



Home Office

Inadmissibility: safe third country cases

Version 7.0

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About this guidance

This guidance details the circumstances in which asylum and humanitarian protection claims made on or after 28 June 2022 may be treated as inadmissible on safe third country grounds, and the processes for taking such action.

Where inadmissibility action is considered in respect of asylum and humanitarian protection claims made before 28 June 2022, it must be in line with version 6 of this guidance, which has been archived, but remains available and valid for such decisions.

Contacts

If you have any questions about the guidance, and your line manager, technical specialist or senior caseworker cannot help you or you think that the guidance has factual errors then email the Asylum 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 **7.0**
- published for Home Office staff on **28 June 2022**

Changes from last version of this guidance

Changes:

- sets out considerations under the new decision framework in the Nationality and Borders Act 2022, which inserted [sections 80B and 80C into the Nationality, Immigration and Asylum Act 2002](#) to enable appropriate asylum claims from 28 June 2022 to be treated as inadmissible on third country grounds
- explains paragraph 327F of the [Immigration Rules](#), which treats as inadmissible any humanitarian protection claim made on the same facts as an inadmissible asylum claim being treated as inadmissible under the new framework
- sets out new provisions in [Schedule 3 to the Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004](#), relevant to certificates issued on or after 28 June in the context of third country removals
- general housekeeping and restructuring

Related content

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Introduction

Audience and purpose of instruction

This instruction is primarily for officers working in the Third Country Unit (TCU). It is also for the attention of:

- officers in UK Visas and Immigration, Border Force and Immigration Enforcement, with responsibility for registering protection claims (this includes the asylum screening interview and all related activities at the point of claim)
- officers in the National Asylum Allocation Unit (NAAU) and the Detention Gatekeeper, responsible for allocating relevant cases to TCU and other processes
- asylum caseworkers and other officers involved in immigration functions who may encounter protection claims suitable for referring for possible inadmissibility action, who should also be aware of this instruction and apply the relevant parts
- officers in the Detained Barrier Team, who may have responsibility for dealing with non-asylum claims raised in inadmissibility cases

This instruction addresses third country inadmissibility decision processes applicable to protection claims made on or after 28 June 2022, from which time the inadmissibility decision-making framework in section 16 of the Nationality and Borders Act 2022 commenced. This instruction also addresses certificates issued from 28 June 2022 in respect of decisions to treat safe third countries as safe and removing appeal rights in those decisions, including where human rights claims are assessed to be clearly unfounded. See [Application of the relevant legislation](#).

This instruction does not address inadmissibility decision processes for protection claims made before 28 June 2022. Such decisions should, if appropriate, be made in line with version 6 of this guidance, which can be found in the guidance archive and in the [National Archives resources](#).

This instruction does not address inadmissibility processes in respect of protection claims made by EU nationals, where decisions are made under [section 80A of the Nationality, Immigration and Asylum Act 2002](#). See EU/EEA asylum claims.

Casework Information Database (CID) and Atlas

The Home Office is transitioning its electronic immigration records from CID to the Atlas system. References to CID actions in published guidance will over time be updated to refer to Atlas. During the transition, officers may need to record information in one system but not the other, or duplicate entries (or 'double-key') between systems. Where detailed Atlas-specific advice is not available in this instruction during this period, the Atlas learning materials available within the Metis system may provide the required information. Where officers are still unsure, they must seek advice from technical specialists or senior caseworkers.

Key terms

References to ‘third country’ or ‘third countries’ throughout this instruction should be read as references to a ‘third State’, in line with [sections 80B and 80C of the Nationality, Immigration and Asylum Act 2002](#) and [Schedule 3 to the Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004](#).

References in this instruction to ‘protection claim’ should be read in line with the meaning at [section 82\(2\)\(a\) of the Nationality, Immigration and Asylum Act 2002](#). Where the term ‘asylum claim’ is used, it is used more narrowly, in reference to the asylum claim in focus of inadmissibility provisions set out in sections [80B and 80C of the Nationality, Immigration and Asylum Act 2002](#) (noting that [paragraph 327F of the Immigration Rules](#) treats as inadmissible any humanitarian protection claim made on the same facts as the asylum claim – see [Legislation](#)).

Further reading

This instruction **must** be read alongside the related lead instructions and resources, including but not limited to:

- Screening and routing
- Disclosure and confidentiality of information in asylum claims
- Assessing credibility and refugee status
- Country information and guidance
- Withdrawing asylum claims
- Medical claims under Articles 3 and 8 of the European Convention on Human Rights (ECHR)
- [Appendix FM family members](#)
- Discretionary leave
- Further submissions
- Ceasing asylum support
- Judicial review
- Operating mandate: UK Visas and Immigration

Related content

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Background

The UK is committed to providing protection to those who need it, in accordance with its international obligations. Irregular migration from those already in safe countries undermines efforts to help those most in need. Controlled resettlement via safe and legal routes is the best way to protect those in need of protection and disrupt the organised crime groups that exploit migrants and refugees.

The inadmissibility process is intended to support safety of asylum seekers, the integrity of the border and the fairness of the asylum system, by encouraging asylum seekers to claim protection in the first safe country they reach and deterring them from making unnecessary and dangerous onward journeys to the UK.

In broad terms, asylum claims may be declared inadmissible and not substantively considered in the UK, if the claimant was previously present in or had another connection to a safe third country, where they claimed protection, or could reasonably be expected to have done so, provided there is a reasonable prospect of removing them in a reasonable time to a safe third country.

On 14 April 2022, the [Migration and Economic Development Partnership \(MEDP\)](#) between the UK and Rwanda was announced. Removals of individuals from the UK to Rwanda under MEDP arrangements will initially focus on deterring those who have already reached safe third countries from making dangerous journeys to the UK in order to claim protection, especially (but not exclusively) where travel is by small boat in the English Channel.

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Application of this instruction in respect of children and those with children

[Section 55 of the Borders, Citizenship and Immigration Act 2009](#) places a duty on the Secretary of State to make arrangements for ensuring that immigration, asylum, nationality and customs functions are discharged having regard to the need to safeguard and promote the welfare of children in the UK. It does not impose any new functions or override existing functions.

