

This guidance applies and interprets the Immigration (European Economic Area) Regulations 2006 (as amended).



Home Office

## **Abuse of rights, fraud and verification of EEA rights of residence**

This guidance applies and interprets the Immigration (European Economic Area) Regulations 2006 (as amended). These regulations make sure the UK complies with its duties under the Free Movement of Persons Directive 2004/38/EC.

This guidance applies and interprets the Immigration (European Economic Area) Regulations 2006 (as amended).

## Abuse of rights, fraud and verification of EEA rights of residence

### About this guidance

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This section lists changes to the 'Abuse of rights, fraud and verification of EEA rights of residence' guidance, with the most recent at the top.

Date of the change	Details of the change
27 January 2015	Completely revised by the Free Movement Operational Policy Team and the guidance, rules and forms team.

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### Rights of residence: overview

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	<p>Under regulation 15, an EEA national and their family members automatically acquire permanent residence in the UK following five years continuous residence in line with the regulations.</p> <p>For further information on initial, extended and permanent rights of residence see related link: Free movement rights.</p>	<p><a href="#">Regulations 2013</a></p> <p><a href="#">Immigration (EEA) (Amendment)(no. 2) Regulations 2013</a></p> <p><a href="#">Immigration (EEA)(Amendment) Regulations 2014</a></p> <p><a href="#">Immigration (EEA) (Amendment)(No, 2) Regulations 2014</a></p>
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### Abuse of rights and fraud

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This section sets out the powers given by the Directive 2004/38/EC (the directive) and the Immigration (European Economic Area) Regulations 2006 (the regulations) for the Home Office to take action to tackle any abuse of rights or fraud by European Economic Area (EEA) nationals and their family members.

#### Free Movement Directive

Article 35 of the directive states EEA Member States can adopt the necessary measures to refuse, terminate or withdraw any right given by the Directive if there is a case of abuse of rights or fraud, such as marriages of convenience.

#### Fraud

For the purposes of the directive, fraud may be defined as deliberate deception or contrivance made to obtain the right of free movement and residence under the directive.

In the context of the directive, fraud is likely to be limited to forgery of documents or false representation of a material fact concerning the conditions attached to the right of residence.

#### Abuse of rights

For the purposes of the directive, abuse may be defined as an artificial conduct entered into solely with the purpose of obtaining the right of free movement and residence under community law which, even though formally observing the conditions laid down by community rules, does not comply with the purpose of those rules.

See related link to Directive 2004/38/EC for further information.

#### The EEA Regulations

Regulation 21(B) of the regulations came into effect on 1 January 2014. This allows the Secretary of State to make an 'EEA decision' where there are reasonable grounds to suspect the fraud or abuse and it is proportionate to do so given all the circumstances of the case.

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	<p>Regulation 21B(1) sets out what fraud and abuse includes:</p> <ul style="list-style-type: none"><li>• engaging in conduct intended to circumvent the requirement to be a qualified person under regulation 14 (21B(1)(a))</li><li>• attempting to enter the UK within 12 months of being removed under regulation 19(3)(a) if when attempting to do so they are unable to provide evidence, when re-entering, that the conditions for any rights to reside, other than under regulation 13, are met (21B(1)(b))</li><li>• entering, attempting to enter, or assisting another person in entering or attempting to enter a marriage of convenience (21B(1)(c))</li><li>• fraudulently obtaining, attempting to obtain, or assisting another to obtain or attempt to obtain a right to reside (21B(1)(d)).</li></ul> <p>For further information on each of these abuses, see in this section links.</p>	<p><a href="#">Regulations 2012</a></p> <p><a href="#">Immigration (EEA)(Amendment) Regulations 2013</a></p> <p><a href="#">Immigration (EEA) (Amendment)(no. 2) Regulations 2013</a></p> <p><a href="#">Immigration (EEA)(Amendment) Regulations 2014</a></p> <p><a href="#">Immigration (EEA) (Amendment)(No, 2) Regulations 2014</a></p>
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### Engaging in conduct to circumvent regulation 14

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This page tells you when a decision can be taken against a European Economic Area (EEA) national who may be engaging in conduct intended to circumvent regulation 14.

