

EEA decisions on grounds of public policy and public security

Version 2.0

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About this guidance

This guidance document sets out how decisions should be made under the [Immigration \(European Economic Area\) Regulations 2016](#) (EEA Regulations 2016) on the grounds of public policy and public security.

This guidance applies to all public policy and public security decisions made on or after 1 February 2017.

All previous Home Office guidance on public policy and public security decisions made under the Immigration (European Economic Area) Regulations 2006 cease to be in force.

Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or if you think that the guidance has factual errors then email the Migrant Criminality Policy team.

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email the Guidance Rules and Forms team.

Publication

Below is information on when this version of the guidance was published:

- version **2.0**
- published for Home Office staff on **21 November 2017**

Changes from last version of this guidance

Section and page number	Change
Introduction	Clarified where residence documentation is mandatory to be considered under this guidance.
Dependants	Clarified how to consider the status of dependent children following a public policy or public security decision.
Right of residence	Clarified that those with a derivative right to reside will be considered under the public policy and public security test in the EEA Regulations.
Marriage, civil and durable partnerships of convenience	Clarified removal pathways.
Decision to deport from the UK	Amended to reflect the updated position on deporting Irish national FNOs.

Section and page number	Change
<u>Liability to deportation</u>	Requirements amended.
<u>Individuals deported under the Immigration Acts who have subsequently acquired EEA rights</u>	New section added.
<u>Powers of detention</u>	New section added.
<u>Decision to impose a work restriction</u>	New section added.
<u>EEA residency applications</u>	New section added.
<u>Appeal rights</u>	New section added.

Related content

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Introduction

This section sets out the background to the [Immigration \(European Economic Area\) Regulations 2016](#) (EEA Regulations 2016) and tells you how the public policy and public security tests should be applied.

This guidance applies to EEA nationals, family members of EEA nationals and any person with a [derivative right of residence](#). These individuals are not required to have valid documentation confirming a right of residence to be considered under the EEA Regulations 2016.

This guidance also applies to extended family members who have valid documentation confirming a right of residence which satisfies [regulation 8](#) of the EEA Regulations 2016.

A family member includes:

- a spouse or civil partner
- direct descendants of the EEA national or their spouse or civil partner who are:
 - under the age of 21
 - dependants of the EEA national or their spouse or civil partner
- dependent direct relatives in the ascending line of the EEA national or their spouse or civil partner

An extended family member includes:

- a relative of an EEA national who is residing in a country other than the UK and is dependent upon the EEA national or is a member of the EEA national's household; and either:
 - is accompanying the EEA national to the UK or wants to join the EEA national in the UK
 - has joined the EEA national in the UK and continues to be dependent upon the EEA national, or to be a member of the EEA national's household
- a relative of an EEA national and on serious health grounds, strictly requires the personal care of the EEA national
- a relative of an EEA national and would meet the requirements of the Immigration Rules (other than those relating to entry clearance) for indefinite leave to enter or remain in the UK as a dependent relative of an EEA national
- the partner of an EEA national, other than a civil partner, who can prove they are in a durable relationship with the EEA national

A durable relationship is an unmarried partnership which has normally subsisted (continued in existence) for 2 years or more.

A non-EEA national who does not have a right of admission or a right to reside under the EEA Regulations 2016 or under European Union (EU) law must have leave to enter or remain in the UK.

This guidance also explains when it is appropriate to impose an employment restriction after a decision has been taken to remove an individual on public policy or public security grounds. This is a discretionary decision which must be proportionate, requiring a caseworker to consider the individual circumstances on a case by case basis. See [Decision to impose a restriction on work](#).

Background

The [Free Movement Directive 2004/38EC](#) (the directive), which came into force in April 2004, provides for the right of citizens of the EEA and their family members (who may be EEA nationals or non-EEA nationals) to move and reside freely within the territory of the member states. The directive sets out that member states may take measures to restrict the freedom of movement and residence of EU nationals and their family members on grounds of public policy, public security or public health. [Article 27](#) of the directive sets out the principles which must be followed when making such a decision. [Article 28](#) sets out additional conditions in relation to decisions to remove an EEA national or their family members on grounds of public policy or public security.

The provisions of the directive were transposed into domestic law by the [Immigration \(European Economic Area\) Regulations 2006](#) (EEA Regulations 2006).

On 1 February 2017, the EEA Regulations 2006 were revoked and replaced by the EEA Regulations 2016. The EEA Regulations 2016 in large part consolidate and clarify the provisions, modernise the language used and simplify terms where possible in line with current drafting practice. The EEA Regulations 2016 reflect the margin of appreciation enjoyed by member states to determine their own requirements of public policy and public security, for their own purposes, from time to time. They also make a number of substantive changes, including in respect of public policy and public security decisions.

Time-limited deportation orders

The EEA Regulations 2016 introduce a range of deportation orders, ranging from indefinite deportation orders to time-limited deportation orders.

All of these provisions came into force on 1 February 2017.

Fundamental interests of society

The EEA Regulations 2016 set out the government's view of the fundamental interests of society in the UK in the context of the regulations. This is a statement about the types of interests, which if threatened, might provide legitimate grounds for removing or excluding an EEA national or their family member. The list is non-exhaustive.

The EEA Regulations 2016 require the courts or tribunals to take into account these interests when considering, for example, an EEA national's appeal against a deportation decision.

Where a decision is taken to exclude or remove an EEA national or their family member on the grounds of public policy or public security in order to protect the fundamental interests of society, consideration must be given to whether the conduct of the individual represents a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society.

Decisions covered by this guidance

This guidance must be used in EEA decisions taken on the grounds of public policy and public security including a decision:

- to refuse admission to the UK under [regulation 23\(1\)](#)
- to exclude from the UK under [regulation 23\(5\)](#)
- to deport from the UK under [regulation 23\(6\)\(b\)](#)
- to refuse to issue, revoke or refuse to renew a residence card or residence permit under [regulation 24\(1\)](#)

An EEA decision, as defined in [regulation 2](#) of the EEA Regulations 2016, taken on the grounds of public policy or public security must be in accordance with [regulation 27](#) of the EEA Regulations 2016.

Section 55 children duty

The duty in [section 55 of the Borders, Citizenship and Immigration Act 2009](#) to have regard to the need to safeguard and promote the welfare of children who are in the UK means that consideration of a child's best interests is a primary consideration when making a decision on grounds of public policy or public security.

Where a child or children in the UK will be affected by the decision, you must have regard to the best interests of the child in the UK when considering whether to take such a decision. You must carefully consider all of the information and evidence provided concerning the best interests of a child in the UK and the impact the decision may have on the child.

