



Home Office

# Revocation of protection status

Version 1.0

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# About this guidance

This guidance informs you of the circumstances in which it may be appropriate to revoke protection status (refugee status or humanitarian protection) and explains the policy, process and procedures which must be followed. The guidance also explains how protection status can be renounced. It replaces the previous asylum policy instruction on revocation of refugee status.

## Contacts

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

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 **1.0**
- published for Home Office staff on **28 June 2022**

## Changes from last version of this guidance

This is new guidance which replaces the previous asylum policy instruction on revocation of refugee status (which can be found in the archive).

### Related content

[Contents](#)

# Purpose of instruction

This instruction informs you of the circumstances in which it may be appropriate to revoke protection status (refugee status or humanitarian protection) and explains the policy, process and procedure which must be followed. It also explains the policy, process and procedure where an individual wishes to renounce their protection status.

This instruction provides specific guidance on:

- the legal framework governing revocation decisions under the Refugee Convention and the relevant provisions of the Immigration Rules
- the circumstances in which those granted protection status will have their case reviewed to consider whether they still qualify for protection, when such status should be revoked and what that means for the individual
- the process for an individual to renounce their protection status

This guidance must be read in conjunction with relevant guidance on asylum decision-making, in particular Assessing credibility and refugee status, humanitarian protection, permission to stay on a protection route, Settlement Protection, and Exclusion under Article 1F of the Refugee Convention.

When revoking protection status or processing a renunciation of protection status, it may also be necessary to revoke, curtail or amend any remaining permission to stay (previously referred to as leave to remain), for example to effect removal or place an individual on a more restrictive form of leave, subject to any right of appeal. As such, you must also refer to guidance on Revocation of Indefinite Leave, Curtailment, Restricted Leave and Discretionary Leave.

## Background

The UK has a proud history of providing protection to those who need it, for as long as it is needed, in accordance with our international obligations under the Refugee Convention and the European Convention on Human Rights (ECHR). However, protection status is not necessarily permanent and there are several circumstances in which it will be appropriate to revoke such status. You must give careful consideration to revoking refugee status or humanitarian protection and removing or varying any associated permission to stay where:

- it is clear that someone no longer needs protection (cessation)
- evidence emerges that status was obtained by misrepresentation (cancellation)
- someone commits a particularly serious crime and constitutes a danger to the community or represents a threat to our national security such that they no longer deserve protection (revocation)

There may also be circumstances in which a refugee may wish to renounce their protection status. This might be, for example, because an individual believes that they no longer need protection and want to return home to their country of origin, or

where an individual wishes to apply for permission to stay in the UK on another immigration route.

Changes to the Immigration Rules, introduced on 19 November 2015 clarified the definitions used in revocation decision making and aligned the process with the changes to the Immigration Act 2014. This means that the broad term of revocation applies to all the circumstances in which protection status may be withdrawn, including cancellation and cessation. The exception to this is renunciation which will only be enacted where an individual informs the Home Office of their desire to no longer have protection status in the UK. You must be familiar with this instruction so that you are able to identify cases which may fall for revocation action and bring them to the attention of the appropriate team; and so that the appropriate team can make revocation decisions in adherence with the Immigration Rules and this policy.

## Policy intention

The policy objective is to maintain a fair but firm immigration system that ensures protection is provided for as long as it is needed but does not allow those who obtain status by deception, or who commit particularly serious crimes and constitutes a danger to the community / possesses a danger to the security of the UK to continue to benefit from protection status by:

- conducting safe return reviews when someone applies for further permission to stay or settlement and revoking protection status where the individual no longer qualifies for refugee status or humanitarian protection – such that individuals will need to apply under other immigration routes or leave the UK
- revoking refugee status or humanitarian protection to enable removal action where evidence emerges that protection status was obtained through misrepresentation so that those who abuse the asylum system do not continue to benefit from such status
- reviewing all cases in which someone with protection status commits a criminal offence or represents a danger to national security so that revocation action is taken where appropriate, and the individual is removed quickly or placed on more restrictive leave to facilitate removal as soon as possible
- acting efficiently to renounce the protection status of individuals who no longer require it, but ensuring sufficient safeguards are in place to explain the implications of doing so

## Application in respect of children and those with children

[Section 55 of the Borders, Citizenship and Immigration Act 2009](#) requires the Secretary of State of the Home Department to make arrangements for ensuring that immigration, asylum and nationality functions are discharged having regard to the need to safeguard and promote the welfare of children in the UK. The section 55 duty applies whether the child applies in their own right or as the dependant of a parent or guardian.

