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(by email)

18 November 2021

Dear Mala and Luke

## **EEA AND EUSS FAMILY PERMITS**

Thank you for your letter of 10 November about the arrangements for an EUSS family permit to be issued to extended family members (other than durable partners) who applied for an EEA family permit by 31 December 2020 and would have qualified for one (including following an allowed appeal) had the route not closed on 30 June 2021.

We can confirm that relevant cases will be dealt with in line with the published guidance on [implementing allowed appeals](#).

In respect of your comments as to finality in litigation, it is important to remember that the Home Office no longer has the power to grant EEA family permits. The concession therefore provides a means for the individual to be issued with an entry clearance product, through which they can travel to the UK and access the EU Settlement Scheme. This context is important when looking at the guidance which you reference.

The implementing allowed appeals guidance sets out the circumstances in which a decision can be re-opened where an appeal has been allowed, and this includes where circumstances have significantly changed. One of the examples referenced under this section of the guidance is where suitability checks reveal that an individual has been convicted of a serious criminal offence since the appeal was granted.

We therefore consider that the position stated in the EUSS family permit guidance accords with this.

You refer also to Articles 18(1)(e) and 18(1)(r) of the Withdrawal Agreement, but they are concerned with applications for residence status under the Agreement, not with the applications for facilitation of entry, as per Article 10(3), which we are concerned with here.

Turning to the three practical issues you raised:

- We will contact the relevant applicants using the most recent contact details they have notified to us. We see no need for a dedicated inbox to be established for such cases. We will advise relevant applicants to return their passport to the visa application centre they attended to enrol their biometrics, which will then contact them once their documents are ready for collection.
- There will be no need for relevant applicants to make a further application to obtain an EUSS family permit, and the published guidance *disapplies* the usual requirement to comply with the 'required application process' for these cases.
- We will not generally need to write out to applicants in these cases concerning any further matters before we arrange for an EUSS family permit to be issued. If we need to do so in individual cases, we will make it clear to the applicant what information they need to provide, how and by when.

We trust this further information is helpful.

Yours sincerely



**Gabrielle Monk**

Head of EUSS and SRC, Settlement, Hong Kong (BNO) and Windrush Compensation Scheme  
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