Officers must not apply the actions set out in this instruction to those with children without having due regard to the statutory guidance on Section 55, [Every child matters: change for children](#), which sets out the key principles to take into account in all Home Office activities involving children.

Our statutory duty to children includes the need to demonstrate:

- fair treatment which meets the same standard a British child would receive
- the child's interests being made a primary, although not the only, consideration
- no discrimination of any kind
- timely processing of asylum applications
- identification of those that might be at risk from harm

Unaccompanied asylum-seeking children are not suitable for the inadmissibility processes set out in this instruction. However, a child may be invited to withdraw their protection claim, if **all** the following conditions are met:

- a close family member of the child has been identified in a third country, and they are willing to take care of the child
- UK social services are content that the family member has the capacity to care for the child and is suitable to do so
- the child agrees to be reunited
- it is in the child's best interests to be reunited
- the country has agreed to admitting the child to join their family member

In all cases, any question of withdrawal must be fully in line with Withdrawing asylum claims (see in particular the section 'Application of withdrawing asylum claims to children') and the relevant guidance in the instruction Children's asylum claims.

Families (with children under 18) are subject to the family returns process, which may support removals made on inadmissibility grounds.

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Relevant legislation

Application of the relevant legislation

The Nationality, Asylum and Borders Act 2022 (the 2022 Act) introduced changes relevant to third country inadmissibility processes. From 28 June 2022, the date of the protection claim and the date any certificate is to be issued has determined the basis on which decisions and certificates should be actioned.

Under transitional arrangements, for the purpose of determining which inadmissibility decision framework applies, individuals who sought to register an asylum claim before the commencement date of 28 June 2022 but were provided with an appointment to attend a designated place to register their asylum application on or after 28 June will be considered to have ‘made an asylum claim’ before the commencement date, but only if they attend their scheduled appointment (or, in the event that it is cancelled or rescheduled by the Home Office, the rescheduled appointment).

However, if the individual does not attend their appointment, but later wishes to register a claim for asylum on or after commencement, they will not be considered to have ‘made an asylum claim’ before the commencement date, unless (a) there were circumstances beyond their control that made it impossible for them to attend the appointment scheduled for them, (b) they contacted the Home Office as soon as reasonably practicable to warn/explain of the said circumstances and apply for a new appointment and (c) they provided the Home Office, as soon as reasonably practicable, with evidence to demonstrate their inability to attend the scheduled appointment which they say they were unable to attend.

Protection claims made on or after 28 June 2022

Protection claims made on or after 28 June 2022 may be liable to inadmissibility decisions under the decision framework set out in sections [80B and 80C of the Nationality, Immigration and Asylum Act 2002](#) (the 2002 Act) and [paragraph 327F of the Immigration Rules](#) (paragraph 327F).

Protection claims made before 28 June 2022

Protection claims made before 28 June 2022 may be liable to inadmissibility decisions under the decision framework set out at [paragraphs 345A to D of the archived Immigration Rules](#) (although where more than 6 months has passed since the date of the claim, inadmissibility may not be appropriate – this is fact-specific - see [Decision timescales, removal prospects and the long-stop](#)).

Certificates issued on or after 28 June 2022

If a protection claim is declared inadmissible, certification under the relevant part of [Schedule 3 to the Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004](#) (the 2004 Act) must be considered. Schedule 3 was amended by the 2022 Act, and

any certificate issued on or after 28 June 2022 must be in line with those amendments.

Certificates issued before 28 June 2022

Any Schedule 3 certificates that were properly issued before 28 June 2022 according to [the version of Schedule 3 applicable at that time](#), will continue to be valid after the new provisions commence.

Legislation

The rest of this section and policy guidance is focused on the main legislation applicable to protection claims made and certificates issued on or after 28 June 2022.

Inadmissibility decisions

[Sections 80B and 80C of the 2002 Act](#) provide for an inadmissibility decision to be taken on a person's asylum claim if they have a specified connection to a third country which is assessed as safe according to specified criteria. The consequence of such a decision is that the Home Office is not required to consider the asylum claim in respect of the person's country of origin.

Section 80B(4) defines a third country as being safe for a claimant if:

- (a) the claimant's life and liberty are not threatened in that State by reason of their race, religion, nationality, membership of a particular social group or political opinion,
- (b) the State is one from which a person will not be sent to another State— (i) otherwise than in accordance with the Refugee Convention, or (ii) in contravention of their rights under Article 3 of the Human Rights Convention (freedom from torture or inhuman or degrading treatment), and
- (c) a person may apply to be recognised as a refugee and (if so recognised) receive protection in accordance with the Refugee Convention, in that State.

Section 80C defines the connections a claimant must have with a safe country before inadmissibility can apply:

- (1) Condition 1 is that the claimant— (a) has been recognised as a refugee in the safe third State, and (b) remains able to access protection in accordance with the Refugee Convention in that State.
- (2) Condition 2 is that the claimant— (a) has otherwise been granted protection in a safe third State as a result of which the claimant would not be sent from the safe third State to another State— (i) otherwise than in accordance with the Refugee Convention, or (ii) in contravention of their rights under Article 3 of the Human Rights Convention, and (b) remains able to access that protection in that State.
- (3) Condition 3 is that the claimant has made a relevant claim to the safe third State and the claim— (a) has not yet been determined, or (b) has been refused.

(4) Condition 4 is that— (a) the claimant was previously present in, and eligible to make a relevant claim to, the safe third State, (b) it would have been reasonable to expect them to make such a claim, and (c) they failed to do so.

(5) Condition 5 is that, in the claimant's particular circumstances, it would have been reasonable to expect them to have made a relevant claim to the safe third State (instead of making a claim in the United Kingdom).

Where an inadmissibility decision is made on an asylum claim under Sections 80B and 80C, [paragraph 327F of the Immigration Rules](#) treats as inadmissible any valid humanitarian protection claim made on the same facts ([paragraphs 327EA and 327EB of the Immigration Rules](#) define humanitarian protection claims and how they must be made in order to be recorded as valid).