The statutory guidance, [Every Child Matters – Change for Children](#), sets out the key principles to take into account in all actions concerning children. All decisions must

demonstrate that the child's best interests have been a primary (albeit not necessarily the only) consideration. The individual protection needs of children is one of the factors to take in account when working with a child and their family.

Our statutory duty to children means you must demonstrate:

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

You must keep this duty in mind throughout the process and refer to other specific guidance available, as relevant, in the Dependants and former dependants, the Children's asylum claims guidance and the Family asylum claims guidance.

## Safeguarding

If you become concerned that a claimant may be in danger at any stage of the asylum process, you need to take immediate action to ensure their safety. Where there are child welfare or protection concerns that may involve safeguarding issues within the family unit, the case must be referred immediately to the Asylum Safeguarding Hub, who will refer the case to the relevant local authority. There is no requirement to obtain the consent of any adults involved as safeguarding the child is our primary responsibility.

In an emergency, the case must be referred to emergency services without delay. As decision-makers, if you are the first person to become aware of an emergency you must contact 999 and request the appropriate emergency service. Afterwards, you must then make a referral to the relevant safeguarding team for actions to be progressed.

The Safeguarding Advice and Children's Champion (SACC) can also offer specialist safeguarding and welfare advice on issues relating to children, including family court proceedings and complex child protection cases. For more information see SACC guidance.

You do not have to stop making the asylum decision whilst a safeguarding issue is investigated. However, you must speak to your technical specialist or senior caseworker to check whether service of the asylum decision is appropriate, or if the safeguarding issue needs to be considered together with the asylum claim.

## Signposting to support services

Asylum claimants receive the information booklet for asylum claims which includes information on support services and you can refer them to the contacts for appropriate support which are detailed in this leaflet.



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# Relevant legislation

## The Refugee Convention

The [1951 Refugee Convention and 1967 Protocol relating to the status of refugees](#) is the primary source of the framework of international refugee protection. The key principle, enshrined in Article 33(1), prevents signatory states from returning ('refouling') individuals to their country of origin where their life or freedom would be threatened on account of their race, religion, nationality, membership of a particular social group or political opinion (but for in limited circumstances outlined in Article 33(2)).

**Article 12** provides that the personal status of a refugee is governed by the law of the country of domicile or residence.

**Article 1C** sets out the circumstances in which the Refugee Convention will cease to apply because an individual no longer needs protection.

There is provision to exclude individuals from the Refugee Convention under **Article 1F** where there are serious reasons for considering that the individual has:

- committed a crime against peace or humanity or a war crime, as defined in international instruments
- committed a serious non-political crime outside the country of refuge prior to their admission as a refugee
- been guilty of acts contrary to the purposes and principles of the United Nations

**Article 32** states that a refugee shall not be expelled from a country where they are lawfully present except on grounds of national security or public order; and **Article 33(2)** permits the return (refoulement) of a refugee where either:

- there are reasonable grounds for regarding them as a danger to national security
- having been convicted by a final judgment of a particularly serious crime, they constitute a danger to the community

Both articles apply to those who are still 'refugees' under the Refugee Convention, who are not (or cannot) be excluded under Article 1F.

## Domestic legislation: Refugee Convention

Most of the provisions of the Refugee Convention have been transposed into law in the UK through primary and secondary legislation and the Immigration Rules.

Sections 29-38 of the Nationality and Borders Act 2022 outlines the UK's interpretations of the key components of the Refugee Convention, for example the meaning of 'well-founded fear' and 'reasons for persecution'.

**Section 10** of the Immigration and Asylum Act 1999 (as amended by the [Immigration Act 2014](#)) provides a single power of removal for those who require but do not have leave to enter or remain. A separate removal decision is no longer necessary. Those who are in breach of the conditions of their leave, or obtained leave by deception, may be removed under this power but any extant leave must be brought to an end first (curtailed). All individuals removed under this power must still be given notice of removal. See also [Section 5\(1\) of the Immigration Act 1971](#) for automatic deportation cases.