All decisions must demonstrate that the child's best interests have been considered as a primary, but not necessarily the only, consideration. Decisions must demonstrate that consideration has taken place of all of the information and evidence provided concerning the best interests of a child in the UK. You must carefully assess the quality of any evidence provided. For further guidance on the application of the section 55 duty see the [section 55 children's duty guidance](#).

Dependants

You should consider whether the dependant of a person whose free movement rights are being restricted on the grounds of public policy or public security should also be removed. Any decision involving a child in the UK must take account of the duty in [section 55 of the Borders, Citizenship and Immigration Act 2009](#).

If the dependant is an EEA national, you should consider whether they have a right to reside which is independent of the EEA national whose rights are being restricted. For example, if the dependant is an EEA national who is exercising Treaty rights in the UK. For further information see the [EEA nationals](#) guidance.

If the dependant is not an EEA national, you should consider whether they have a retained right of residence.

If the dependant is a child you should consider whether the child's right to reside in the UK is solely dependent on the person whose free movement rights are being restricted. If so, you should consider administrative removal of the child under [regulation 23\(6\)\(a\)](#) on the basis that they no longer have a right to reside under the [EEA Regulations 2016](#). The decision to remove must be proportionate and take into account the duty in [section 55 of the Borders, Citizenship and Immigration Act 2009](#).

For more information on administrative removal see guidance on European Economic Area (EEA) administrative removal.

For further information on rights of residence see guidance on European Economic Area (EEA) residency rights.

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General principles

This section tells you about general principles relating to European Economic Area (EEA) rights under the [EEA Regulations 2016](#).

Right of residence

In every case, where you are considering making a decision on public policy or public security grounds, you must consider whether the EEA national or their family member has a right to reside in the UK in accordance with the [EEA Regulations 2016](#). The EEA Regulations 2016 make clear that a person with a derivative right to reside can have their free movement rights restricted on the grounds of public policy or public security ([regulation 16](#)). This replaces the previous 'conducive to the public good' test.

Where an EEA national is no longer resident in the UK, their non-EEA family members fall outside the scope of the deportation regime in the EEA Regulations 2016 unless they have a permanent right of residence. Further guidance on the right of residence is set out below:

- [EEA nationals](#)
- [Direct family members](#)
- [Extended family members](#)
- [Derivative right of residence](#)

Continuity of residence

[Regulation 3](#) of the [EEA Regulations 2016](#) gives effect to the Court of Justice of the European Union (ECJ) judgments in [Onuekwere \(Judgment of the Court\) \[2014\] EU ECJ C-378/12](#) and [Secretary of State for the Home Department v MG \(Judgment of the Court\) \[2014\] EU ECJ C-400/12](#) to clarify that continuity of residence is broken when a person serves a sentence of imprisonment.

Time spent in prison or a young offenders institute does not count as legal residence and interrupts continuity of residence for the purpose of acquiring a right of permanent residence under the EEA Regulations 2016 for an EEA national or their family member.

A period of imprisonment is also in principle capable of interrupting continuity of residence when assessing whether an EEA national or their family member has accrued 10 years' residence in accordance with the EEA Regulations 2016. When assessing whether any previous integrating links with the UK have been broken by time in prison, you may take into account the time spent in the UK prior to imprisonment.

When calculating continuity of residence, you must count backwards from the date of decision.

Public policy and public security

Public policy and public security are not defined in the directive or the EEA Regulations 2016. Since there is no uniform scale of public policy or public security values across member states, the government has discretion as to the standards of public policy and public security that apply in the UK from time to time. This position is reinforced by [paragraph 1 of schedule 1](#) of the EEA Regulations 2016.

The ECJ has consistently emphasised that member states have discretion to determine the circumstances which justify the use of the public policy provision. In particular in the ECJ case of [Yvonne van Duyn v Home Office \(Workers\) \[1974\] EUECJ R-41/74](#) the court held at paragraph 18:

It should be emphasized that the concept of public policy in the context of the Community and where, in particular, it is used as a justification for derogating from the fundamental principle of freedom of movement for workers, must be interpreted strictly, so that its scope cannot be determined unilaterally by each member state without being subject to control by the institutions of the Community. Nevertheless, the particular circumstances justifying recourse to the concept of public policy may vary from one country to another and from one period to another, and it is therefore necessary in this matter to allow the competent national authorities an area of discretion within the limits imposed by the Treaty.

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Restriction of EEA rights on grounds of public policy or public security

This section tells you how freedom of movement can be restricted under the [Immigration \(European Economic Area\) Regulations 2016](#) (EEA Regulations 2016) on grounds of public policy or public security. It covers the principles to be followed when a decision is taken to refuse admission, exclude, refuse or revoke residence or remove a person from the UK.

Overview

[Regulation 27](#) and [schedule 1](#) of the EEA Regulations 2016 set out the principles to be considered when making a decision to refuse admission, exclude, refuse or revoke residence or remove an EEA national or their family member from the UK on grounds of public policy or public security.

[Regulation 27\(5\)](#) requires that, where such a decision is taken, it must be in accordance with the following principles:

- the decision must comply with the principle of proportionality
- the decision must be based exclusively on the personal conduct of the person concerned
- the personal conduct of the individual concerned must represent a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society, taking into account past conduct of the individual and that the threat does not need to be imminent
- matters isolated from the particulars of the case or which relate to considerations of general prevention do not justify the decision
- the individual's previous criminal convictions do not in themselves justify the decision
- the decision may be taken on preventative grounds, even in the absence of a previous criminal conviction, provided the grounds are specific to the person

Protection against restriction of Free Movement rights and removal

[Article 28](#) of the directive provides additional protection in relation to decisions to remove an EEA national or their family members including higher thresholds for the removal of certain EEA nationals and their family members based on their length of residence in the UK. A different threshold applies where the decision relates to a person who has a permanent right of residence or, in relation to an EEA national only, who has resided in the UK for a period of at least ten years or who is a child.

Individuals with a permanent right of residence

Where an EEA national or their family member has established a permanent right of residence, a decision to refuse admission, exclude, revoke residence or remove the person from the UK, is only permitted on serious grounds of public policy or public security.

Serious grounds is not defined in the EEA Regulations 2016 or the directive. To justify a decision on serious grounds, there must be stronger grounds than would be applicable for a person who does not have a permanent right of residence.

[Regulation 15](#) of the EEA Regulations 2016 sets out the circumstances when an EEA national or their family member can acquire a permanent right of residence in the UK.

