave should be included in the immigration history (SP4 section of the refusal notice) e.g.</p> <p><b>On (enter date and time if phone contact) we contacted you by telephone/email/letter and requested (enter details of required evidence).</b></p> <p><b>On (enter date) we received (enter full details of information received) and have used this when considering your application for leave to remain.</b></p> <p>Any written forms of contact and any written responses should be included in any bundle that needs creating.</p> <p>Caseworkers must ensure that the BF sheet is fully updated when the case is closed.</p> <p><b>Note: If any additional evidence is received after the three day deadline but prior to the case being despatch on CID, this information will need to be considered by the caseworker and the case reassessed.</b></p> <p><u>End of instruction</u></p>
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## Evidential Flexibility – Temporary Caseworking Instruction (continued)

### Procedure (Cont)

18	<p>The case should be referred to &lt;out of scope&gt; Senior Caseworker for a decision to be made on what action should be taken.</p> <p>Should case be considered on the evidence currently available?</p> <table border="1" data-bbox="600 577 1378 674"><thead><tr><th data-bbox="600 577 962 607">If?</th><th data-bbox="962 577 1378 607">Then?</th></tr></thead><tbody><tr><td data-bbox="600 607 962 636">No</td><td data-bbox="962 607 1378 636">Go to step 19</td></tr><tr><td data-bbox="600 636 962 665">Yes</td><td data-bbox="962 636 1378 665">Go to step 20</td></tr></tbody></table>	If?	Then?	No	Go to step 19	Yes	Go to step 20
If?	Then?						
No	Go to step 19						
Yes	Go to step 20						
19	Take action as directed by <out of scope> Senior Caseworker.						
20	<p>Case should then be considered as normal on the evidence held by UKBA. In practise this means that</p> <p>All attempts to contact the applicant and any responses they gave should be included in the immigration history (SP4 section of the refusal notice) e.g.</p> <p><b>On (enter date and time if phone contact) we contacted you by telephone/email/letter and requested (enter details of required evidence). No response was received.</b></p> <p>or</p> <p><b>On (enter date and time if phone contact) we contacted you by telephone/email/letter and requested (enter details of required evidence). You advised UKBA that you were unable to provide the required information.</b></p> <p>Any written forms of contact and any written responses should be included in any bundle that needs creating.</p> <p>Caseworkers must ensure that the BF sheet is fully updated when the case is closed.</p> <p><b>Note: If any additional evidence is received after the three day deadline but prior to the case being despatch on CID, this information will need to be considered by the caseworker and the case reassessed.</b></p> <p><u>End of instruction</u></p>						

### Conclusion

The Evidential Flexibility instruction has been applied and the case has been decided.