Neither a declaration of inadmissibility made under section 80B or 80C of the 2002 Act, nor the treatment of any associated humanitarian protection claim as inadmissible in accordance with paragraph 327F are decisions to refuse protection or human rights claims, and so there is no right of appeal under Section 82 of the 2002 Act.

The decision framework provided by sections 80B and 80C of the 2002 Act and paragraph 327F of the Immigration Rules does not allow human rights claims falling outside the definition of humanitarian protection claims raised by the claimant to be treated as inadmissible. Such claims must be properly considered, and where appropriate, certified (see below).

Certificates

[Schedule 3 of the Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 as amended](#) concerns decisions involving removals to safe third countries, and in particular, removal of appeal rights in relation to asylum and human rights claims made regarding the removal to the third country in such cases.

Where a Schedule 3 provision requires consideration of whether claims are clearly unfounded, that term has the meaning set out in the guidance [Clearly unfounded claims: certification under section 94](#).

Listed safe countries

[Part 2 of Schedule 3 of the 2004 Act](#) lists 31 European countries (all 27 European Union countries, as well as Iceland, Norway, Switzerland and Liechtenstein).

These countries must be treated as places where a person's life and liberty would not be threatened for one of the reasons in the 1951 Refugee Convention (race, religion, nationality, membership of a particular social group or political opinion), and as places from which a person would not be removed in contravention of the 1951 Refugee Convention.

If an inadmissibility or removal decision is certified to state both that a person will be removed to one of the listed countries and that they are not a national of that country, the certificate (under paragraph 5(1) of Schedule 3 to the 2004 Act) will

remove appeal rights based on any claim that removal to that country would breach the UK's obligations under the Refugee Convention.

Further, unless a claimant can demonstrate otherwise, these countries must be treated as places where a person's rights under Article 3 of the European Convention on Human Rights (ECHR) would not be breached and from where they would not be removed in contravention of the ECHR.

Where removal is to one of the listed safe countries, and a certificate has been issued under paragraph 5(1) of Schedule 3 to the 2004 Act, any human rights claim in respect of removal from the UK to the country of removal **must** be certified as clearly unfounded, unless the decision-maker is satisfied the claim is not clearly unfounded. A clearly unfounded certification has the effect of removing appeal rights in respect of the decision.

Case-by-case assessment of safe countries

[Part 5 of Schedule 3](#) contains provisions relating to removal to safe third countries on a case-by-case basis (applicable only to countries not listed in part 2).

If, in a written decision, it is certified that a person will be removed to a specified safe country where they are neither a national or citizen, and where in the opinion of the decision maker, their life or liberty would not be threatened for one of the reasons in the 1951 Refugee Convention and from where they would not be removed in contravention of the Refugee Convention, the certificate (under paragraph 5(1) of Schedule 3 to the 2004 Act) will remove appeal rights reliant on any claim that removal would breach the UK's obligations under the Refugee Convention.

If the decision-maker considers that any human rights claim in respect of removal from the UK, to the third country, is clearly unfounded, they **may** certify the claim as clearly unfounded, with the effect of removing appeal rights in respect of the decision.

Removal timescales in inadmissibility decisions

[Paragraph 345D of the Immigration Rules](#) states:

When an application has been treated as inadmissible and the Secretary of State believes removal to a safe third country within a reasonable period of time is unlikely, the applicant will be admitted for consideration of the claim in the UK

This applies only to claims that have been declared inadmissible under section 80B or 80C of the 2002 Act. See [Removal agreements and timescales](#).

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Asylum screening

Registration and screening of all protection claims

The Asylum screening and routing instruction clearly sets out the requirement for all protection claims to be registered, including cases where inadmissibility action may appear to be appropriate.

All officers involved in initial encounter and asylum registration must be alert to verbal or documentary evidence of claimants' earlier presence in or connections to a safe third country, as it may be relevant to inadmissibility decisions. It may also be relevant to considerations in substantive asylum decisions, such as credibility or differentiation. See the instruction *Assessing credibility and refugee status*.

In particular, officers should check for biometric evidence, which may identify previous encounters in the UK or overseas, for instance, a visa match, an earlier removal, or where someone has been fingerprinted by Border Force officers when attempting to enter or apprehended in juxtaposed control areas in France.

Other evidence may include (but is not limited to): historic Eurodac matches (see [Assess initial suitability for inadmissibility action](#) and [Further enquiries](#) for further information on use of historic Eurodac evidence), HGV or vehicle tracking data, passports, legal papers, employment letters, bank statements, business cards, invoices, receipts and other similar documents.

A proper account of the claimant's immigration history must always be taken to fully understand the chronology and detail of how the person came to the UK, including their reasons for leaving apparently safe countries and where relevant, the opportunity they had to claim protection there. Appropriate follow-up questions must be asked where necessary to address any gaps or ambiguities in the account.

If screening contingency measures are in place (see *Screening and routing guidance*) officers should consider whether further checks or additional information may need to be gathered to support the identification of cases and application of the third country inadmissibility process.

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Refer cases to NAAU and TCU

Other than in the case of unaccompanied asylum-seeking children (UASC) or EU nationals, if it is known or suspected that a claimant may have spent time in or have a connection to a third country, the case must be referred for third country inadmissibility action to be considered.

The referral is not a decision or subject to legal evidence thresholds or standards of proof; it simply highlights that there is evidence that a claimant may have been in or have a connection to a safe third country, to prompt and assist further consideration.

Detained cases

Where a person is detained at the time the referral is made, that must be clearly identified, to allow consideration to be prioritised, and thereby potentially enable overall time in detention to be minimised.

Asylum screening referrals

The Asylum screening and routing instruction (section 'Referral to National Asylum Allocations Unit or Detention Gatekeeper') sets out the processes for all new protection claims to be referred to the appropriate team.