EEA nationals with 10 years' residence in the UK and EEA children

Under [regulation 27\(4\)](#) of the EEA Regulations 2016, a decision to refuse admission, exclude, revoke residence or remove the person from the UK, is only permitted on imperative grounds of public security. Where an EEA national either:

- has resided in the UK for a continuous period of at least 10 years prior to the decision
- is under the age of 18, unless the relevant decision is in the best interests of the person concerned, as provided for by the Convention on the Rights of a Child

Imperative grounds is not defined in the EEA Regulations 2016 or the directive. It may be interpreted more widely than threats to the state or its institutions, and can, for example, include serious criminality, such as drug dealing as part of an organised group. See: [Tsakouridis \(European citizenship\) \[2010\] EUECJ C-145/09](#).

Principles to follow when making public policy or public security decisions

A decision taken on grounds of public policy or public security must be in accordance with the principles set out in [regulation 27\(5\)](#) of the EEA Regulations 2016.

In every case where a decision is made on the grounds of public policy or public security, you must consider the following 6 principles:

- the principle of proportionality
- the personal conduct of the person concerned
- whether the personal conduct of the individual concerned represents a genuine, present and sufficiently serious threat affecting one of the fundamental interests

- of society, taking into account past conduct of the person and that the threat does not need to be imminent
- matters isolated from the particulars of the case or which relate to considerations of general prevention do not justify the decision
 - a person's previous criminal convictions do not in themselves justify the decision
 - the decision may be taken on preventative grounds, even in the absence of a previous criminal conviction, provided the grounds are specific to the person

Further guidance on the application of the six principles is set out in this section.

Principle of proportionality

The decision must comply with the principle of proportionality. This means that the measures to restrict the individual's free movement rights must be necessary and appropriate to protect the fundamental interests of society that are threatened.

Personal conduct of the person concerned

A decision on grounds of public policy or public security must only be taken with regard to the conduct of the person.

This means that an individual's circumstances must be assessed on a case-by-case basis taking account of any available evidence. It is not necessary for an individual to have criminal convictions for a decision to be made on public policy or public security grounds, if their personal conduct is assessed to be a threat and the other requirements of [regulation 27](#) are met. See [previous criminal convictions](#) for further information.

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Genuine, present and sufficiently serious threat affecting one of the fundamental interests of society

The threat they pose must be a genuine, present and sufficiently serious one affecting one of the fundamental interests of society. These factors are considered in turn in this section.

Genuine: the threat must be a realistic one.

Present: the threat must exist but it does not need to be imminent. An indication of a present threat may include intelligence or any precautionary measures which have been imposed on the individual for example a licence condition imposed because there is a genuine and present risk. Even a low risk can constitute a present threat, especially where the consequences of any offence could be serious. An argument by the individual that they pose a low risk of offending should not be determined automatically in their favour when making a public policy decision. For the purpose of determining whether a person is a present threat while they are detained, the fact that they are detained should not be taken into account. The threat does not need to be imminent at the point of release.

Sufficiently serious: the threat must be serious enough to affect one of the fundamental interests of society but does not need to be a serious threat.

It is also not necessary to demonstrate that an individual is likely to commit a specific type of offence.

When considering whether an individual poses a threat, you may also consider the following factors.

Nature of the offence: in deportation cases the government's view is that certain types of offences weigh in favour of deportation. Those offences typically result in a custodial sentence or a requirement to sign the Violent and Sex Offender's Register (ViSOR). This includes violent, sexual, gun and drug-related offences.

Length of sentence: in most cases, the length of sentence will provide a strong indication of the severity of the offence, although each case must be considered on its individual merits. A period of imprisonment, especially a life sentence with a particularly long tariff is confirmation from the sentencing court as to the danger posed by the individual. Where the individual is held as the highest category of prisoner (a position which is reviewed annually) and assessments of their risk are such that the person requires the most secure accommodation on the prison estate, this is on the basis of the risk posed to society if they escaped.

Rehabilitation: the duration of any rehabilitative efforts will be relevant to the public policy decision. Where such efforts are in their infancy (for example a few weeks in the community, or a few sessions undertaken) these should not be considered to be determinative of the question of a risk of recidivism. Where an individual relies on rehabilitative prospects in their country of origin compared to the UK, any differences

in rehabilitative provisions will be minor, unless there is strong evidence to the contrary.

[Schedule 1](#) of the EEA Regulations 2016 provides a non-exhaustive list of examples of the fundamental interests of society. For further guidance on examples of behaviour contrary to the fundamental interests of society see [fundamental interests](#).

Matters isolated from the particulars of the case or which relate to considerations of general prevention do not justify the decision

Decisions must be made on a case-by-case basis, based on a consideration of the facts and circumstances of the individual case.

Previous criminal convictions do not in themselves justify the decision

A decision made on public policy or public security grounds cannot be made on criminal convictions alone. The decision-maker must also take into account all the principles of [regulation 27\(5\)](#). The nature of previous offending including the number and seriousness of previous convictions should form part of the assessment of the person's present conduct when considering the overall conduct of the person concerned. You should take account of any available evidence, including self-declared criminality.

However, it is not necessary for a person to have any previous criminal convictions for a decision to be made on public policy or public security grounds. For example cautions and warnings can also be taken into account.

The decision may be taken on preventative grounds, even in the absence of a previous criminal conviction, provided the grounds are specific to the person

A decision may be made on public policy or public security grounds to prevent the specific individual from carrying out certain, specific types of conduct. This is particularly important in the national security context, where there is reliable intelligence to suggest that a Union citizen or their family member may pose a threat to public security.

Additional considerations for a person resident in the UK

Under [regulation 27\(6\)](#) additional considerations must be taken into account where the person is resident in the UK. This includes where the person is temporarily outside the UK when the decision is made, for example, when an exclusion order is made.

These considerations do not apply to an application for an EEA family permit where the applicant is applying from overseas, to a decision about whether a person should be admitted to the UK, or to a decision about whether a person should be excluded from the UK (unless they are resident).

Age

This has greater significance where for instance the person is under the age of 18, and consideration must be given to their best interests.

State of health

A person's general state of health, including their physical and mental health, must be considered and, in particular, the implications of the proposed decision on that person's health. Where claims of ill-health are made, it is expected that they would be substantiated by medical evidence from medical professionals with relevant qualifications and experience. Original documentary evidence from official or independent sources will be given more weight in the decision-making process than photocopies or unsubstantiated assertions.

Family and economic situation

Consideration must be given to factors such as whether the person has dependants in the UK, such as children, or whether they are financially or physically dependent on others already legally residing within the UK.

Length of residence

Generally, the shorter the length of residence, the less likely a person will have established significant links to the UK and the easier they will be able to integrate into the country of return. This includes those who have not resided in the UK for a continuous period of 5 years and therefore have not acquired a permanent right of residence and in some cases those who have lived in the UK for less time than they lived in their member state of origin.