This is the requirement to be a qualified person under regulation 14 of the Immigration (European Economic Area) Regulations 2006 (the regulations).

Regulation 21B(1)(a) states that you can make an EEA decision against EEA nationals who seek to avoid satisfying the extended right of residence requirements under regulation 14 by abusing the initial right of residence under regulation 13.

There must be reasonable grounds to suspect the fraud and abuse and the decision must be proportionate. For further information on what is reasonable and proportionate, see related links.

There are instances where EEA nationals may seek to abuse, their initial right of residence by leaving the UK shortly before the three month period expires, and then re-entering the UK and benefitting from another three month's initial right of residence.

When repeated, this behaviour means the EEA national can reside in the UK indefinitely, without ever exercising free movement rights. Such actions are against the principles of directive 2004/38/EC (the directive) and are considered an abuse of rights.

Persons who are removed under regulation 19(3)(a) and who seek to re-enter the UK within 12 months of that removal, must demonstrate they will be a qualified person upon-re-entry to the UK. For further information, see link: Re-entering the UK following administrative removal.

For further information on the process for removing a person under regulation 19(3)(a), see related link: Enforcement instructions and guidance.

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### Re-entering the UK following an administrative removal

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### Marriages of convenience

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This page tells you when it is appropriate to make a decision under regulation 21B(1)(c) of the Immigration (European Economic Area) Regulations 2006 (the regulations) when considering cases involving marriages of convenience.

Recital 28 of directive 2004/38/EC (the directive) defines marriages of convenience as marriages contracted for the sole purpose of enjoying the right of free movement and residence under the directive that someone would not otherwise have.

The key factor is the couple not having the intention to lead a genuine marital life or create a family as a married couple.

More information on assessing whether a marriage is genuine can be found in the related link: Direct family members.

The regulations already contain terms for a non- European Economic Area (EEA) national who has entered into a marriage of convenience with an EEA national to:

- have an application for documentation refused
- have any existing documentation revoked, and
- be administratively removed from the UK.

Regulation 21B(1)(c) extends this power so an EEA decision can be made if there are reasonable grounds to suspect a person has either:

- entered
- attempted to enter, or
- assisted another person to enter or attempt to enter, a marriage of convenience.

This applies equally to EEA nationals who, for example, would not otherwise be removable

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	<p>because they are in the UK in a qualified capacity or have permanent residence. In these instances any removal action would be taken under regulation 19(3)(c). There must be reasonable grounds to suspect the fraud and abuse and the decision must be proportionate. For further information on what is reasonable and proportionate, see related links.</p> <p><b>Entering a marriage of convenience</b> Non-EEA nationals who have entered into a marriage of convenience must be treated as a normal immigration offender under the Immigration Rules unless the person has already been issued a document under the regulations as the spouse of an EEA national.</p> <p>If a document has been issued, the non-EEA national must be considered under the regulations. Removal action can be taken under regulation 19(3)(a) and/or 19(3)(c).</p> <p><b>Attempting to enter to a marriage of convenience</b> Non-EEA nationals who try to enter into a marriage of convenience with an EEA national can be treated as normal immigration offenders under the Immigration Rules, as they have not yet validly contracted the marriage.</p> <p><b>Assisting another person to enter a marriage of convenience</b> If there are reasonable grounds to suspect a person has assisted another person to enter into a marriage of convenience, then regulation 21B(c) gives you power to make an EEA decision against that person.</p> <p>EEA nationals who have entered, tried to enter or helped another person to enter a marriage of convenience can also be removed from the UK under regulation 19(3)(c).</p>	<p><a href="#">Immigration (EEA Amendment) (no.2) Regulations 2012</a></p> <p><a href="#">Immigration (EEA)(Amendment) Regulations 2013</a></p> <p><a href="#">Immigration (EEA) (Amendment)(no. 2) Regulations 2013</a></p> <p><a href="#">Immigration (EEA)(Amendment) Regulations 2014</a></p> <p><a href="#">Immigration (EEA) (Amendment)(No. 2) Regulations 2014</a></p>
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### Fraudulent activity