**Section 54** of the [Immigration, Asylum and Nationality Act 2006](#) provides a definition of acts contrary to the purposes and principles of the United Nations falling within Article 1F(c).

**Section 72** of the [Nationality, Immigration and Asylum Act 2002](#) as amended by [Section 38 of the Nationality and Borders Act 2022](#) provides that, for the purposes of [Article 33\(2\)](#) of the Refugee Convention, an individual is presumed to have committed a particularly serious crime and be a danger to the community if sentenced to imprisonment of at least 12 months. It must be a single crime and cannot be an aggregate sentence and must relate to an ongoing danger. The presumption that an individual constitutes a danger to the community is rebuttable by that individual.

**Section 76** of the 2002 Act provides the power to revoke indefinite permission to enter or stay in certain circumstances. **Section 76(1)** applies where someone is liable to deportation but cannot be deported for legal reasons; **76(2)** applies where the leave was obtained by deception. These sections apply to anyone with indefinite permission to stay regardless of the reason why it was originally granted. **Section 76(3)** applies where someone has ceased to be a refugee as a result of voluntary actions that mean they no longer need protection. This only applies to a refugee and will most likely accompany a decision to revoke refugee status.

**Section 82** of the 2002 Act (as amended by the [Immigration Act 2014](#)) sets out the rights of appeal available against decisions taken under the Immigration Acts. An appeal can only be brought against a decision to refuse a protection or human rights claim, or revoke protection status. An individual has 'protection status' if they have been granted refugee status or humanitarian protection.

## Domestic legislation: permission to enter or remain

**Section 3(1)** of the [Immigration Act 1971](#) provides the power to grant permission to enter or remain in the UK and **Section 3(1)(c)** provides powers to impose conditions on that permission.

**Section 5(1)** provides that a deportation order has the effect of invalidating any leave, including indefinite leave, to enter or remain that is given before the deportation order is made or while it is in force.

**Article 13(7)** of the [Immigration \(Leave to Enter and Remain\) Order 2000](#) states that where an individual is outside the UK and has permission which is in force by virtue of this article, that permission may be cancelled (in the case of permission to enter,

by an immigration officer; in the case of permission to stay, by the Secretary of State).

## Immigration Rules

[Part 11 of the Immigration Rules](#) sets out the provisions for considering asylum claims and contains provision to revoke protection status (refugee status or humanitarian protection).

[Immigration Rules: Introduction](#) defines 'refugee status' as the recognition by the UK, following consideration of an asylum claim, that an individual meets the criteria in paragraph 334 of the Rules, one of which is that they are a refugee.

[Paragraph 338A](#) sets out when refugee status granted under paragraph 334 will be revoked. This is set out in detail in paragraphs 339A to 339AC and covers circumstances in which the Refugee Convention will cease to apply; where an individual will be excluded from the Refugee Convention; where refugee status was obtained by misrepresentation; and where someone represents a danger to the UK.

[Paragraph 339B](#) covers curtailment or cancellation of permission to stay when refugee status is revoked.

[Paragraph 339BA](#) states that where revocation is being considered, the refugee should be informed in writing of the ongoing consideration which must include the reasons for the reconsideration. It also provides that the individual should be given the opportunity to submit, in a personal interview or in a written statement, reasons why their refugee status should not be revoked.

[Paragraph 339BB](#) sets out the circumstances when the procedure in paragraph 339BA does not need to be followed; this includes where an individual unequivocally renounces their refugee status as the status is considered to have lapsed by law.

[Paragraph 339BC](#) confirms that the procedure can be carried out when the individual is outside the UK.

[Paragraph 339D](#) details the circumstances in which a claimant would be excluded from humanitarian protection.

[Paragraph 339G-GD](#) outlines where it is appropriate to revoke humanitarian protection.

[Paragraph 339H](#) states that limited or indefinite permission to stay can be curtailed or cancelled where humanitarian protection is revoked.