Other considerations may include for example, whether the person may have had a relatively long period of residence without any history of abuse of immigration laws, criminality or any time spent in prison.

Social and cultural integration

This looks at the degree of the person's integration in the UK. This could include links to family and friends, length of residence, properties or business interests in the UK as well as any absences from the UK, length and frequency of those absences and whether the person's personal, family or occupational interests have moved to another country.

You will need to balance all circumstances to form an overall assessment of whether a person is socially and culturally integrated in the UK. You must consider the information available, including all the reasons put forward by the individual about their social and cultural integration in the UK in order to make an assessment in an individual case. [Paragraphs 2 to 6 of schedule 1](#) set out the considerations which the court or tribunal must take into account when looking at whether there are public policy or public security grounds in an individual case.

Mere presence in the UK is not evidence of integration. The person subject to a public policy or public security decision will need to show a wider degree of cultural and societal integration to be regarded as integrated in the UK. Where the individual is only able to show links with their family members, or with others of the same nationality, or who speak the same language, this alone will not be sufficient to demonstrate integration in the UK.

Criminal offending is an indication of a lack of integration. Where a custodial sentence is received, the longer the sentence, or in the case of a persistent offender, the more convictions, the greater the likelihood that the person is not integrated. The nature of offending, such as anti-social behaviour against a local community or offending that may have caused a serious or long-term impact on a victim or victims (for example sexual assault, burglary) may be further evidence of non-integration.

Integrating links which are formed at or around the same time as an individual has been carrying out the offending behaviour, was otherwise acting in a way which affects the fundamental interests of society, or whilst the individual was in custody are less likely to indicate integration.

Whilst positive contributions to society may be evidence of integration, this will not weigh strongly in the individual's favour if it was undertaken at such a time to suggest an attempt to avoid deportation. If such a claim is made, the individual is expected to provide credible evidence of their contribution. Less weight will usually be given to claims unsubstantiated by original, independent and verifiable documentary evidence.

Imprisonment prevents integrating links from being formed, and less weight will be attached to claimed integrating links formed during time in prison (such as work carried out in prison, or training courses). Imprisonment does not allow an individual to become an integral part of society, and the person has been deprived of their freedom due to their personal decision to breach societal norms, and engage in conduct which is contrary to positive engagement with the UK.

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Fundamental interests of society

This section sets out details of what constitutes the fundamental interests of society in the UK as set out in [schedule 1](#) of the [Immigration \(European Economic Area\) Regulations 2016](#) (EEA Regulations 2016) and provides examples of the types of behaviour that are contrary to those interests.

[Schedule 1](#) of the EEA Regulations 2016 provides a non-exhaustive list of the fundamental interests of society in the UK. Consideration must be given to the fundamental interests of society to determine whether it is appropriate to restrict a person's free movement rights on the grounds of public policy and public security. A list of the types of behaviour considered contrary to each fundamental interest of society is set out in this section with examples provided where helpful. This is a non-exhaustive list. In some cases the behaviours may be contrary to more than one fundamental interest.

When making a decision, you must list all the relevant fundamental interests which apply.

The fundamental interests of society include:

(a) preventing unlawful immigration and abuse of the immigration laws, and maintaining the integrity and effectiveness of the immigration control system (including under these regulations) and of the Common Travel Area.

Examples of behaviour contrary to this interest include:

- marriages of convenience or durable partnership of convenience
- human trafficking
- use of fraudulent documents
- facilitating illegal entry to the UK
- circumventing the immigration system
- facilitating the circumvention of the immigration system

(b) maintaining public order

Examples of behaviour contrary to this interest include:

- inciting public disorder
- anti-social behaviour such as criminal damage, rough sleeping, drug offences and offences committed to fund a drug or alcohol habit, or committed while under the influence of drugs or alcohol

(c) preventing social harm

Examples of behaviour contrary to this interest include:

- low-level criminality

- acquisitive crime including theft and shoplifting
- rough sleeping

(d) preventing the evasion of tax and duties

Examples of behaviour contrary to this interest include:

- tobacco or alcohol smuggling
- tax fraud
- non-payment of taxes or duties owed

(e) protecting public services

Examples of behaviour contrary to this interest include:

- benefit fraud

(f) excluding or removing an EEA national or family member of an EEA national with a conviction (including where the conduct of that person is likely to cause, or has in fact caused, public offence) and maintaining public confidence in the ability of the relevant authorities to take such action

(g) tackling offences likely to cause harm to society where an immediate or direct victim may be difficult to identify but where there is wider societal harm (such as offences related to the misuse of drugs or crime with a cross-border dimension as mentioned in Article 83(1) of the Treaty on the Functioning of the European Union)

Examples of behaviour contrary to this interest include:

- drugs offences (e.g. smuggling, supplying, manufacturing drugs)

(h) combating the effects of persistent offending (particularly in relation to offences, which if taken in isolation, may otherwise be unlikely to meet the requirements of [regulation 27](#))

Examples of behaviour contrary to this interest:

- persistent shoplifting

(i) protecting the rights and freedoms of others, particularly from exploitation and trafficking

Examples of behaviour contrary to this interest include:

- high harm criminality
- human trafficking

(j) protecting the public

Examples of behaviour contrary to this interest include:

- high harm criminality
- human trafficking

(k) acting in the best interests of a child (including where doing so entails refusing a child admission to the United Kingdom, or otherwise taking an EEA decision against a child)

Examples of behaviour contrary to this interest include:

- entry of a child if there are concerns as to why they are coming to the UK or who they are travelling with
- (l) countering terrorism and extremism and protecting shared values

Related content

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Related external links

[Immigration \(European Economic Area\) Regulations 2016](#)

Behaviour which may lead to a public policy decision

This section provides further guidance about certain types of behaviour considered contrary to the fundamental interests of society as set out in [schedule 1](#) to the [Immigration \(European Economic Area\) Regulations 2016](#) (EEA Regulations 2016). This is not an exhaustive list.

Criminality

A person's criminal behaviour will be taken into account when making a decision on public policy or public security grounds, although a decision can be made even if the person has not received any criminal convictions if there is sufficient, corroborated law enforcement evidence to underpin a decision. Such criminal behaviour may be demonstrated by domestic or overseas convictions.

Low level persistent offending

Persistent offending is considered contrary to the fundamental interests of society as set out in [paragraph 7\(f\) of schedule 1](#) to the EEA Regulations 2016.

Persistent offending includes offences, which if taken in isolation, may otherwise not meet the requirements of [regulation 27](#).