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	proportionate, see related links.	<a href="#">Immigration (EEA Amendment) (no.2) Regulations 2012</a> <a href="#">Immigration (EEA)(Amendment) Regulations 2013</a> <a href="#">Immigration (EEA) (Amendment)(no. 2) Regulations 2013</a> <a href="#">Immigration (EEA)(Amendment) Regulations 2014</a> <a href="#">Immigration (EEA) (Amendment)(No, 2) Regulations 2014</a>
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### Reasonableness and proportionality

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### Reasonable grounds of suspicion

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This page tells you how to assess if there are reasonable grounds to suspect a person has been engaged in fraud and abuse in line with regulation 21B of the Immigration (European Economic Area) Regulations 2006 (the regulations).

#### Engaging in conduct

Anyone who is suspected of engaging in conduct intended to circumvent the requirement to be a qualified person is likely to be encountered by enforcement officers in the first instance.

For example, an European Economic Area (EEA) national is found sleeping rough and gives a flight ticket stub to show they are within the initial three month period under regulation 13.

Six months later, they are again found sleeping rough and provide another flight ticket stub to show they are within the initial three month period. They claim they are not required to be a qualified person because they left the UK within the three month period and have re-entered and are entitled to a new three month period.

In these circumstances it is reasonable to suspect the EEA national is using their initial right of residence to repeatedly avoid becoming a qualified person within the meaning of regulation 6. As long as it is proportionate to do so, you can take action to administratively remove the EEA national in line with regulation 19(3)(a).

#### Attempting to enter UK within 12 months of being removed

Anyone who tries to enter the UK within 12 months of being removed under regulation 19(3)(a) is likely to be encountered by Border Force staff at first.

There would be reasonable grounds to suspect an abuse of a right if someone is seeking to enter the UK and cannot show at the border that they would be a qualified person on entry (having been removed under regulation 19(3)(a)) or there would be a continued abuse of rights or fraud (if previously removed under regulation 19(3)(c)).

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	<p>If anyone has avoided border controls and is encountered in the UK, the enforcement officer must find out if they are now exercising free movement rights. If they are not, they will be liable to the administrative removal process again, even if it is less than three months since they re-entered the country.</p> <p><b>Marriages of convenience</b> Whether there are reasonable grounds to suspect a person has entered, attempted to enter or assisted another person to enter a marriage of convenience will depend on the individual facts of the case.</p> <p>For example, the following indicators may be present where a person is attempting to enter into a marriage with an EEA national that is not genuine:</p> <ul style="list-style-type: none"><li>• significant cultural difference</li><li>• significant age difference</li><li>• the parties cannot speak the same language</li><li>• the parties have poor immigration histories, including a history of deception and previous fraudulent attempts to gain leave to remain (this can include asylum claims)</li><li>• there is no evidence of previous cohabitation</li><li>• there is evidence to suggest one party is already married.</li></ul> <p>Where the marriage has already taken place, in addition to the above points, there may be additional indicators. For example:</p> <ul style="list-style-type: none"><li>• a section 24 report has been received</li><li>• the applicant is the potential beneficiary of known operational activity or has intel unit interest</li><li>• there is evidence to show the marriage took place by proxy</li><li>• the non-EEA national has submitted a London issued passport</li><li>• one of the parties had a child shortly before the marriage and the other party is not the parent</li><li>• central reference system (CRS) checks show the applicant had a different spouse at the time a visa was issued but they were declared 'single' on the marriage certificate</li></ul>	<p><a href="#">Immigration (EEA) (Amendment)(no. 2) Regulations 2013</a></p> <p><a href="#">Immigration (EEA)(Amendment) Regulations 2014</a></p> <p><a href="#">Immigration (EEA) (Amendment)(No, 2) Regulations 2014</a></p>
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- bank statements show large unexplained payments into the EEA national sponsor's bank account near to the date of the marriage, this does not include payment of a dowry in cases of nationals of countries where dowries are common
- the applicant has been previously married to someone else and has not produced evidence to demonstrate that marriage has been dissolved
- the marriage is bigamous
- there are clear and substantial reasons to doubt the validity of the documentary evidence produced in support of the application, this includes 'photo-shopped' photographs
- the applicant was married at a church or venue that has been targeted by the Home Office, details of which can be found on the European caseworker database.