[Paragraph 358C](#) entitles United Nations High Commissioner for Refugees (UNHCR) to present their views when consideration is being given to the revocation of refugee status.

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# General principles

This section applies to all cases where consideration is being given to revoking protection status (refugee status or humanitarian protection), regardless of the basis on which revocation is being considered.

## Refugee status

Being a refugee and having 'refugee status' are two separate things. Under the Refugee Convention, an individual is a refugee where they meet the definition in Article 1C – they are outside their country of origin or former habitual residence owing to a well-founded fear of persecution, regardless of any status conferred. Refugee status is derived from the Immigration Rules and granted to individuals recognised as a refugee in the UK. For example, someone who meets the definition of refugee in the Refugee Convention is a refugee from the moment they enter the UK. However, they will only have 'refugee status' in the UK when they have made an application and been granted such status by the Home Office.

Permission to stay is granted to those with refugee status in the UK and the rights provided to refugees in the UK are derived from the permission to stay, for example permission to work in the UK.

There is no provision to revoke refugee status under the Refugee Convention itself. Articles 1C and 1F simply provide that the Refugee Convention no longer applies when the circumstances set out in those Articles are met.

Article 33(2) of the Refugee Convention differs in that it permits the removal (refoulement) of a refugee, but the individual does not stop being a refugee under the Refugee Convention – under this Article they would be removed notwithstanding the fact that they remain a Convention refugee. Where Article 33(2) applies, refugee status granted under the Immigration Rules must be revoked.

For guidance on granting refugee status, see the guidance on assessing credibility and refugee status.

## Humanitarian protection

Humanitarian protection is granted where an individual faces a real risk of serious harm upon return to their country of origin. You only need to consider humanitarian protection where the claimant does not qualify for refugee status.

There are provisions within the Immigration Rules to revoke humanitarian protection. The reasons for revocation of humanitarian protection are broadly similar to those for revocation of refugee status, for example where the protection need has ceased to exist, where the claimant misrepresented material facts in order to obtain a grant of humanitarian protection or where the claimant is excluded from humanitarian protection.

For guidance on granting humanitarian protection, see the guidance on humanitarian protection.

## General

Any permission to stay that an individual is given is separate to their protection status and may be curtailed or revoked where protection status is revoked. This permission to stay and any conditions attached are conferred under the [Immigration Act 1971](#).

The process for revoking protection status includes contact with the individual, normally in writing, and providing UNHCR with the opportunity to present their views on the case.

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## Grounds for revoking refugee status

Refugee status may be revoked for one or more of the reasons set out in the [Immigration Rules](#). If more than one of the following provisions applies, then revocation on all grounds must be considered and addressed as part of the decision:

- Refugee Convention ceases to apply ([Paragraph 339A\(i\)-\(vi\)](#))
- exclusion from the Refugee Convention ([Paragraph 339AA](#))
- misrepresentation of facts decisive to the grant of refugee status ([Paragraph 339AB](#))
- danger to the UK ([Paragraph 339AC\(i\)-\(ii\)](#))

## Grounds for revoking humanitarian protection

Humanitarian protection may be revoked for one or more of the reasons set out in the Immigration Rules. If more than one of the following provisions applies, then revocation on all grounds must be considered and addressed as part of the decision:

- humanitarian protection ceases to apply ([paragraph 339GA](#))
- exclusion from humanitarian protection ([paragraph 339GB](#))
- misrepresentation of facts decisive to the grant of humanitarian protection ([paragraph 339GD](#))

## Naturalisation and citizenship

Where an individual acquires British citizenship, their refugee status is automatically revoked in accordance with [Paragraph 339A\(iii\)](#) of the Immigration Rules upon acquisition of that status (they have acquired a new nationality and enjoy the protection of the country of their new nationality).

Similarly, where an individual with humanitarian protection acquires British citizenship, their humanitarian protection automatically ceases under paragraph 339GA of the Immigration Rules. In such circumstances, the normal revocation process does not apply, for example the requirement to serve a notice of intention to revoke humanitarian protection.

In these circumstances, the ordinary revocation process does not need to be utilised; there is no requirement to obtain information from the individual as to why they should not have their protection status revoked. It is also unnecessary to contact UNHCR for comments in these cases.