The referral must summarise the evidence supporting that suspicion and outline the source and location of the evidence. For example: "claimant said she spent 6 months in Italy before coming to UK via France – see screening interview", or "claimant submitted documents including French rail tickets and receipts, both suggesting recent presence in France – scanned to Atlas; originals attached to hard file."

Casework referrals

Provided a substantive decision has not been made, caseworkers may refer cases to be considered for inadmissibility action. In general, cases are most likely to be suitable for inadmissibility action close to the time of arrival in the UK, but older cases may be suitable, depending on the particular facts.

Referrals may include cases that have been substantively interviewed (indeed, it may only be disclosures at interview that reveal claimants' status or presence in safe third countries).

A referral must not be made on the basis of evidence already available to and considered by the National Asylum Allocation Unit (NAAU) or Third Country Unit (TCU).

Casework referrals must be made directly to the TCU inadmissibility inbox, summarising the relevant evidence, as outlined above.

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Sift and allocate to TCU or other processes

Exclude from inadmissibility action

Some cases are not suitable for third country inadmissibility action and must be immediately referred for alternative action. Other examples may apply, but the main cases are mentioned here:

- Unaccompanied asylum-seeking children (UASC) as a matter of policy are presently treated as not suitable for third country inadmissibility action – such cases must therefore be allocated for substantive consideration (this includes individuals whose age is doubted but who are being treated as children under the Assessing age instruction)
- European Union nationals are liable to be treated as inadmissible under different legal provisions, and so must not be progressed in third country processes - such cases must be referred back to the relevant screening unit or a casework team to progress, in line with the EU and EEA asylum claims instruction

Assess initial suitability for inadmissibility action

The initial suitability assessment is not a decision and is not subject to legal evidence thresholds or standards of proof. It is a review of new protection claims and the evidence in electronic records and any paper files available, to identify cases which may be appropriate for inadmissibility action.

If a case appears to meet the requirements of [Sections 80B and 80C of the Nationality, Immigration and Asylum Act 2002](#) (2002 Act) (in broad terms, where it appears that the person was present in or has another connection to a safe third country), the National Asylum Allocation Unit (NAAU) must refer the case to the Third Country Unit (TCU) for more detailed consideration.

The safe countries most likely to be identified in protection claims will be the UK's near neighbours in the EU. Other EU Member States, the wider European Economic Area countries (Iceland, Liechtenstein and Norway) and Switzerland may also be identified, as may countries such as the United States of America, Canada, Australia and New Zealand. Other countries appearing to satisfy the definition in section 80B(4) of the 2002 Act must not be overlooked.

Key sources of information may include the following (this list is not exhaustive):

- observations by a Home Office officer or another person in an official capacity, relating to the person's method and place of entry to the UK and their known or probable place of embarkation

- physical or verbal evidence collected or recorded at the time of the claimant's first encounter by a Home Office officer or another person acting in an official capacity
- documents or other physical evidence submitted by or found on the claimant
- the claimant's responses in an interview (for instance, the screening interview, a supplementary screening interview, or substantive asylum interview)
- fingerprint evidence showing the claimant to have spent time in a safe third country (for instance, where such evidence is available through the biometric data-sharing process with the USA, Australia, Canada and New Zealand, the bilateral fingerprint sharing process with the Republic of Ireland, or any similar process that might be undertaken with any other safe country)
- file evidence of historic Eurodac matches (the Eurodac system has not been directly accessible to the Home Office since 31 December 2020, but where Home Office systems record historic Eurodac matches that show a link to a safe third country, this information may be used for sifting purposes and to form the basis of an enquiry to relevant countries to check the accuracy of the match and request return)

Suitability for DAC, NSA or inadmissibility consideration

If in a case initially assessed as suitable for inadmissibility action the claimant appears to stand a greater chance of being promptly removed if substantively considered and refused, it will usually be appropriate for the case to be routed for substantive decision. This situation is most likely to arise in cases where the person's country of origin is one listed in [Section 94\(4\) of the 2002 Act](#), or where the person is suitable for the Detained Asylum Casework framework. See Clearly unfounded claims: certification under section 94 and Detained Asylum Casework (DAC) – asylum process.

If a case assessed as suitable for inadmissibility action appears to stand a greater chance of being promptly removed if referred to Rwanda, (a country with which the UK has a Migration and Economic Development partnership (MEDP), rather than to the country to which they have a connection, TCU should consider referring the case to Rwanda. An asylum claimant may be eligible for removal to Rwanda if their claim is inadmissible under this policy and (a) that claimant's journey to the UK can be described as having been dangerous and (b) was made on or after 1 January 2022. A dangerous journey is one able or likely to cause harm or injury. For example, this would include those that travel via small boat, or clandestinely in lorries. Where there are multiple possible safe countries of removal, including Rwanda, and individual referrals are to be made, they should generally be done simultaneously rather than sequentially (see section: Removal agreements and the 'long-stop'). This is to avoid unnecessary delay in securing agreement for the claimant's removal and to minimise time in detention (if the claimant is detained).

At present, families with children under the age of 18 are not to be considered for removal to Rwanda on inadmissibility grounds, although this position is under review. This does not affect inadmissibility removals more generally, including any involving families with children, which must be considered according to the available facts, including the relevant country information.

Those progressed for consideration for relocation to Rwanda under the MEDP will be taken from both the detained and non-detained cohort and be identified in line with processing capacity. Priority will be given to those who arrived in the UK after 9 May 2022. Anyone under consideration for relocation to Rwanda, whether detained or non-detained will have this confirmed to them specifically in their Notice of Intent. Decision makers must take into account country information of the potential country/countries to where removal may occur in deciding whether referral into a particular route is appropriate in the particular circumstances of that claimant.

Prioritisation

TCU may prioritise and select cases for entry to inadmissibility processes according to considerations such as operational capacity at a particular time, the strength of the evidence supporting the inadmissibility contention and the realistic prospects of an individual being removed within a reasonable time (including consideration of their particular circumstances).

Prioritisation may be administered via NAAU, or by TCU on receipt of cases.

