

CHAPTER 10

PRIORITY CASES AND RETURN OF DOCUMENTS

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Section 1 – Handling Of Requests For Priority Treatment Of EEA Applications

1. Criteria for priority

1.1 When caseworkers decide whether to agree to a request for priority, they should consider whether:

- refusal of the priority request is likely to create more work (i.e. in justifying the refusal) than would make the refusal worthwhile; or
- there is evidence that the case has been mishandled or overlooked; or
- the application has been outstanding for more than three months.

1.2 In each case, we should consider the application for documentation immediately. However, if priority is not appropriate then the case should not be given priority.

further delay is justifiable then priority should not be given.

1.3 We may, in addition, start consideration where an applicant:

- is unable to make journeys necessary for compassionate or business reasons on existing documents.
- is elderly (i.e. 65 or over).
- can show that he or she needs an EEA document for a particular job
- has already been significantly inconvenienced as a result of inefficiency on the part of the Home Office. (In such cases priority should be given when the fact comes to light, regardless of whether it is requested.)
- has secured the agreement of a Minister or senior official to priority consideration (see below).
- has demonstrated that it would be in the national interest to consider an application out of turn despite the circumstances being otherwise undeserving. These cases should be agreed at deputy chief caseworker level.

1.4 Evidence justifying priority consideration may be called for at the caseworker's discretion, as long as we do not become involved in protracted correspondence about whether an application does, or does not, merit priority. We should be content with a strong indication that priority is appropriate rather than conclusive evidence. The sort of evidence we would expect are copies of airline tickets or e-tickets and letters of job offers. In addition, caseworkers should record on CID that the case has been treated as a priority in line with the guidance.

2. Requests for priority in advance of an application

2.1 In certain cases, it may be decided that an application, made at some time in the future, should be given priority. In such cases, the applicant should be notified of that decision in writing/e-mail and advised, when submitting his or her application, to enclose a copy of that letter/e-mail. We should be certain, before giving any such undertaking, that an undertaking to complete consideration of an application by a specified date can actually be met. Otherwise, it should not be given.

3. Priority flags

3.1 A priority flag is marked "PRIORITY - ACTION REQUIRED BY (time) ON (date)". Priority is set by the Front End Sift (FES) and the time and date by which a response is expected will be clear. If, for any reason, the officer receiving the file cannot meet the deadline, they should notify the applicant/agent as soon as possible. The priority flag should be used only when it is genuinely necessary and discretion should be exercised in setting realistic deadlines.

4. Dependants

4.1 Where the priority request relates to a dependant minor or Chen application associated with a parent/carer's application, the request should be considered as follows:

- Where the application is not dependent on the outcome of the parent's application, the application may be given priority
- Where the application is dependent on the outcome of a parent's application, which is delayed pending further enquiries (e.g. marriage interview), the application should receive priority treatment only in exceptional circumstances.

5. Principal Applicants

5.1 For all adult applications, priority should be given in the circumstances set out above. This will depend on the nature of the case and the stage it has reached. Where an application is nearing completion it may be possible to complete action fairly quickly. In other cases, particularly where an interview is necessary, it may not be possible to meet a given deadline and this should be explained to the applicant. The applicant should not normally be given a specific date when the application will be completed. Any estimate given should be worded in careful terms.

5.2 The only applications which should be treated as "immediate" at each stage are ones where we have agreed to do our best to complete the application within a specific, usually short, time-scale.

5.3 Applicants/agents must be told what we intend to do and how we intend to do it. If we cannot meet any promise we have given we must tell the applicant/agent straightaway.

6. Requests for priority made by Ministers

6.1 Requests for priority from Ministers must be handled discreetly. The first thing to consider is whether the request for priority has come from a Minister and whether it is being dealt with:

- a. by the Minister as a constituency matter; or
- b. in his or her Ministerial capacity.

6.2 Where a Minister wishes to raise a case as a constituency MP, he should write - normally from his constituency office - to the responsible Minister and his letter should be dealt with like any other MP's case. The Minister raising the case should not take the decision on the case. A second Minister should be designated to deal

with the constituency cases of the Minister. If a constituency case goes to a Minister's Private Office they should keep a record of when it arrived and what action was taken.

6.3 It is perfectly proper for Ministers to look into cases which are drawn to their attention by MPs, representative groups or by individuals who write to them or approach them in their Ministerial capacity. Normally, the right course will be to send the case to the relevant Minister to respond. In all such cases, the Minister's private office should record when and where the case was raised and what action was taken.

6.4 Particular care needs to be taken over cases in which a Minister may have a personal interest or connection, for example because they concern family, friends or employees. If, exceptionally, a Minister wishes to raise questions about the handling of such a case, he or she should write to the Minister responsible, as with constituency cases, but should make clear their personal connection or interest. The responsible Minister should ensure that any inquiry is dealt with rigorously and without special treatment. A full record should be kept at all stages.

6.5 In all cases, consideration of applications for documentation is started soon after receipt through FES and will result in either rejection or the issue of a certificate of application. It should not normally be necessary to give an application further priority. However, where a request is made to treat an application more expeditiously, and the reasons given satisfy the criteria in paragraph 1 above, it should be dealt with accordingly.

Section 2 – HANDLING OF REQUESTS FOR THE RETURN OF DOCUMENTS SUBMITTED IN SUPPORT OF EEA APPLICATIONS

1. Process for the return of documents

1.1 This policy on the return of documents should be read in conjunction with the section on priority cases above.

1.2 Requests for the return of documents should be noted in CID case notes with the reason why the documents have been requested. Requests made via the Contact Centre should be noted on CID and communicated via a call note to the Team Leader of the caseworking team that the case is allocated to the Front End Sift on CID.

1.3 Where an applicant has requested the return of documents and satisfies the criteria for priority, the application should be considered fully and a decision reached before returning the documents.

1.4 Where it is not possible to reach a decision immediately (e.g. due to further evidence being requested or the necessity of a marriage interview or there is insufficient casework capacity) the documents should be returned after recording on the Return of Documents minute sheet on CID to allow future consideration without recalling the documents. The applicant/agent should be advised using stock letter ECD.4394.

1.5 Unless there are reasons for handling original documents following their return, they should not be requested a second time. Requests for the resubmission of documents must be cleared at senior caseworker level.

1.6 Applications should not be treated as withdrawn unless the applicant or agent has categorically stated that they no longer wish to pursue it.

2. Draft Stock Letter

Dear *salutation*

Re: *Name of applicant(s)*

Please find enclosed the following documents submitted in support of *your/your client's* application for documentation under the Immigration (European Economic Area) Regulations 2006, which you requested to be returned.

List documents

Details have been noted and it may not be necessary to recall them prior to issuing residence documentation.

For EEA2 and EEA4 applicants.

If a decision is made to issue residence documentation without recalling the passport it will be affixed to a freestanding document. You should take care of this and present it when required together with your passport.

Yours *valediction*