Where an individual who was granted protection status in the UK, who has been naturalised, is found to have obtained protection status by deception or where they have engaged in conduct which would have brought them within the scope of the exclusion clauses ([paragraph 339AA or 339GB](#)), then the Home Office may review that individual's continuing entitlement to British Citizenship. You must refer any such cases to the Status Review Unit (SRU) for consideration.

## Triggers that lead to a review of protection status

Where someone has protection status, revocation action can be taken at any time if there is sufficient evidence to justify such action. This could be:

- during the initial period of limited permission to stay
- after their permission to stay has expired or when their permission to stay has been extended by [Section 3C of the 1971 Immigration Act](#) pending a decision on an application for further permission to stay or settlement
- whilst the individual has indefinite permission to stay

It is possible to consider revocation on one or more grounds and any criminality by the individual or any dependants should lead to a review of the case to consider whether revocation action is appropriate.

The following is not an exhaustive list of triggers that lead to a review of protection status. Where you have concerns about a grant of protection status, you must discuss the case with a Senior Caseworker or Technical Specialist.

## Return to country of origin or obtaining a passport

This will usually indicate voluntary re-availment and may lead to revocation of refugee status under [Paragraph 339A\(i\)-\(vi\) or humanitarian protection under paragraph 339GA](#).



It is important to note that an individual who has been granted humanitarian protection may be able to obtain a national passport if their fear of serious harm is as a result of a non-state actor. In this circumstance, humanitarian protection must not be revoked as a result of the obtaining of a national passport.

## Reasons for the grant of protection status no longer exist

A change in personal circumstances or country situation may mean that the reasons that led to the grant of refugee status or humanitarian protection no longer apply. Where you identify a significant and non-temporary change in personal or country circumstances, refugee status may be revoked under [paragraph 339A\(vi\)-\(vi\)](#) or humanitarian protection may be revoked under [paragraph 339GA](#).

## Misrepresentation

Refugee status ([paragraph 339AB](#)) or humanitarian protection ([paragraph 339GD](#)) may be revoked where material facts were misrepresented or omitted and this was decisive in the decision to the grant of protection status.

## Exclusion

Where evidence emerges after a grant of refugee status or humanitarian protection that indicates the individual should have been or is excluded from the Refugee Convention ([paragraphs 339AA and 339AC\(i\)-\(ii\)](#)) or from humanitarian protection ([paragraph 339GB](#)), protection status may be revoked.

## Criminality

Irrespective of the length of the sentence, a review of protection status must be conducted where the individual has been convicted of a criminal offence. Criminality does not amount to a change of personal circumstances under [paragraphs 339A \(i-iv\) or paragraph 339GA](#), but it is possible that a review may highlight that protection is no longer needed. Furthermore, criminality may result in revocation of refugee status under [paragraph 339AC](#) or humanitarian protection under [paragraph 339GB](#) depending on the nature of the crime.

## Returning residents

Where an individual with protection status has been outside the UK for more than 2 years their protection status should be reviewed before any leave is reinstated.

Whilst refugee status and humanitarian protection can only lapse in certain limited circumstances, such as upon acquirement of British citizenship or where protection status is renounced, any accompanying permission to stay will lapse if the individual fails to comply with the conditions of that leave. Those outside the UK for more than 2 years will be required to apply for a Returning Residents visa to return and must apply using the appropriate form, paying the relevant fee. Further details are available on GOV.UK [returning residents visa](#). Where permission to stay has lapsed



and there is no evidence that revocation action has been considered, the case must be referred to SRU.

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# Requirement to provide the opportunity to respond

[Paragraph 339BA of the Immigration Rules](#) sets out certain requirements to provide an individual with refugee status with the opportunity to respond to where revocation action is being considered. [Paragraph 339BC](#) permits the procedure set out in paragraph 339BA to be initiated, and completed, while the individual is outside the UK (see also [Section 2.4 on Domestic Legislation: Leave to Enter or Remain](#)).

In order to fulfil the requirements under the Immigration Rules, you must write a notice of intention to revoke refugee status to the individual to explain the reasons why their continuing entitlement to refugee status is being reconsidered. You must provide an opportunity for the individual to respond to your reasoning in writing.