In cases where you have reasonable grounds to suspect the marriage is not genuine, it may be necessary to conduct an interview to verify the applicant's claim. For further guidance on marriage interviews, see related link: [Direct family members](#).

In cases where one person has assisted another person to enter a marriage of convenience, information related to these cases will come from intel sources and can include, for example, allegations or information from external sources such as the police.

#### **Fraudulent activity**

The list below sets out potential indicators which may suggest an applicant is attempting to obtain a right of residence by deception. This list is not complete and you must make sure the grounds for suspicion are reasonable in the context of the case details.

- National document fraud unit (NDFU) reports on the validity of documents.
- Her Majesty's Revenue and Customs (HMRC) checks confirming employment details.
- Intel reports.

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## Abuse of rights, fraud and verification of EEA rights of residence

### Proportionality

<p><a href="#">About this guidance</a> <a href="#">Rights of residence: overview</a> <a href="#">Abuse of rights and fraud</a> <a href="#">Reasonableness and Proportionality</a> <a href="#">Verification of a right of residence</a></p>	<p>This page tells you how to assess if a decision taken in line with regulation 21B of the Immigration (European Economic Area) regulations 2006 (the regulations) on fraud or abuse for European Economic Area (EEA) cases is proportionate.</p> <p>In line with regulation 21B(2), any decision taken on the grounds of fraud or abuse must be proportionate, and have regard to the circumstances of the applicant and the case in general.</p> <p><b>Grounds to take into account when considering proportionality</b></p> <p>When considering if a decision will be proportionate it is important to consider the following:</p> <ul style="list-style-type: none"><li>• The level of fraud or abuse. For example:<ul style="list-style-type: none"><li>○ How severe was the fraud or abuse?</li><li>○ To what degree did the person benefit from the fraud?</li><li>○ What degree of involvement or knowledge did that person have in the fraud or abuse?</li></ul></li><li>• The personal circumstances of the person. For example:<ul style="list-style-type: none"><li>○ How long have they resided in the UK?</li><li>○ Are they in a state of poor health?</li></ul></li><li>• The decision being taken against that person. For example:<ul style="list-style-type: none"><li>○ Is this a decision to refuse or revoke documentation? Or</li><li>○ Is the decision to remove a person from the UK?</li></ul></li></ul> <p>In all cases the level of fraud or abuse must be balanced against the personal circumstances of the applicant and the decision being taken.</p> <p><b>Level of fraud or abuse</b></p> <p>Grounds that may be a factor in making a decision under this regulation can include:</p> <ul style="list-style-type: none"><li>• If the EEA national was complicit in any fraud or abuse, for example:</li></ul>	<p><b>This section</b> <a href="#">Reasonable grounds of suspicion</a></p> <p>Links to staff intranet removed</p> <p><b>External links</b> <a href="#">Immigration (EEA) Regulations 2006</a> <a href="#">Free Movement of Persons Directive (2004/38/EC)</a> <a href="#">The Immigration (EEA) (Amendment) Regulations 2009</a> <a href="#">The Immigration (EEA) (Amendment) Regulations 2011</a> <a href="#">Immigration (EEA) Amendment Regulations 2012</a> <a href="#">Immigration (EEA Amendment) (no.2) Regulations 2012</a> <a href="#">Immigration</a></p>
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	<ul style="list-style-type: none"><li>○ Was the EEA national a willing participant in a marriage of convenience?</li><li>○ If the EEA national was complicit in the marriage of convenience, there may be indicators such as bank statements showing large transfers of funds shortly before the wedding. These must be assessed on a case-by-case basis.</li><li>● If the EEA national was being threatened to take part, for example:<ul style="list-style-type: none"><li>○ If the EEA national was a victim of trafficking, this is a factor you must consider and take appropriate action.</li><li>○ This may be shown by a referral from the national referral mechanism (NRM) on CID.</li><li>○ Other possibilities include an open person who is a victim of trafficking (PVOT) consideration. If there are reasons to suspect trafficking and an NRM referral has not been made, you must contact your senior caseworker immediately.</li></ul></li></ul> <p><b>Personal circumstances</b></p> <p>Personal circumstances must be taken into account when considering whether a decision is proportionate. This includes considering the person's:</p> <ul style="list-style-type: none"><li>● age</li><li>● state of health</li><li>● family ties to the UK</li><li>● length of residence in the UK</li><li>● social and cultural integration.</li></ul> <p>Compare the two examples below:</p> <ul style="list-style-type: none"><li>● An EEA national who has been in the UK for six months and has entered into a marriage of convenience in full knowledge that the marriage was not genuine. They are fit and healthy and although they are working they have no other ties to the UK.</li><li>● An EEA national with a lawfully acquired right of permanent residence who has lived in the UK for the past 10 years and who has recently entered into a marriage of convenience in full knowledge that the marriage was not genuine. They have three children with a previous partner. The children have lived their whole life in the UK. The EEA national continues to work in the UK and has integrated fully into UK life.</li></ul>	<p><a href="#">(EEA)(Amendment) Regulations 2013</a></p> <p><a href="#">Immigration (EEA) (Amendment)(no. 2) Regulations 2013</a></p> <p><a href="#">Immigration (EEA)(Amendment) Regulations 2014</a></p> <p><a href="#">Immigration (EEA) (Amendment)(No, 2) Regulations 2014</a></p>
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Although in both examples the EEA national was complicit in the marriage of convenience, it would be less proportionate to remove the person in the second example because of their length of residence, ties with the UK and their degree of integration.