An individual is considered to be a persistent offender if they show a pattern of offending over a period of time. This can mean a series of offences committed in a fairly short timeframe, or which escalate in seriousness over time, or a history of minor offences. Non-custodial sentences, suspended sentences, restraining orders, Anti-social Behaviour Orders (ASBOs), police cautions and equivalent offences can all be taken into account, but consideration will need to be conducted on a case by case basis.

Marriage, civil partnership and durable partnership of convenience

The EEA Regulations 2016 define a marriage or civil partnership of convenience as a marriage or civil partnership entered into for the purpose of using these regulations, or any other right conferred by the European Union (EU) Treaties, as a means to circumvent:

- Immigration Rules applying to non-EEA nationals (such as any applicable requirement under the Immigration Act 1971 to have leave to enter or remain in the UK)
- any other criteria that the party to the marriage or civil partnership of convenience would otherwise have to meet in order to enjoy a right to reside under these regulations or the EU Treaties

A durable partnership of convenience, as defined by the EEA Regulations 2016, includes a durable partnership entered into for the purpose of using these regulations, or any other right conferred by the EU Treaties, as a means to circumvent:

- Immigration Rules applying to non-EEA nationals (such as any applicable requirement under the Immigration Act 1971 to have leave to enter or remain in the UK)
- any other criteria that the party to the durable partnership of convenience would otherwise have to meet in order to enjoy a right to reside under these regulations or the EU Treaties

The important factor in a marriage, civil partnership or a durable partnership of convenience is that there is no genuine relationship between the parties.

[Paragraph 6\(a\) of schedule 1](#) to the EEA Regulations 2016 states that it is consistent with public policy and public security requirements to refuse, terminate or withdraw an EEA right where it involves entering or attempting to enter into a marriage, civil partnership or durable partnership of convenience.

Entering, or attempting to enter, a marriage, civil partnership or durable partnership of convenience for the purpose of circumventing the UK's immigration controls is also considered contrary to the fundamental interests of society, as set out in [paragraph 7\(a\) of schedule 1](#) to the EEA Regulations 2016.

Where there are reasonable grounds to suspect a person with an EEA right has entered or attempted to enter a marriage, civil partnership or durable partnership of convenience, it may be appropriate to make a decision to refuse admission, refuse or revoke residence or remove.

When assessing whether a marriage or partnership is genuine you should refer to the [direct family members](#) guidance and the [marriage investigations](#) guidance.

This provision must be considered alongside other responses such as referral to [Criminal and Financial Investigation](#) (CFI) teams for prosecution.

A non-EEA national who has entered into a marriage or civil partnership of convenience must be treated as an immigration offender under the [Immigration Rules](#). This is unless the person has already been issued a document under the EEA Regulations 2016 as the spouse or civil partner of an EEA national.

If a document has been issued, the non-EEA national must be considered under the [EEA Regulations 2016](#) and removal action can be taken under [regulation 23\(6\)\(a\)](#).

Fraudulently obtaining a right to reside

[Paragraph 6\(a\) of schedule 1](#) to the EEA Regulations 2016 states that it is consistent with public policy and public security requirements to refuse, terminate or withdraw an EEA right where it involves fraudulently obtaining, attempting to obtain or assisting the fraudulent acquisition of a right to reside under the EEA Regulations 2016.

Fraudulently obtaining, attempting to obtain or assisting the fraudulent acquisition of a right to reside under the EEA Regulations 2016 is also considered contrary to the fundamental interests of society, as set out in [paragraph 7\(a\) of schedule 1](#) to the EEA Regulations 2016.

Examples of fraudulent behaviour to obtain a right to reside include:

- false evidence of relationship (such as fraudulent marriage, birth or divorce certificates)
- false evidence of the exercise of Treaty rights (for example, fraudulent wage slips, bank statements, letters confirming study, claims that a person is self employed but Her Majesty's Revenue and Customs checks confirm the person is not registered)
- misrepresentation of facts regarding any qualifying criteria (such as permission to work for Croatian nationals)
- false EEA documentation (such as registration certificate, residence card)

This list is not exhaustive. There may be other factors not listed above that constitute the fraudulent acquisition, or attempted acquisition of a right to reside under European law.

Evasion of taxes and duties

The evasion of taxes and duties is considered contrary to the fundamental interests of society as set out in [paragraph 7\(d\) of schedule 1](#) to the EEA Regulations 2016.

If an individual is found to have in their possession goods such as tobacco or alcohol in large quantities which are not consistent with personal use, consideration should be given to whether they are attempting to evade significant payment of duty.

In cases where an individual has already been admitted to the UK under [regulation 11](#) and where the person is located within 24 hours of being admitted, you may revoke admission under [regulation 31](#). More information on the revocation of admission can be found in the [Border Force EEA refusal guidance](#).

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Related external links

Department for Communities and Local Government
Combined Homelessness and Information Network (CHAIN),

Decision to exclude from the UK

This section tells you about decisions made to exclude individuals from the UK under the [Immigration \(European Economic Area\) Regulations 2016](#) (EEA Regulations 2016) and should be read in conjunction with the guidance on [exclusion from the UK](#).

Under [regulation 23\(5\)](#) of the EEA Regulations 2016, the Secretary of State can make an exclusion order against an EEA national or their family member on the grounds of public policy or public security.

An exclusion order can only be made against a person who is outside the UK. The effect of the order is to prohibit the person's admission to the UK.

A conviction is not necessary in order to consider a person for exclusion. If the person's activities are capable of falling within the scope of UK criminal legislation (or conduct prohibited by law), whether or not the individual is charged with or convicted of an offence, then it may warrant exclusion.

[Regulation 34\(1\)](#) of the EEA Regulations 2016 stipulates that the exclusion order remains in force until it is revoked.

Entry in breach

An EEA national or family member who returns to the UK while an exclusion order is still in force will either be:

- stopped on entry by a Border Force officer before they pass through immigration control
- encountered after entry, having managed to pass through or circumvented the control on arrival

On entry

If a person subject to an exclusion order is stopped on entry, they are deemed to have sought to enter in breach of an exclusion order and the on entry procedures apply. Further guidance is set out in the general grounds for refusal: [refusing leave to enter – general guidance](#). The on-entry procedures will be carried out by Border Force officers.

After entry

An EEA national or their family member who enters the UK in breach of an extant exclusion order will be removable as an illegal entrant ([regulation 32\(4\)](#)). The right of appeal against the decision to remove is in [regulation 26](#). As a result of [regulation 37\(1\)\(g\)](#) this will be an out of country right of appeal.

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Related external links

[Exclusion from the UK](#)

Decision to refuse admission to the UK

This section tells Border Force officers about refusal of admission of European Economic Area (EEA) nationals and their family members on the grounds of public policy or public security under the [Immigration \(European Economic Area\) Regulations 2016](#) (EEA Regulations 2016).