The same process applies where you are considering revocation of humanitarian protection.

Where it is considered that refugee status has lapsed, it may be possible to dispense with the requirement to provide the opportunity for the refugee to respond. See [when refugee status can lapse: cessation cases](#).

It may also be appropriate to cancel permission to stay on a protection route in order to prevent an individual returning to the UK until a review of their protection status has been completed. Permission to stay on a protection route can be cancelled under [Article 13\(7\) of the Immigration \(Leave to Enter and Remain\) Order 2000](#), for example where the individual is considered a danger to the security of the UK, as soon as the individual is notified of the intention to revoke protection status.

## Interviewing in revocation cases

You do not need to interview individuals in most potential revocation cases. When you consider the evidence and the information submitted by the individual is sufficient to reach an informed decision, an interview is unnecessary. However, it may be necessary to clarify any issues by requesting further written information. If an interview is required as part of the consideration process, this must be conducted in accordance with the guidance on Asylum Interviews and the safeguards set out in [Paragraphs 339NA to 339ND of the Immigration Rules](#).

## Considering representations submitted

Where the individual submits evidence in response to the notification of intention to revoke protection status, you must give careful consideration to all the points raised as well as the initial information that led to the decision to consider revocation. It is important to keep in mind that the burden of proof rests on the Home Office when making a decision to revoke protection status and, as with first instance decisions, the relevant standard of proof is a relatively low one. See [Assessing credibility and](#)

Refugee Status and Humanitarian protection for further details on the standard and burden of proof requirements.

You must consider if:

- the individual has a reasonable explanation which directly addresses the proposal to revoke protection status
- there are any compassionate reasons as to why protection status should not be revoked
- it is necessary to contact the individual for further details
- the individual has raised any other protection-based grounds, such that it would be appropriate to allow the individual to retain protection status

Where it is accepted that someone still needs protection after having reviewed the case, even if the reasons differ from those which gave rise to the original grant of protection status, revocation action should not normally be pursued on cessation grounds. This includes where you decide that there are grounds to revoke refugee status but identify that the individual would qualify for humanitarian protection, or vice versa. In this circumstance, revocation on cessation grounds is not usually required.

Where grounds are raised that amount to an application for permission to stay on the basis of Article 8 family or private life grounds, you only need to consider these if you decide to proceed with revocation action. See [considering other forms of leave](#). Applications on any other basis under the Immigration Rules or for a purpose not covered by the Rules (Leave outside the Rules) must be made on the relevant application form available on GOV.UK.

## Where no response is provided

You must ensure that every reasonable effort has been made to contact the individual to enable them to provide a response to the decision to consider revocation. This should include, for example, checking:

- previous addresses
- the last known legal representative
- applications for other forms of leave
- any other details provided to the Home Office by other government departments or agencies

In the absence of any response, you should proceed on the assumption that the individual has no reasonable explanation to provide and therefore has no basis on which to remain in the UK. When considering these facts, you must give consideration to relevant articles of the European Convention on Human Rights (ECHR) that might apply, such as Article 3.

Where no response is received from the individual, you must still provide United Nations High Commissioner for Refugees (UNHCR) with the opportunity to present their views on the decision to revoke refugee status.

## Response leads to no revocation action

Where the response from the individual is accepted and revocation action is not being pursued, you should complete the relevant templates informing the individual and UNHCR (where applicable) that no further action is being taken. It may be appropriate to warn them that the behaviour that led to the review, if repeated, may potentially jeopardised their entitlement to protection status in the future even though it has been decided not to pursue revocation on this occasion. See [decision not to proceed with revocation](#).

## Proceeding to revoke

It is not necessary to seek approval to revoke protection status unless there are specific reasons why this may be appropriate. See [decision to proceed with revocation](#).

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# View from UNHCR on the proposal to revoke refugee status

It will normally be appropriate to give United Nations High Commissioner for Refugees (UNHCR) an opportunity to present their views on individual cases before a final decision is taken. This reflects the requirements in [Paragraph 358C](#) of the Immigration Rules. UNHCR should normally be contacted after the individual concerned has had an opportunity to comment so that UNHCR can take the representations of the refugee into account in preparing their view of the case, but where there are exceptional circumstances, you may contact both the individual and UNHCR in tandem.