Refer to TCU

Subject to any agreed prioritisation requirements, NAAU must refer to TCU all cases appearing to meet the requirements of [Sections 80B and 80C of the Nationality, Immigration and Asylum Act 2002](#). The referral must summarise the reasons and evidence for the referral.

All other protection claims must be allocated for substantive consideration according to normal procedures.

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Initial case actions

Notice of intent

After receiving a referral, the Third Country Unit (TCU) must review the case. If it does not appear suitable for inadmissibility action, it must be referred back to the referring unit (usually the National Asylum Allocation Unit, (NAAU)).

If TCU considers that a case appears to satisfy [Sections 80B and 80C of the Nationality, Immigration and Asylum Act 2002](#), a “notice of intent” must be issued to the claimant (see [Resource: notice of intent wording](#)). The notice is not a formal decision. It is an information letter to inform a claimant how their protection claim is being managed, inviting representations regarding inadmissibility and the country or countries of possible return. If after the notice is issued a further safe country or countries are identified (whether countries with which a claimant has a connection or others to which they might be removed), the notice should be re-issued, referencing the additional country or countries.

Further enquiries

After issuing a notice of intent, TCU must review the evidence available and undertake any further checks that are relevant, to obtain additional information to support decisions, for instance:

- if a claim appears suitable for inadmissibility action on the basis of a historic Eurodac match, that evidence must not be used in direct support of an inadmissibility or refusal decision; however, such evidence may be checked with the relevant country’s authorities, and where applicable, the resulting response used to directly support the decision and removal
- if manual biometric or biographic data-sharing processes are developed with third countries, where a beneficial match is sufficiently likely to be made, TCU should request checks, in line with relevant guidance
- if a claimant holds a refugee status document or other document showing a third country to have granted some form of leave or status, depending on the specifics and the claimant’s evidence, it may be necessary to enquire with the issuing authority about the person’s status if they return to that country
- if screening contingency measures are in place (see Screening and routing guidance) officers should consider whether further checks or additional information may need to be gathered.

When making enquiries with third countries, it will usually be appropriate to ask for agreement to the person’s removal, if inadmissibility action is pursued.

Any enquiries with third countries must be in line with the policy guidance on disclosure and confidentiality of information in asylum claims

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Decisions

Overview

Decisions to declare asylum claims inadmissible on safe third country grounds may only be made by caseworkers in or explicitly authorised by the Third Country Unit (TCU).

Other claims or applications may be raised by individuals who are subject to the inadmissibility process. This may include claims under Article 3 of the European Convention on Human Rights (ECHR) relating to protection in the country of removal, or to health or destitution risk in the country of removal. There may also be claims raised under Article 8 of the ECHR in respect of private and family life in the UK (including claims to which [paragraph 276A0 of the Immigration Rules](#) or [Gen.1.9 of Appendix FM of the Immigration Rules applies](#), which in specified cases removes the requirement for claims to be made as part of a valid application applicable to those rules). In all such cases, TCU may work with other specialist teams to process such claims, whether as decisions that are wholly separate to the inadmissibility decision or as issues potentially overlapping inadmissibility considerations and to be included or referenced in and aligned with the inadmissibility decision (for instance, Article 3 claims concerning safety in the country of removal).

If wider claims have resulted or will result in a grant of leave in a case, inadmissibility action should usually be discontinued and the case referred to the National Asylum Allocation Unit (NAAU) to admit and route the case for substantive consideration.

If a decision is made which confers appeal rights and those appeal rights are not certified, consideration should be given to whether to continue with inadmissibility action, in view of the likely timescales applicable to any appeal being determined, the conditions attached to any removal agreement in the case, and the delay in the person being able to progress their protection claim. This consideration must be made on the particular facts of the case, including the basis of the inadmissibility decision and whether the person already has protection in another country.

A formal inadmissibility decision must not usually be made and served before a safe third country has agreed to the person's removal (see [Removal agreements](#)). However, the consideration and preparation for such a decision may take place in anticipation of agreement and – subject to considering any further developments in the case in the interim – either implemented and served using the appropriate template letter, or discarded, depending on whether agreement is finally obtained and inadmissibility pursued.

Review evidence

TCU caseworkers must review all available evidence relating to the appropriateness of an inadmissibility decision for a particular claimant. The evidence available will vary from case to case, but may include documents from hard file, the Case

Information Database (CID), Atlas, biometrics, eyewitness accounts, closed-circuit television (CCTV), file minutes, screening interview responses, responses to Notices of Intent and any other statements from the claimant explaining their behaviour, needs or other relevant circumstances.

If at any stage it is determined that there is insufficient evidence of earlier presence in or connection to a safe country, or it is clear that inadmissibility action would not be appropriate, this must be noted clearly (CID, Atlas, paper file where held), and the case must be referred to the National Asylum Allocation Unit (NAAU) to route for substantive consideration. Where there appears to be evidence of earlier presence in or connection to a safe third country, in line with [Sections 80B and 80C of the Nationality, Immigration and Asylum Act 2002](#) (2002 Act) (see [Relevant legislation](#)), detailed consideration must be given to an inadmissibility decision.

Decision consideration

Safe third country connection

[Section 80C of the 2002 Act](#) sets out types of connection a claimant may have to a safe third country. Caseworkers must consider whether one of the connection conditions is met, taking account of the evidence available, and determine whether a relevant connection is established.

For example, if it can be demonstrated that the person was present in a country considered to be safe before coming to the UK, and had an intention to claim asylum at that time, the connection condition at section 80C(4) **might** apply (“that the person was previously present in, and eligible to make a relevant claim to, the safe third country; it would have been reasonable to expect them to make such a claim, and they failed to do so”).

If a claimant states that they didn’t claim asylum or stay in the relevant country because, for example, they would have been destitute, or because they were at risk of a breach of their ECHR rights there, those points must be considered according to any evidence submitted by the claimant and any further evidence available to the Home Office, including relevant country information. These points will need to be considered for other parts of the decision; if proceeding to make an inadmissibility decision because these points are rejected, in addressing the S80C issues, the decision letter can state that the allegations are not accepted, and signpost the later part of the decision where those points are substantively addressed.