**Decision being taken**

The decision being taken will depend on the status of the relevant person and the proportionality of that decision. The greater the effect of the decision, the greater the emphasis placed on proportionality.

The following are examples of where a decision may be disproportionate. All cases must be assessed on their individual merits.

**Refusal of documentation**

The applicant has briefly worked for an employer under investigation, but has since moved to a bona-fide (genuine) employer. Although there are reasonable grounds for suspicion here, the EEA national has stated they were genuinely employed and it was their employer who was committing the fraud. There is no evidence to dispute this claim and it may not be proportionate to penalise the EEA national in instances such as this.

**Revocation of documentation**

An EEA national has been a qualified person for four years but their EEA identity card has recently been used in an application by another person claiming to be that EEA national. No lost or stolen report has been submitted to the police and the applicant is claiming they were sold the identity card.

The EEA national denies any wrongdoing. Although there are reasonable grounds to suspect they may have been complicit in this fraud, the fact that they are a qualified person who is shortly due to get permanent residence and has denied any involvement, it may be disproportionate to revoke the EEA national's registration certificate.

**Removal from UK**

An EEA national and their dependent child have gained permanent residence, but recent

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	<p>intel investigations indicate that the EEA national was involved in facilitating a marriage of convenience 10 years ago.</p> <p>Although there is evidence the EEA national has assisted another person to fraudulently get right of residence, due to the family links to the UK and the fact that the EEA national has already got permanent residence, it may be disproportionate to serve administrative removal papers.</p> <p>In all of the above scenarios, if you consider a decision to refuse, revoke or remove to be disproportionate, you must seek advice from a senior caseworker. If you need to you can contact the free movement operational policy team about the case. See related links for contact details.</p>	
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This guidance applies and interprets the Immigration (European Economic Area) Regulations 2006 (as amended).