[Regulation 23\(1\)](#) sets out that a Border Force officer may refuse admission to an EEA national or their family members on the grounds of public policy or public security in accordance with [regulation 27](#).

You must also refuse entry to an individual who is subject to a valid deportation order or exclusion order ([regulation 23\(2\)](#)) unless they are seeking to be admitted temporarily for an appeal hearing and have permission to do so. Where an individual is not subject to a deportation order or exclusion order, you will need to consider whether there are public policy or public security reasons for refusing admission to the UK.

If a decision is made to refuse entry to an EEA national on grounds of public policy or public security, the individual's passport must not be endorsed.

You must consider the levels of protection against a public policy or public security decision and [regulation 27\(5\)](#) when deciding whether to refuse admission as set out in the section on [protection against restriction of free movement rights and removal](#).

Once a person has passed through immigration control, they are considered to have been admitted to the UK unless they entered in contravention of a deportation order or exclusion order or were not entitled to be admitted under [regulation 23\(1\) or \(3\)](#). If they are stopped by another agency (for example the police) and a decision is made to deport the individual, there is no need to make a separate decision to refuse admission to the UK.

A decision to grant admission to an EEA national or their family member does not necessarily preclude a decision from being made on public policy or public security grounds at a later date. For example, a decision to allow admission to the UK does not automatically prevent a deportation decision from being made against that individual.

For more information on refusing admission to EEA nationals and their family members see the [Border Force EEA refusal guidance](#).

Potential victim of trafficking

If you encounter an EEA national who you consider may be a potential victim of trafficking (PVoT) and the individual is an adult and consents, you must refer the individual to the [National Referral Mechanism](#) (NRM) to ensure the UK meets its obligations under the trafficking convention to identify and support victims of trafficking.

If you have reason to believe that the PVoT is accompanied by a facilitator who is an EEA national, you should consider whether or not the facilitator should be refused admission to the UK on public policy grounds.

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Decision to refuse, renew or revoke documentation

This section tells you about the circumstances in which an application for a document issued under the [Immigration \(European Economic Area\) Regulations 2016](#) (EEA Regulations 2016) can be refused or revoked on the grounds of public policy and public security.

Refuse to issue or renew documentation

In every application for documentation under the EEA Regulations 2016, you may refuse to issue the documentation on public policy or public security grounds. Any such decision must be made in accordance with [regulation 27](#).

If you are satisfied that the application for documentation falls to be considered on public policy or public security grounds then you should refer the case for deportation consideration.

A decision to issue or renew documentation does not automatically preclude a decision from being made on public policy or public security grounds at a later date. For example, a decision to issue a document to an EEA national does not necessarily mean that a deportation decision cannot be made against that individual.

Pending prosecutions

There may be evidence that suggests that an individual **may** pose a threat to public policy or public security, as set out in [regulation 27](#) of the EEA Regulations 2016. Where an individual is being investigated by the police, or has been charged with a criminal offence, an examination of the available evidence supporting the underlying allegations may provide grounds for such concerns and consideration should be given to whether deportation action is appropriate. If the individual is convicted in due course, the criminal convictions and surrounding circumstances may permit a public policy or public security decision to be taken.

In the first instance, you must consider whether there are any grounds for refusal which could apply ahead of the conclusion of the criminal proceedings.

In some cases, there will be sufficient evidence to justify taking a public policy or public security decision before the conclusion of any outstanding criminal proceedings.

If not, in such cases, you may conduct further investigations with the police to obtain evidence of the threat that the individual may pose. This may include, information about the charges made against the individual; the nature of the offences the individual is alleged to have committed; the strength of evidence presented during the prosecution; and any previous arrests, convictions or evidence of similar behaviour. You should use this information to assess the threat posed by the

individual, and the stage the case has reached in the criminal justice system. Any evidence used must be disclosable.

You should also make an assessment of proportionality considerations, as set out in [regulation 27\(5\)](#).

If you are satisfied that there is sufficient evidence of a threat on grounds of public policy or public security and that the principles in [regulation 27\(5\)](#) have been sufficiently considered, you must notify the applicant that a decision not to determine the outcome of the application at this time has been made on grounds of public policy or public security and that the application will be held pending the outcome of criminal justice proceedings.

You must monitor these cases and make a decision on the individual's application as soon as is practicable upon conclusion of the criminal justice proceedings.

If there is insufficient evidence available or disclosable to justify a decision on public policy or public security grounds or where such a decision would not be proportionate, you must make a decision on the application for documentation within the time limit. For example where the individual is a person of interest to the police but criminal charges have not been brought and there is no further evidence of the nature or level of threat posed.

Revocation of documentation

Under the EEA Regulations 2016 a decision may be made to revoke documentation issued. This may include where the person has ceased to have a right of residence on public policy grounds, or where the person never had a right of residence in the first place. Once the documentation has been revoked the case should be referred for enforcement action.

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Decision to deport from the UK

This section tells you about deportation in accordance with the [Immigration \(European Economic Area\) Regulations 2016](#) (EEA Regulations 2016).

Overview

[Regulation 23\(6\)\(b\)](#) of the EEA Regulations 2016 allows for the deportation of EEA nationals or their family members on grounds of public policy or public security. Any such decision must be made in accordance with [regulation 27](#) of the EEA Regulations 2016. The government's policy is to pursue the deportation of EEA nationals or their family members when the person's conduct represents a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society.

[Regulation 32\(6\)](#) provides that a person subject to a deportation decision made under regulation 23(6)(b) is allowed one month to leave the UK voluntarily, beginning on the date on which they are notified of the decision to remove them, before being removed pursuant to that decision. A person may be removed earlier:

- in duly substantiated cases of urgency (for example if a prisoner was involved in prison riots)
- where the person is detained pursuant to the sentence or order of any court
- where a person has entered in breach of a deportation or exclusion order

[Regulation 33](#) allows the Secretary of State to certify that removal pending the final determination of an appeal would not be unlawful under section 6 of the Human Rights Act 1998. The effect of certification is that an appeal lodged against a deportation decision does not suspend removal.

[Regulation 32\(5\)](#) requires that, where a deportation order is made against a person but they are not removed under the order during the two year period beginning on the date on which the order is made, you must assess whether there has been any material change in circumstances since the deportation order was made before taking action to remove the person. Only where it is considered that the removal continues to be justified on the grounds of public policy or public security can the person be removed under that deportation order .

The UK does not routinely deport Irish nationals. Irish nationality does not, however, provide automatic exemption from deportation. The Secretary of State may decide that, due to the exceptional circumstances of the case, deportation will be pursued, for example, where a person is convicted and serving a custodial sentence of 10 years or more for a terrorism offence, murder, or a serious sexual or violent offence. This includes anyone of dual Irish and another (non-British) nationality. It does not include non-EEA nationals who are the dependants of Irish nationals.