The standard of proof applicable to determining a person’s connection to a third country for the purpose of the S80C consideration is the balance of probabilities (that the connection is more likely to be true than not).

Safety in the country of connection

[Section 80B\(4\) of the 2002 Act](#) sets out the criteria that must be met for a country to be regarded as a safe third country for inadmissibility.

The safety of a country of connection must be considered in line with relevant country information and any other available evidence.

The consideration that the country of connection would have been a place safe for a person, where their rights under the Refugee Convention would have been protected, including not being removed from there to another place in contravention of those rights, must be established by the Home Office, on the balance of probabilities standard (that is, that it is more likely than not that the country is safe).

Any risk to which the individual would have been exposed on the basis of a breach of ECHR rights, including removal from there to another place in contravention of those rights must be assessed by the Home Office, on the basis of real risk of harm.

The countries listed in Part 2 of Schedule 3 of the 2004 Act are democratic countries which have a strong rule of law and well-established records of respecting human rights and adhering to international law. Unsupported claims by a claimant that their rights (as described above) would have been breached in the third country, including allegations that they would have been removed from there to a place in breach of their Refugee Convention and Article 3 ECHR rights, are likely to be adequately addressed by summary reference to the country being a signatory to both conventions, and the lack of evidence to show such a risk.

For other countries, and for Schedule 3 countries where the claimant supports their claims with further representations or evidence, more detailed consideration may be required, looking at any evidence submitted and the country information already available to the Home Office.

A further but essential part of establishing that a third country would have been safe for a person is that the possibility exists for a person to apply to be recognised as a refugee and where appropriate, receive protection in accordance with the Refugee Convention. If the claimant states that it was not possible for them to apply for asylum in the third country, country information must be reviewed, to identify whether the country is signatory to the Convention or purports to operate a system in accordance with the Convention, and whether it operates it in practice, to an effective level. Again, this must be established on the balance of probabilities.

Safety in the removal country and certifications

The safety of the country of removal must be established according to the relevant provisions of section 80B(4) of the 2002 Act **and** Part 2 or Part 5 of Schedule 3 of the 2004 Act, according to the particular claims and decision being made, and the version of Schedule 3 applicable at the time of consideration (for new certifications, the current published version of Schedule 3 should be applied - see [Application of the relevant legislation](#) for further information).

Every decision must ensure that all of the required criteria in section 80B(4) are considered and addressed. In practice those criteria overlap in part with requirements in Schedule 3, and so the consideration for the latter will address almost all of the former, and duplication can be avoided by signposting the relevant considerations and criteria.

Where appropriate and according to the guidance below, the relevant certificates in Schedule 3 should be applied, to remove appeal rights associated with the removal decision and any claims that the removal would contravene the claimant's rights under the ECHR and the Refugee Convention.

Where a certification provision requires consideration of whether claims are clearly unfounded, that term must be understood in line with the meaning set out in the guidance *Clearly unfounded claims: certification under section 94*.

If representations regarding ECHR rights are made but not certified, they will attract an in-country right of appeal.

Country of removal is listed in Part 2 of Schedule 3

Section 80B(4) of the 2002 Act sets out:

- (4) For the purposes of this section, a State is a "safe third State" in relation to a claimant if—
- (a) the claimant's life and liberty are not threatened in that State by reason of their race, religion, nationality, membership of a particular social group or political opinion,
 - (b) the State is one from which a person will not be sent to another State—
 - (i) otherwise than in accordance with the Refugee Convention

[Paragraph 3\(2\) of the Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004](#) (2004 Act) requires a listed third country of removal to be treated as a place where the person's life and liberty are not threatened by reason of his race, religion, nationality, membership of a particular social group or political opinion, or from which a person will not be sent to another State in contravention of the Refugee Convention.

Therefore, if the country of removal is listed in paragraph 2 of Schedule 3, section 80B(4)(a) and (b)(i) will be met.

Under section 80B(4)(c), a country will be safe only if an individual can apply to be recognised as a refugee and (if so recognised) receive protection in accordance with the Refugee Convention there. Any representations received that suggest otherwise must therefore be carefully considered.

Under paragraph 3(1A) of Part 2 of Schedule 3, unless the claimant demonstrates otherwise, a country listed in Part 2 must be treated as a place to where a person can be removed without their rights under ECHR Article 3 being contravened, and a place from which they would not be removed to another country in contravention of their ECHR rights. If a claimant claims or makes representations that their rights under the ECHR as described in paragraph 3(1A) would be contravened if removed to a particular listed country (including onward refoulment in breach of Article 3), those representations must be carefully considered. If it is concluded that there is a real risk that removal to the country would lead to the claimant's ECHR rights as described being contravened, it will not be appropriate to consider removal to that

country. In such circumstances, it will be appropriate to consider removal to any further safe third countries which may have been identified, or to discontinue inadmissibility action.

The consideration of the risk of a person being onward refouled in breach of their Article 3 rights, under paragraph 3(1A) of Schedule 3 of the 2004 Act, addresses the consideration of the same issues under section 80B(4)(b)(ii) of the 2002 Act.

Refugee Convention and ECHR certification

If it is certified under paragraph 5(1) of Part 2 of Schedule 3 that a person will be removed to a listed safe country and that they are not a national of that country, the person may not appeal in reliance on a claim that removal to the country would breach the Refugee Convention.

Once the Secretary of State has issued a certificate under paragraph 5(1), a person may not bring an appeal in reliance on a human rights claim if the Secretary of State certifies under paragraph 5(4) that the human rights claim is clearly unfounded. Under paragraph 5(4), an ECHR claim **must** be certified as clearly unfounded unless it is not clearly unfounded. The consideration for this certificate must address any claim relating to Article 3 according to the real risk standard. Such claims may include allegations of a risk of serious harm in the country of removal, destitution or medical claims. The consideration for this certificate must also consider any other ECHR claims, for instance, Article 8 private or family life claims, which must be addressed according to the balance of probabilities.

