



Home Office

## Points – based system – evidential flexibility

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## PBS evidential flexibility

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This guidance tells you about the use of evidential flexibility when an application has missing evidence or there is a minor error on an application.

This guidance pulls together cross cutting guidance which previously existed in separate products, and amalgamates relevant information from other operational instructions.

Under the evidential flexibility process, if there are minor errors or omissions on a valid application but there is enough evidence to show the application would otherwise be granted, you may contact the migrant, sponsor or representative as appropriate for clarification or to request missing documents and/or information.

You must:

- request the information by telephone and inform the applicant or sponsor they have up to seven working days to supply the information or evidence required
- follow up with a written request either by email or letter on the same day (keep a copy on file for future reference)
- add a note to CID about the information requested and the deadline, and
- bring forward (BF) the case for the agreed period, pending a response.

If the applicant, sponsor or representative does not respond as requested you must consider the case based on the evidence available at that time.

However, if additional information is received by the Home Office (not necessarily by the relevant case owner) before the case is despatched, you must take this into account. This applies even if a refusal decision has been completed providing the case has not been despatched on CID.

#### **For applications made on or after 13 December 2012**

You do not have to write out under evidential flexibility about a specified document if it is in the wrong format or if it is a copy and not an original document. You must be satisfied the specified documents are genuine and the applicant meets all the other requirements.

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However, the Home Office reserves the right to request the specified original documents in the correct format in all cases where paragraph 245AA(b) applies, and to refuse applications if these documents are not provided as set out in this paragraph.

All documentary evidence received must be treated in the same way as any submitted with the initial application.

Changes to this guidance – This page tells you what has changed since the previous version of this guidance.

Contacts – This page tells you who to contact for help if your senior caseworker or line manager can't answer your question.

Information owner – This page tells you about this version of the guidance and who owns it.

Safeguard and promote child welfare – This page explains your duty to safeguard and promote the welfare of children and tells you where to find more information.

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This page lists changes to the points-based system evidential flexibility guidance, with the most recent at the top.

Date of the change	Details of the change
12 September 2013	Six month review by the modernised guidance team: <ul style="list-style-type: none"><li>• No changes made.</li></ul>
20 May 2013	Change request: <ul style="list-style-type: none"><li>• Obtaining additional information:<ul style="list-style-type: none"><li>○ third paragraph, examples where additional evidence can be requested have now been limited to specific types of cases</li><li>○ fifth paragraph, second sentence has been removed</li><li>○ download 'Evidential flexibility – documents which it maybe appropriate to request for each Tier' has been updated</li></ul></li><li>• Minor housekeeping changes.</li></ul>
12 March 2013	Revised by the modernised guidance team

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This page tells you about requesting additional information if there is missing evidence, or evidence that is not in an acceptable format.

You must only request additional information in certain circumstances which would lead to the approval of the application.

Before requesting additional evidence you must have sufficient reason to believe the information exists. This is limited to cases where:

- documents (for example bank statements) are missing from a series
- evidence detailed on a confirmation of acceptance for studies (CAS) or certificate of sponsorship (CoS) is missing
- photocopies of the required documentation have been received, or
- a document is in the wrong format.

For more information see related link: Evidential flexibility - documents which it maybe appropriate for the caseworker to request for each tier.

If you are not sure if the evidence exists, you must discuss the issue with your higher executive officer (HEO), or senior caseworker (SCW).

You must refuse the application if the application falls for refusal even if the missing information was provided, or minor error was corrected. All grounds must be included, including any attributes where there was any missing evidence or minor errors.

Additionally, if there are any reasonable doubts over the information currently held that would cause you to seek further verification, you must do this before you request any further evidence.

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This page tells you about contacting the applicant, their representative or sponsor initially by telephone.

Where ever possible, you must speak directly to the relevant person, rather than leave a message.

It is recommended that you make no more than two attempts using the relevant telephone number (s) taken from the application form. If an applicant has a representative you must initially contact them and not the applicant.

There are particular points you need to make when requesting further information.

You must tell the applicant, their representative or sponsor they have a maximum of seven days to respond. For example, the missing information must be with the Home Office within this timeframe. You must recommend the information requested is sent by next day special delivery. Original documentation must be provided, faxed, scans or photocopies are not accepted.

For more information see related link: Evidential flexibility case working phone script.

You must record the time and date of call, and the relevant number contacted on CID. If the case is eventually refused these details will need including in the immigration history section of the refusal notice.

If an email address has been provided you must follow up the telephone conversation with an email. As part of the telephone conversation, you must clarify the email address, or if one was not provided as part of the application, you can ask for one to be provided.

For additional information on frequently asked questions see related link: Standard lines to take regarding evidential flexibility.

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**Follow up email**

All emails must be sent using the team mailbox, not from your personal mailbox. This allows other team managers and caseworkers to access any responses in your absence.