Liability to deportation

If an EEA national or a family member of an EEA national is liable to deportation they must be notified in writing and given the opportunity to make representations, if they want to, about why they should not be deported.

When a person is informed of their liability to deportation, they must be advised of the public policy or public security reasons for their intended removal from the UK.

The liability notice must also contain a warning under [section 120](#) of the Nationality, Immigration and Asylum Act 2002, in accordance with [paragraph 2 of schedule 2](#) to the EEA Regulations 2016. This places a continuing obligation to raise with the Home Office any reasons why they should not be deported from the UK including any time there is a material change of circumstances, as soon as they occur. [Section 96\(2\)](#) of the Nationality, Immigration and Asylum Act 2002 provides for the denial of a right of appeal in certain circumstances where a matter later relied on should have been, but was not, raised in response to a section 120 notice. For guidance see [rights of appeal](#).

Effect of a deportation order

A deportation order enters into force once the individual has been notified of the deportation order. Once in force, the person's free movement rights have been restricted and the person is required to leave the UK. If the person does not comply with the requirement to leave the UK then (subject to having one month to leave voluntarily) the person's removal can be enforced.

If an EEA national or their family member seeks admission to the UK but is subject to an extant deportation order, they must be refused admission under [regulation 23\(2\)](#). They will only be considered for admission once the deportation order has been revoked.

Where a person has been deported under the EEA Regulations 2016, [regulation 41](#) provides for a person to be temporarily admitted for the purpose of making submissions in person at their appeal against deportation. Further information on regulation 41 can be found in the certification for EEA deportation cases guidance.

Revocation of a deportation order

Deportation orders made under the EEA Regulations 2016 remain in place until revoked by the Secretary of State or for the period specified in the order. Once deported, the individual is prohibited from returning to the UK unless they successfully apply to have the order revoked or until after the period specified in the order.

An individual who is subject to either an indefinite or time-limited deportation order can apply to the Home Office for revocation of the order. Such an application must be made from outside of the UK after the individual has been deported.

When considering whether to revoke the deportation order, you must consider whether there has been a material change in circumstances that justified the decision to make a deportation order ([regulation 34\(4\)](#)). An application for revocation of a deportation order must be decided within six months of the date of application ([regulation 34\(6\)](#)) and all applications will be assessed on a case by case basis.

Examples which applicants may raise as showing a material change in circumstances include:

- where the applicant was relatively young when they were deported and following a reasonable period of time, they have married, settled down, had children or have a steady job and avoided further trouble
- where the applicant could not possibly be regarded as a threat any longer, for example because of serious illness or disability

Individuals deported under the Immigration Acts who have subsequently acquired EEA rights

There may be individuals previously deported under the [Immigration Act 1971](#) or the [UK Borders Act 2007](#) who will now fall to be considered under the [EEA Regulations 2016](#). For example if:

- the deportation order was made under the above acts before their country of nationality became a European Union (EU) member state
- they were a non-EEA national and they have subsequently been granted citizenship of an EEA country
- they are now the family member of an EEA national

The deportation order does **not** cease to have effect because the individual has since acquired an EEA right. The individual must make a written request from outside of the UK to the Secretary of State for revocation of the deportation order providing evidence of their EEA rights.

Further information on assessing whether someone has an EEA right can be found at: [free movement rights](#) and [direct family members of EEA nationals](#).

When an application for revocation of a deportation order is received, you must consider whether the reasons for the deportation order would meet the requirements for a public policy or public security decision under [regulation 27](#) of the EEA Regulations 2016.

If the threshold is met, the deportation order must be maintained under the EEA Regulations 2016 and the individual should be informed of the reasons in writing. It is **not** necessary to revoke the original deportation order and remake it under the EEA Regulations 2016.

If the threshold is not met, the deportation order must be revoked and the individual informed in writing.

Individuals who were deported under the Immigration Acts who later claim a right of admission at the border on EEA grounds

If an individual who is subject to a deportation order made under the Immigration Act 1971 or the UK Borders Act 2007, seeks entry at the border under the EEA Regulations 2016, they should **not be admitted to the UK**. An application for revocation must be made in writing from outside the UK, and the individual **must not** be granted admission to the UK while a deportation order is in force.

You will need to consider whether the individual is within the scope of the EEA Regulations 2016, either as an EEA national themselves, or as a family member.

If the person does not come within the scope of the EEA Regulations 2016, they must be refused entry because the deportation order remains in force.

If the person does fall for consideration under the EEA Regulations 2016, they must be refused entry on the grounds that an extant deportation order indicates that they meet the public policy test under [regulation 27](#) of the EEA Regulations 2016. The person must be informed that an application for revocation must be made in writing from outside the UK. The person will have an out-of-country right of appeal against the decision not to grant admission under [regulation 37\(1\)\(a\)](#).

Powers of detention

[Regulation 32\(1\)](#) provides an anticipatory power of detention in cases where there are reasonable grounds for suspecting that a person is someone who may be deported from the UK under [regulation 23\(6\)\(b\)](#). This means that the person may be detained pending the decision about whether or not to deport them on public policy or public security grounds.

[Regulation 32\(3\)](#) sets out that where the decision has been made to deport a person under [regulation 23\(6\)\(b\)](#), the person is to be treated as if they are a person to whom the relevant deportation provisions of the [Immigration Act 1971](#) apply and therefore are liable to detention.

Entry in breach

Deportation on EEA grounds

An EEA national or family member of an EEA national, who enters or seeks to enter in breach of a deportation order, is regarded as an illegal entrant under [section 33\(1\)](#)

of the Immigration Act 1971. This is in line with [regulation 32\(4\)](#) of the EEA Regulations 2016.

If an individual who is subject to a deportation order made under the [Immigration Act 1971](#) or the [UK Borders Act 2007](#) is encountered in the UK in breach of that order and claims to have an EEA right, you must first consider whether they have a genuine EEA right and if so, whether the deportation order can be maintained on grounds of public policy or public security before taking removal action.

Deportation on non-EEA grounds

It may be the case that a person was previously deported on grounds other than public policy or public security, at a time when they were neither an EEA national nor the family member of an EEA national, but have since acquired the right of residence in the UK under EU law.

It may also be the case that the person's deportation was deemed to be conducive to the public good ([section 3\(5\)\(a\)](#) of the Immigration Act 1971) but the considerations applied were not directly comparable to public policy or public security considerations.

In these circumstances, you must review the reasons for making the deportation order. Unless it was made on the grounds of public policy or public security and those considerations still apply, you should revoke the existing deportation order.