## Abuse of rights, fraud and verification of EEA rights of residence

### Verifying a right of residence

<p><a href="#">About this guidance</a> <a href="#">Rights of residence: overview</a> <a href="#">Abuse of rights and fraud</a> <a href="#">Reasonableness and Proportionality</a> <a href="#">Verification of a right of residence</a></p>	<p>This section tells you when you can request information or invite a person to an interview to verify their European Economic Area (EEA) right of residence in the UK and what you must do if they don't respond to the request.</p> <p>The Immigration (European Economic Area) (Amendment) (No.2) Regulations 2013 were amended on 1 January 2014 to include provision at regulation 20B for the Secretary of State to draw a factual conclusion and refuse or revoke documentation, or remove a person, if they have failed to meet this regulation.</p> <p><b>Verifying eligibility</b> Regulation 20B(1) applies where you:</p> <ul style="list-style-type: none"><li>• have reasonable doubt a person has a right to reside under regulation 14(1) or 14(2), or</li><li>• want to check the eligibility of a person to apply for documentation under the regulations.</li></ul> <p><b>Invitation to verify a right of residence</b> If regulation 20B(1) applies, you can invite a person to:</p> <ul style="list-style-type: none"><li>• provide evidence to support the existence of a right to reside, or</li><li>• provide evidence to support an application for documentation, or</li><li>• attend an interview.</li></ul> <p><b>Failure to check a right of residence</b> If without good reason a person fails to provide the additional information asked for or fails to attend an interview on two occasions, you may draw a factual conclusion about that person's entitlement to reside in the UK.</p>	<p><b>In this section</b> <a href="#">Verifying eligibility</a> <a href="#">Invitation to verify a right of residence</a> <a href="#">Failure to verify a right of residence</a></p> <p><b>External links</b> <a href="#">Immigration (EEA) Regulations 2006</a> <a href="#">Free Movement of Persons Directive (2004/38/EC)</a> <a href="#">The Immigration (EEA) (Amendment) Regulations 2009</a> <a href="#">The Immigration (EEA) (Amendment) Regulations 2011</a> <a href="#">Immigration (EEA) Amendment Regulations 2012</a> <a href="#">Immigration (EEA) Amendment) (no.2) Regulations 2012</a></p>
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	See links for further information.	<a href="#">Immigration (EEA)(Amendment) Regulations 2013</a> <a href="#">Immigration (EEA) (Amendment)(no. 2) Regulations 2013</a> <a href="#">Immigration (EEA)(Amendment) Regulations 2014</a> <a href="#">Immigration (EEA) (Amendment)(No, 2) Regulations 2014</a>
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## Abuse of rights, fraud and verification of EEA rights of residence

### Verifying eligibility

<p><a href="#">About this guidance</a> <a href="#">Rights of residence: overview</a> <a href="#">Abuse of rights and fraud</a> <a href="#">Reasonableness and Proportionality</a> <a href="#">Verification of a right of residence</a></p>	<p>This page tells you when you can verify a right of residence under regulation 20B of the Immigration (European Economic Area) Regulations 2006 (the regulations).</p> <p>Regulations 20B(1) applies if you:</p> <ul style="list-style-type: none"><li>• have reasonable doubt a person has a right to reside under regulation 14(1) or 14(2) of the regulations, or</li><li>• want to verify the eligibility of a person to apply for documentation.</li></ul> <p><b>Reasonable doubt about a person's right to reside</b></p> <p>This power may be engaged at any point, even if there is no application for documentation, providing there are reasonable grounds to doubt a person's right to reside under the regulations.</p> <p>For example, during the course of an investigation into illegal working, enforcement officers encounter a non-European Economic Area (EEA) national who claims to be the spouse of a Dutch national exercising free movement rights in the UK. The non-EEA national does not have a residence card.</p> <p>They provide the name and address of an EEA national but claim they are currently out of the country on holiday. They cannot provide further details, however, such as where the EEA national has travelled to and when they will return to the UK. On this basis, you have reasonable doubts that the non-EEA national has a right to reside.</p> <p><b>Verifying eligibility for documentation</b></p> <p>In contrast, this power is only engaged if an application for documentation is made.</p> <p>Although there should be some basis to ask for additional information, there is no requirement for you to have 'reasonable doubt'.</p>	<p><b>In this section</b></p> <p><a href="#">Invitation to verify a right of residence</a> <a href="#">Failure to verify a right of residence</a></p> <p><b>External links</b></p> <p><a href="#">Immigration (EEA) Regulations 2006</a> <a href="#">Free Movement of Persons Directive (2004/38/EC)</a> <a href="#">The Immigration (EEA) (Amendment) Regulations 2009</a> <a href="#">The Immigration (EEA) (Amendment) Regulations 2011</a> <a href="#">Immigration (EEA) Amendment Regulations 2012</a> <a href="#">Immigration (EEA) Amendment (no.2) Regulations 2012</a> <a href="#">Immigration (EEA)(Amendment)</a></p>
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	<p>For example, a non-EEA national has applied as the daughter of an EEA national student. Evidence of relationship has been provided and details of the course and enrolment which are several months old. In this instance, there are no reasonable doubts, however, you require an up to date copy of enrolment for the EEA national to make sure free movement rights are currently being exercised.</p> <p>If you have reasonable doubts or you are verifying the eligibility of a person to apply for documentation, you can request further evidence to support that right or invite them for interview. For further details see related links.</p>	<p><a href="#">Regulations 2013</a></p> <p><a href="#">Immigration (EEA) (Amendment)(no. 2) Regulations 2013</a></p> <p><a href="#">Immigration (EEA)(Amendment) Regulations 2014</a></p> <p><a href="#">Immigration (EEA) (Amendment)(No, 2) Regulations 2014</a></p>
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## Abuse of rights, fraud and verification of EEA rights of residence