Country of removal is not listed in Part 2 of Schedule 3

Refugee Convention and ECHR certification

Under paragraph 17 of Part 5 of [Schedule 3 to the Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004](#), a certificate may be applied to a person who has made a protection claim if it certifies that the person will be removed to a country where they are not a national or citizen, if it is a country assessed to be one where the person's life and liberty are not threatened by reason of their race, religion, nationality, membership of a particular social group or political opinion and a place from where they would not be refouled in contravention of their Refugee Convention rights.

The effect of this certificate is that a person may not appeal in reliance on an asylum claim which asserts that to remove the person to the specified country would breach the United Kingdom's obligations under the Refugee Convention.

If it is considered that the country of removal is safe on the above criteria, the safe third country criteria at sections 80B(4)(a) and (b)(i) of the 2002 Act will be met; sections 80B(4)(b)(ii) and 80B(4)(c) will not be addressed by this consideration, and will need to be addressed separately.

Under section 80B(4)(c), a country will be safe only if an individual can apply to be recognised as a refugee and (if so recognised) receive protection in accordance with

the Refugee Convention there. Only if these criteria are assessed (with reference to any evidence and representations to the contrary) and considered to be met will all of the requirements of 80B(4)(c) be met.

The assessment of the third country's safety on the grounds described above, must be carefully considered taking into account relevant country information and taking account of any representations and evidence provided by the claimant. The considerations must be made according to the balance of probabilities standard.

ECHR claims and certification

Under section 80B(4)(b)(ii), a country will be safe only if an individual will not be at risk of onward refoulement from that place in breach of Article 3. The Home Office must establish this on the basis of real risk. This must be considered regardless of whether or not an individual has made representations on this point.

If an individual has made representations that can be considered an ECHR claim, including any claim that a person may be removed to an unsafe state in breach of these rights and if a certificate has been issued under paragraph 17 (see above), the ECHR claim *may* be certified under paragraph 19(c) of Part 5, if the claim is assessed to be clearly unfounded. The effect of this certificate is that the claimant may not bring an appeal in reliance on a human rights claim.

The consideration for this certificate must include any claim relating to Article 3. As with paragraph 5(4) certificates, this may include allegations of a risk of serious harm in the country of removal, destitution or medical claims, as well as claims that onward removal from the third country to another may breach the person's ECHR rights.

If a claimant claims or makes representations that their rights under the ECHR would be contravened (if removed to the country being considered for removal), those representations must be carefully considered.

If a claimant makes representations regarding risk of onward refoulement in breach of Article 3, consideration of those representation under paragraph 19(c) of Schedule 3 of the 2004 Act will dispense with any further consideration of the same issue required under section 80B(4)(b)(ii).

If it is concluded that there is a real risk that removal to the country would lead to the claimant's ECHR rights as described being contravened, it will not be appropriate to consider removal to that country. In such circumstances, it will be appropriate to consider removal to any further safe third countries which may have been identified, or to discontinue inadmissibility action and refer the case to the National Asylum Allocation Unit to allocate to a casework team.

Paragraph 19(c) may also be used to certify other ECHR claims where appropriate, for instance, clearly unfounded claims relating to Article 8 family life. Any such decisions must be considered according to the relevant criteria and guidance for the particular claim.

Decision service and onward action

Once a decision has been prepared and any wider claims addressed, it should usually be held until the safe third country of removal has confirmed it will accept the person (this is a general position – see [Removal agreements and timescales](#)). At that time it will usually be appropriate to serve the inadmissibility decision and any other decisions made at the same time, along with a formal removal decision.

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Removal agreements and timescales

Removal agreements

Where a decision under [Sections 80B and 80C of the Nationality, Immigration and Asylum Act 2002](#) appears appropriate, TCU must seek the agreement of a safe third country to admit the person. The country of removal may be one in which the person was present before claiming asylum in the UK, one with which they have some other connection, or any other safe third country that will accept them.

Removal may be organised through formal arrangements with a particular country, or by case-by-case agreements based on individual referrals by TCU. Where there are multiple possible safe countries of removal and individual referrals are to be made, they should generally be done simultaneously rather than sequentially, to avoid unnecessary delay in securing agreement for the claimant's removal.

It will usually be appropriate to obtain agreement for a person's removal to a safe third country before a formal inadmissibility decision is made in their case. This general approach ensures that only those who are most likely to be removed will receive a decision, thereby managing expectations and decision-making resources. It also enables the inadmissibility decision to be served with the removal decision, thereby mitigating the risk of further delay and cost which might otherwise be seen by sequential legal challenges of each decision.

This approach is not a requirement, and there may be instances where it is appropriate to make a decision ahead of obtaining removal agreement. For example, if a claimant has already been granted refugee status or similar protection in a safe third country, if it is clear that they are still able to access that protection (see Sections 80C(1) and (2) of the 2002 Act), and if they possess or could reasonably be expected to obtain travel documentation to return to the relevant third country, an inadmissibility decision may be appropriate without first having secured removal agreement.

Timescales

There are no rigid timescales within which third countries must agree to admit a person before removal. However, the inadmissibility process must not create a lengthy 'limbo' position, where a pending decision or delays in removal after a decision mean that a claimant cannot advance their protection claim either in the UK or in a safe third country.

If, taking into account all the circumstances, it is not possible to make an inadmissibility decision or effect removal following an inadmissibility decision within a reasonable period, inadmissibility action must be discontinued, and the person's claim must be admitted to the asylum process for substantive consideration.

As a general guideline, it is expected that in most cases, a safe third country will agree to admit a person within 6 months of the claim being recorded, enabling removal to follow soon after (subject to concluding any legal challenges or other barriers to removal).