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Related external links

[Regulation 33](#)

Re-entry restriction following a deportation order

This section tells you what re-entry restrictions are imposed upon a person following their deportation from the UK under the [Immigration \(European Economic Area\) Regulations 2016](#) (EEA Regulations 2016).

In accordance with [regulation 23\(8\)](#) a person deported from the UK on the grounds of public policy or public security will be prohibited from entering the UK until the deportation order is revoked or for the period specified in the deportation order.

The EEA Regulations 2016 introduce time-limited deportation orders for some deportation decisions made under [regulation 23\(6\)\(b\)](#). The length of the re-entry restriction associated with the deportation order will depend on the risk that is posed to the fundamental interests of society.

Where consideration is given to making a deportation decision on the basis of behaviour which is contrary to the fundamental interests of society, the table in this section provides an indication of the length of re-entry restriction to be imposed where an indefinite re-entry ban would be disproportionate. This is not prescriptive and in some cases the re-entry restriction may differ depending on the specifics of each individual case. In cases of serious criminality not covered in the table an indefinite deportation may apply.

Once deported, the individual is prohibited from returning to the UK unless they successfully apply to have the order revoked or until after the period specified in the order.

Behaviour	Length of re-entry ban
Unlawful immigration and/or facilitating immigration abuse where there is no criminal conviction for example marriages of convenience, use of fraudulent documents.	3 years
Social harm for example anti-social behaviour	5 years or 10 years depending on the number, severity, and time span of the offences committed.
Evasion of taxes and duties for example customs excise evasions	5 years or 10 years depending on the number, severity, and time span of the offences committed.
Abusing public services for example income tax evasions, benefit fraud	5 years or 10 years depending on the number, severity, and time span of the offences committed.

Behaviour	Length of re-entry ban
Low level persistent criminality for example where there are a number of convictions, warnings and/or cautions for low level crimes such as shop-lifting	5 years or 10 years depending on the number, severity, and time span of the offences committed.

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Practical effect of a public policy or public security decision

This section tells you about the practical effects of a public policy or public security decision.

Decision to impose a restriction on work

A decision to remove an individual on public policy or public security grounds is taken on the basis of a detailed consideration of their individual circumstances and the risk that they pose.

[Regulation 32\(3\)](#) provides for a person who is subject to a deportation decision to be treated as if they were a person to whom [schedule 3 of the Immigration Act 1971](#) applies. Paragraph 2(5) of schedule 3 specifically allows for the imposition of restrictions on residency, reporting, and employment or occupation as notified to the individual in writing by the Secretary of State.

Any decision to impose a restriction on employment can only be made **after** a decision has been taken to remove an individual on public policy or public security grounds under [regulation 23\(6\)\(b\)](#).

Imposing a restriction on employment is a means to give effect to the Secretary of State's decision that the person's removal from the UK is justified on grounds of public policy or public security.

The decision is discretionary and must be proportionate, requiring the caseworker to consider individual circumstances on a case by case basis.

Proportionality considerations are particularly important where the removal of the right to work may have serious and irreversible impacts on the individual subject to the work restriction or their family members, for example, on their long term physical or mental health.

Where a restriction on employment may have a direct impact on a child, for example where an individual is the sole provider for a young family, you must also demonstrate that you have taken into account [section 55 of the Borders, Citizenship and Immigration Act 2009](#), which requires decision makers to carry out their functions in a way that takes into account the need to safeguard and promote the welfare of children in the UK. See also: [Every child matters: statutory guidance issued under section 55](#).

All caseworker considerations must be evidenced on CID.

EEA residency applications

Any individual subject to a valid deportation order (DO) under the EEA Regulations intending to make an application for EEA residency must first apply for the DO to be revoked. An application for revocation of a DO can only be made from outside of the UK in accordance with [regulation 34\(4\)](#). Any application for EEA residency received whilst a valid deportation order (DO) is in place, will be automatically considered as invalid.

See also: [Processes and procedures – EEA document applications](#)

Related content

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Appeal rights

This section tells you about rights of appeal under the [Immigration \(European Economic Area\) Regulations 2016](#) against a public policy or public security decision.

Where a public policy decision was made before 1 February 2017 under the [EEA Regulations 2006](#), an appeal against the decision must be considered under the EEA Regulations 2006.

Where the deportation decision was made on or after 1 February 2017 under the EEA Regulations 2016, an appeal against the decision must be considered under the EEA Regulations 2016.

The table below summarises the appeal rights available to an individual following a public policy or public security decision:

Type of decision	Appeal rights – EEA Regulation s 2006	Appeal rights – EEA Regulation s 2016	Suspensive/ Non-Subspective of removal
Exclusion decision	Out of country appeal under regulation 27	Out of country appeal under regulation 37	Not applicable
Refuse admission to the UK	Out of country appeal under regulation 27	Out of country appeal under regulation 37	Not applicable
Revoke admission to the UK	In country appeal under regulation 26 so long as regulation 27(2)(a) or (b) apply	In country appeal under regulation 36 so long as regulation 37(2)(a) or (b) apply	Non-suspensive of removal
Refuse to issue an EEA family permit	Out of country appeal under regulation 27	Out of country appeal under regulation 37	Not applicable
Decision to refuse, renew or revoke documentation - where the individual is in the UK	In country appeal under regulation 26	In country appeal under regulation 36	Non-suspensive of removal
Revoke, or refuse to issue or renew any document under the	Out of country appeal under regulation 27	Out of country appeal under regulation 37	Not applicable

Type of decision	Appeal rights – EEA Regulation s 2006	Appeal rights – EEA Regulation s 2016	Suspensive/ Non-Subspective of removal
EEA Regulations - where the individual is outside the UK			
Deportation	In country appeal under regulation 26	In country appeal under regulation 36	Suspensive of removal but only if it has not been certified under regulation 24AA/33
Refuse to revoke a deportation or exclusion order	Out of country appeal under regulation 27	Out of country appeal under regulation 37	Non-suspensive of removal
Refuse to consider an application for revocation of a deportation or exclusion order where the individual is in the UK	No right of appeal – these applications must be lodged outside of the UK	No right of appeal – these applications must be lodged outside of the UK	Not applicable
Reconsideration of a deportation decision where the person has not been removed within 2 years of the initial decision	In country appeal under regulation 26	In country appeal under regulation 36	Suspensive of removal but only if it has not been certified under regulation 24AA/33
Remove a person from the UK when they have entered in breach of a deportation or exclusion order	Out of country appeal under regulation 27	Out of country appeal under regulation 37	Non-suspensive of removal

For more information on appeal rights and how to lodge an appeal please refer to the [Appeal Rights guidance](#).

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