

**From:** Operational Policy and Rules Unit

**Subject:** Update on assessing applications in accordance with public policy and public security

**Date:** 14 October 2013

**Issue number:** 09/2013

### **1. Purpose of Notice**

This notice supplements EOPN 01/2013 and provides further guidance to caseworkers on assessing applications in accordance with Regulation 21 of the Immigration (European Economic Area) Regulations 2006 (“the Regulations”) on the grounds of public policy, public security or public health.

In particular, this note explains how caseworkers should deal with cases where there is a prosecution pending against the applicant.

### **2. Process for dealing with cases where there is a pending prosecution**

Where there is a current PNC check (less than 3 months old) confirming that the applicant has a prosecution pending against them the case should be dealt with as follows:

1. Where there are other grounds for refusal the case should be refused. It is important to note that caseworkers must not refer to the pending prosecution in the refusal letter. If the applicant appeals the decision, the case should be monitored through appeal;
  - I. If the appeal is dismissed no further action is required;
  - II. If the appeal is allowed then the case should be placed on hold and regular PNC checks conducted until a final decision is reached on the pending prosecution:
    - i. If the person is subsequently convicted, the application should be reviewed in line with the public policy guidance, and if appropriate documentation should be revoked. The conviction may, at this point, be referenced in the revocation letter;
    - ii. If the person is subsequently acquitted then no further action is required.
2. Where there are no other grounds for refusal, or the case otherwise looks like documentation should be issued, the case should be placed on hold until a final decision is reached on the pending prosecution:
  - I. If the person is subsequently convicted, the application should be reviewed in line with public policy guidance, and if

- appropriate documentation should be refused. The conviction may, at this point, be referenced in the refusal letter;
- II. If the person is subsequently acquitted then the application must be issued.

### **3. Amber cases**

Caseworkers should note the advice in EOPN 01/2013 (EEA Criminality – Residence Documentation - Public Policy Test) that cases falling within the ‘amber’ box on the EEA public policy matrix should be considered on a case by case basis in accordance with the current guidance.

Cases should be discussed firstly with a deputy chief caseworker and if further advice is required the case should be referred to policy colleagues.

Deputy chief caseworkers should refer all queries to the European operational policy team in the first instance.

### **5. Enquiries**

Any policy enquiries on this Notice should be addressed to <REDACTED – section 40(2)> or to the European Operational Policy inbox: EuropeanOperational@ukba.gsi.gov.uk.

**<REDACTED – section 40(2)>  
Head of European Operational Policy**