There will be some cases where a reasonable timescale may be shorter than 6 months, because there are not realistic prospects of effecting removal within a reasonable timescale. For example:

- where there is no prospect of removal, because all possible countries of removal have emphatically refused to accept the person
- where there is a very low prospect of removal within a reasonable timescale, because the countries of removal refuse to engage in any discussions around admitting the person

In other cases, what is reasonable may be longer than 6 months. For example:

- if early inadmissibility processing has been delayed, because a claimant's presence in or connection to a safe country was not disclosed or clearly evidenced at the time the protection claim was made and registered, but instead is disclosed at a later time, for instance, during an asylum interview
- where third countries have actively engaged with the Home Office in discussions around admitting a person (or people), but where through no fault of the Home Office, progress towards agreement has been delayed
- where a claimant is referred into the National Referral Mechanism, it will be usually be appropriate to pause inadmissibility action until the consideration of whether or not the person is a victim of modern slavery has been completed

Post-decision

In line with paragraph 345D of the Immigration Rules, after a formal inadmissibility decision has been made in respect of a claimant, they must be removed to the safe third country within a responsible period. Again, what is reasonable will depend upon the particular facts of each case, including any matters which may delay removal, such as outstanding legal proceedings, late claims and uncooperative behaviour.

A person who has already been granted protection in another safe country, who can continue to access that protection in the third country, and who has or who can obtain a travel document for return to that country, will be expected to return there. Such a person will not be in 'limbo', unable to either access the UK asylum system or seek protection elsewhere, and so the reasonable period before removal is likely to be significantly longer than in other cases.

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Post-decision

Further submissions

The further submissions process does not apply to asylum inadmissibility decisions, or to associated inadmissibility decisions on humanitarian protection claims. This is because inadmissibility decisions themselves are not decisions on the protection claim in the person's country of origin – they are decisions that the UK is not responsible for substantively considering the claim. Consequently, whilst a person may make representations against an inadmissibility decision, those representations would not engage the further submissions policy (but they would nonetheless need to be carefully considered).

If a person is removed from the UK as a consequence of an inadmissibility decision but returns, any further attempt by them to claim protection in respect of their country of origin must be treated as a new protection claim, not as further submissions.

Further submissions on human rights refusals

As has been set out, if a person alleges or claims that their EHCR rights will be breached if removed from the UK to a safe third country, because of a risk of serious harm in or being refouled from the third country, or that their removal from the UK would breach their private or family life rights, those claims must be fully considered.

All subsequent representations received on any such refused claims that have been refused where the appeal rights have either been certified or exhausted (or have lapsed) would be in the scope of the Further submissions policy, and must be considered accordingly.

Judicial review

The decision to declare an asylum claim as inadmissible (and to treat any associated humanitarian protection claim as inadmissible) may be challenged only through judicial review.

The same applies to any decision to remove appeal rights (in the case of certificates issued under [Schedule 3 to the Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004](#)) and a decision to remove a person from the UK.

To determine whether a judicial review has suspensive effect (which means that the individual must not be removed from the UK until the proceedings have concluded) the judicial review must be referred to OSCU or Litigation Operations, as appropriate, to consider in accordance with the guidance on Judicial review and injunctions.

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Resource: notice of intent wording

Wherever inadmissibility action is considered, the claimant must be issued a notice of intent. An example of the wording of the notice of intent is as follows, to be issued in an appropriate Home Office template letter:

“NOTICE OF INTENT – THIS IS NOT A DECISION LETTER

I am writing to inform you about how your protection claim is being managed.

We have evidence that before you claimed asylum in the United Kingdom, you were present in or had a connection to [name the safe country or countries]. This may have consequences for whether your claim is admitted to the UK asylum system.

We will review your particular circumstances and the evidence in your case and consider whether it is reasonable to have expected you to have claimed protection in [country or countries] (or to have remained there if you had already claimed or been granted protection), and whether we should consider removing you there or elsewhere.

If your claim is declared inadmissible, we will not ask you about your reasons for claiming protection or make a decision on the facts of your protection claim.

Before any decision is made, we may, if inadmissibility action appears appropriate, make enquiries with one or more of the safe countries mentioned above to verify evidence or to ask if, in principle, they would admit you. This will require sharing some information about your identity and other personal information which may be relevant to your admittance to the third country. The data shared will only be that necessary for the stated purpose.

(Optional paragraph below, to be used only if case is in scope for possible removal to Rwanda; remove brackets if including paragraph:

We may also ask Rwanda, another country we consider to be safe, whether it would admit you, under the terms of the Migration and Economic Development Partnership between Rwanda and the UK. Again, this will require the sharing of data, including some of your personal information, with the authorities in Rwanda.)

It is important that we conclude these enquiries promptly. If within a reasonable period we have not obtained agreement for your admission to a safe third country, your claim will be considered for substantive consideration in our asylum system.

If you wish to submit reasons not already notified to the Home Office why your protection claim should not be treated as inadmissible, or why you should not be required to leave the UK and be removed to the country or countries we may ask to admit you (as mentioned above), you should provide those reasons in writing within 7 calendar days [for detained cases] or 14 calendar days [for non-detained cases] of the date of this letter. After this period ends, we may make an inadmissibility decision on your case, based on the evidence available to us at that time.

If we decide to treat your protection claim as inadmissible, we will write to you again with a formal decision letter, explaining the decision and its consequences for you.

Help and advice on returning to your country of origin

As stated above, no decision has been made in your case and you are not presently required to leave the United Kingdom. However, should you wish to withdraw your asylum claim and return to your country of origin, the Voluntary Returns Service can provide information and assistance.

The Voluntary Returns Service can discuss the status of your case and the next steps in your departure from the United Kingdom.

The VRS can provide practical support – from providing access to a passport or emergency travel document, purchasing your flight ticket or help arrange a complex return with reintegration support for those who are eligible. Please contact the VRS team to obtain practical support regarding your return.

Online: www.gov.uk/return-home-voluntarily/

Telephone: 0300 004 0202 (Monday – Friday between 09.00 and 17.00)

If you are dissatisfied with the service provided by this unit you can either raise these issues with your caseworker via the telephone number given at the top of this letter or make a written complaint. The written complaints procedure is explained on the UK Visas and Immigration pages of GOV.UK, the address of the relevant page is: <https://www.gov.uk/government/organisations/uk-visas-and-immigration/about/complaints-procedure>.

Yours sincerely..."

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