### Invitation to verify a right of residence

[About this guidance](#)  
[Rights of residence: overview](#)  
[Abuse of rights and fraud](#)  
[Reasonableness and Proportionality](#)  
[Verification of a right of residence](#)

This page tells you when you can ask a person to send further information or attend an interview to verify a right of residence under regulation 20B of the Immigration (European Economic Area) Regulations 2006 (the regulations).

Regulations 20B(2) states you can ask the applicant to:

- provide evidence to support the existence of a right to reside
- provide evidence to support an application for documentation, or
- attend an interview.

Also, if the applicant claims to have a right to reside on the basis of their relationship to another person (for example a non-European Economic Area (EEA) national's claim to have a right to reside is on the basis of their relationship with an EEA national), regulation 20B(3) means you can ask that other person to:

- provide information about their relationship to the applicant, or
- attend an interview.

Whether you ask the person to provide more evidence or to attend an interview will depend on the individual circumstances of the case.

For example, it may be more useful when assessing if a person is in a genuine marriage with an EEA national, to ask both parties to attend an interview where they can be questioned in more detail. However, where you need information from an EEA national on a missing payslip, it would be more appropriate to request this information by post.

For further information on conducting interviews, see related link: Direct family members.

For further information on what to do when a person fails to provide the required information or attend an interview, see related link.

#### In this section

[Verifying eligibility](#)  
[Failure to verify a right of residence](#)

Links to staff intranet removed

#### External links

[Immigration \(EEA\) Regulations 2006](#)

[Free Movement of Persons Directive \(2004/38/EC\)](#)

[The Immigration \(EEA\) \(Amendment\) Regulations 2009](#)

[The Immigration \(EEA\) \(Amendment\) Regulations 2011](#)

[Immigration \(EEA\) Amendment Regulations 2012](#)

[Immigration \(EEA\) Amendment\) \(no.2\) Regulations 2012](#)

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		<a href="#"><u>Immigration (EEA)(Amendment) Regulations 2013</u></a> <a href="#"><u>Immigration (EEA) (Amendment)(no. 2) Regulations 2013</u></a> <a href="#"><u>Immigration (EEA)(Amendment) Regulations 2014</u></a> <a href="#"><u>Immigration (EEA) (Amendment)(No, 2) Regulations 2014</u></a>
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This guidance applies and interprets the Immigration (European Economic Area) Regulations 2006 (as amended).

## Abuse of rights, fraud and verification of EEA rights of residence

### Failure to verify a right of residence

[About this guidance](#)  
[Rights of residence: overview](#)  
[Abuse of rights and fraud](#)  
[Reasonableness and Proportionality](#)  
[Verification of a right of residence](#)

This page tells you what to do if a person applying for European Economic Area (EEA) rights of residence has been invited to provide further information or attend an interview on two occasions, and fails to do so.