You must use the standard email when contacting customers, see related link: [Email / Letter template \(evidential flexibility\)](#).

If you are considering an employment route case you must include (EV) after your team name. This makes sure any response is given priority.

Details of the information requested, along with details of any emails sent, must be recorded on CID, with copies of emails sent and received printed off and stored with the case file. If the case is eventually refused, these details will need to be included in the immigration history section of the refusal notice and copies of emails must be included in any bundle.

**No contact made**

If you cannot contact the applicant, their representative or sponsor by phone or email you must issue them with a letter detailing the information you require. For more information see link on left: [Making contact by post](#).

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### Making contact by post

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This page tells you about contacting the applicant, their representative or sponsor by post.

If you are contacting the applicant, their representative or sponsor by post, you must make one attempt only to the contact address stated on the application form. You must always take care to use the correct address. If there is a representative's name given on CID, you must make sure the letter is sent to them. All letters must be sent by first class post.

You must use the standard letter when contacting customers, see related link: Email / Letter template (evidential flexibility). The contents of this template must be copied into an ICD.1100 letter in Doc Gen to make sure a record of this contact is kept on the system. You must make sure the telephone number included on the letter is correct.

- Tier 1 and 4 – Immigration enquiry bureau: 0870 606 77 66
- Tier 2 and 5 – Customer contact centre: 0114 207 4074.

If you are considering an employment route case you must include (EV) after your team name. This makes sure any response is given priority.

Details of any letter sent must be recorded on CID and copies of letters sent and received must be printed off and stored with the case file. If the case is eventually refused, these details will need to be included in the immigration history section of the refusal notice and copies of letters must be included in any bundle.

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### Holding the case for nine days

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This page tells you about putting the case on hold.

The case must be placed in the brought forward (BF) hold for nine working days after you have followed the existing procedures. Two further working days have been added to allow for the movement of evidence from workflow to the case working teams.

Each operational points-based system tier has a specific evidential flexibility BF spreadsheet on which to record cases of this type. This must be completed fully and care taken to make sure all details are correct.

After nine working days (with the day of contact starting as day one), have passed since the customer was contacted (either by telephone, time an email was sent or the time the letter was sent), the case must be taken out of BF and reassessed. You must check CID comments to see if additional information has been received.

If you receive all of the requested information or evidence before the nine days have passed, you must consider the case immediately.

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This page tells you how to conclude a case that has been held in the brought forward (BF) hold.

Regardless of whether the requested information has been received or not after nine working days the case must be taken out of BF and reassessed.

#### **Information received**

The case must be considered as normal, including any additional information supplied.

#### **No information received**

The case must be considered as normal on the evidence held by the Home Office.

All attempts to contact the applicant and any responses they gave must be included in the immigration history (SP4 section of the refusal notice), for example:

- On (enter date and time if phone contact) the Home Office contacted you/your representative by telephone / email / letter and requested (enter details of required evidence). No response was received. Or
- On (enter date and time if phone contact) we contacted you/your representative by telephone / email / letter and requested (enter details of required evidence). You/your representative advised the Home Office you/they were unable to provide the required information.

Any written forms of contact and any written responses must be included in any bundle created. You must make sure the BF sheet is fully updated when the case is closed.

#### **Refusal**

If the case is to be refused, all attempts to contact the applicant and any responses they gave must be included in the immigration history (SP4 section of the refusal notice) , for example:

- On (enter date and time if phone contact) the Home Office contacted you/your representative by telephone/email/letter and requested (enter details of required evidence).
- On (enter date) the Home Office received (enter full details of information received) and has used this when considering your application for leave to remain.

You must then create a bundle update the BF sheet as detailed above.

The case must be referred to a higher executive officer (HEO) or senior caseworker (SCW) for a decision to be made on what action must be taken.

If the case cannot be considered on the evidence already held you must take action as directed by HEO or SCW.

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This page explains who to contact for more help with a specific case when using evidential flexibility.

If you have read this guidance and still need more help with this category, you must first ask your senior caseworker or line manager.

If the question cannot be answered at that level, you may email the Tier 4 technical team.

Changes to this guidance can only be made by the modernised guidance team (MGT). If you think the policy content needs amending you must contact the points-based system operational policy team who will ask the MGT to update the guidance, if appropriate.

The MGT will accept direct feedback on broken links, missing information or the format, style and navigability of this guidance. You can send these using the link: Email: Modernised guidance team.

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This page tells you about this version of the points-based system evidential flexibility guidance and who owns it.

Version	3.0
Valid from date	12 September 2013
Policy owner	Points-based system operational policy team
Cleared by director	Sonia Dower
Director's role	Director, operational policy and rules
Clearance date	12 March 2013
This version approved for publication by	Richard Short
Approver's role	Grade 7, modernised guidance team
Approval date	11 September 2013

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