Under regulation 20B(4), you can draw any factual conclusions about a person's entitlement to a right to reside if, without good reason, that person fails to:

- provide the extra information they were asked for, or
- attend an interview on at least two occasions, if they are asked to do so.

You may only draw the conclusion that, on the balance of probabilities, the person does not have, or has ceased to have, a right to reside in the situations above if there is other evidence to suggest the person does not have a right to reside.

You must not decide that a person does not have, or ceased to have, a right to reside just because they didn't provide the information or failed to attend an interview on at least two occasions.

There must be other grounds to suggest there is no right to reside. In practice these will usually be the grounds which prompted the request for additional information or an interview.

For example, a person has applied on the basis of their marriage to an EEA national. However, there is evidence to show the marriage may not be genuine as the parties to the marriage have never met, do not speak a common language and got married by proxy. The applicant is asked to come to an interview to address these concerns, but fails to attend on two occasions. In this situation you may conclude that the person does not have a right to reside, taking into consideration the failure to attend the interview and the other evidence.

**In this section**  
[Verifying eligibility](#)  
[Invitation to verify a right of residence](#)

**External links**  
[Immigration \(EEA\) Regulations 2006](#)  
[Free Movement of Persons Directive \(2004/38/EC\)](#)  
[The Immigration \(EEA\) \(Amendment\) Regulations 2009](#)  
[The Immigration \(EEA\) \(Amendment\) Regulations 2011](#)  
[Immigration \(EEA\) Amendment Regulations 2012](#)

[Immigration \(EEA\) Amendment \(no.2\) Regulations 2012](#)

[Immigration \(EEA\) \(Amendment\) Regulations 2013](#)

This guidance applies and interprets the Immigration (European Economic Area) Regulations 2006 (as amended).

		<a href="#"><u>Immigration (EEA) (Amendment)(no. 2) Regulations 2013</u></a>  <a href="#"><u>Immigration (EEA)(Amendment) Regulations 2014</u></a>  <a href="#"><u>Immigration (EEA) (Amendment)(No, 2) Regulations 2014</u></a>
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This guidance applies and interprets the Immigration (European Economic Area) Regulations 2006 (as amended).

## Abuse of rights, fraud and verification of EEA rights of residence

### Contacts

<p><a href="#">About this guidance</a> <a href="#">Rights of residence: overview</a> <a href="#">Abuse of rights and fraud</a> <a href="#">Reasonableness and Proportionality</a> <a href="#">Verification of a right of residence</a></p>	<p>This page tells you who to contact for more help with a specific case on the 'Abuse of rights, fraud and verification of European Economic Area (EEA) rights of residence' guidance.</p> <p>If you have read the relevant regulations and this guidance and still need more help with this category, you must first ask your senior caseworker.</p> <p>If the question cannot be answered at that level you can email the Free movement operational policy team. See related link.</p> <p>Changes to this guidance can only be made by the guidance rules and forms team (GRaFT). If you think the policy content needs amending you must contact the Free movement operational policy team, who will ask the GRaFT to update the guidance, if appropriate.</p> <p>The GRaFT 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: guidance rules and forms team.</p>	<p><b>In this section</b> <a href="#">Changes to this guidance</a> <a href="#">Information owner</a></p> <p>Links to staff intranet removed</p>
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## Abuse of rights, fraud and verification of EEA rights of residence

### Information owner

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This page tells you about this version of the 'Abuse of rights, fraud and verification of EEA rights of residence' guidance.

Version	1.0
Valid from date	27 January 2015
Policy owner	Official – sensitive: information removed
Cleared by director	Official – sensitive: information removed
Director's role	Official – sensitive: information removed
Clearance date	29 December 2014

Changes to this guidance can only be made by the guidance rules and forms team (GRaFT). If you think the policy content needs amending you must contact the Free Movement operational policy team, who will ask the GRaFT to update the guidance, if appropriate.

The GRaFT 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: guidance rules and forms team.

**In this section**  
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Links to staff intranet removed