UNHCR should usually be provided with 10 working days within which to respond. If more time is required, this may be considered on a case by case basis. If a case must be decided in a particular timescale, less than 10 days may be provided but you must discuss the case with a senior caseworker (SCW) and it should be explained as far as possible to UNHCR why a shorter timescale is necessary.

Although there is no requirement to formally respond to representations from UNHCR, you must take their comments into account as part of the decision on whether to proceed with revocation and provide UNHCR with a copy of the final decision.

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# Dependants

A dependant is defined as a spouse, partner or a minor child related to the individual at the time consideration is given as to whether protection status should be revoked. Where a dependant was originally granted protection status and / or permission to stay in line with the main claimant, it will usually be appropriate to treat them in line with the main applicant in revocation proceedings and seek to remove the family as a group where appropriate.

There may be compelling reasons for not revoking protection status and / or permission to stay of dependants in some circumstances. Dependants are expected to provide reasons why revocation / curtailment is not appropriate and to set out any such compelling reasons for the you to consider. In cases where they have not already been treated as having made their own asylum claim, either independently or as part of the Family Asylum Claims process, you must also consider whether the dependants may have any protection needs in their own right independently of the main claimant. In such cases, you must carefully consider whether it is appropriate to revoke the dependant's protection status and / or permission to stay.

It may also be appropriate to revoke the protection status or curtail the permission to stay of a dependant without this impacting on the main claimant and any other dependants, particularly where it is only the dependant who is involved in criminality.

## Dependants granted under family reunion

In the case of dependants granted under the family reunion provisions, you must check and establish if the dependant was granted protection status as well as permission to stay in line. The previous policy on family reunion was to grant protection status and permission to stay in line as a matter of course. A dependant granted protection status on this basis may be unable to provide details about the reasons why the main claimant was granted protection status. You must review the reasons for the grant of protection status to the main claimant and take this into account when reviewing the case. However, the required test is whether the individual can continue to refuse the protection of the country of origin. This means that there must be a continuing need for protection at the date of the decision rather than continue to benefit from protection status on the basis of historical facts which no longer exist.

## Deportation with assurances (DWA) cases

Where the UK wishes to deport someone but needs specific assurances that they would be treated in line with our international obligations under the European Convention on Human Rights (ECHR), this is done under the Government's DWA programme. The UK has agreements with several countries, usually in the form of a 'Memorandum of Understanding' (MOU) between governments, which provide assurances around the treatment of those deported from the UK to one of these countries, or from one of these countries to the UK. All cases involving potential

DWA action are handled within the Homeland Security Group who can provide further advice.

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**Official sensitive – end of section**

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# Extradition

Under UK law, an individual cannot be extradited to the country from which they claimed asylum and were granted protection status. Where the Extradition Section of the International Criminality Unit (ICU) receives an extradition request, they may check whether an individual has protection status and permission to stay or has made an asylum claim. If the individual has protection status, ICU will forward a copy of the extradition request and ask that the individual's status be reviewed in the light of the request. The evidence submitted in support of that request may be enough to show that there are serious reasons for considering a crime has been committed which would fall under Article 1F of the Refugee Convention and may also give rise to other reasons for revocation action. You must consider each case on its individual merits.

Any extradition request involving an individual with protection status must be forwarded to the Status Review Unit (SRU) or Foreign National Offenders Returns Command (FNORC) (depending on who is dealing with the case) before any action is taken. SRU do not handle extradition cases involving failed asylum seekers or non-asylum cases. Individuals must have both their protection status and any permission to stay removed before extradition can take place. Unless protection status is revoked, there remains a protection barrier to any extradition request.

Extradition requests involving asylum seekers or refugees are not likely to arise frequently, but when they do, National Crime Agency (NCA) (for all EU Member State Extradition under [Part 1 of the Extradition Act 2003](#)) or the United Kingdom Central Authority (UKCA) (for non-EU Member State extradition under [Part 2 of the Extradition Act 2003](#)) must be kept informed of progress of any immigration issues that may prevent an extradition to take place in UK law. This is because to surrender a requested individual to another country who has an extant asylum claim is unlawful (where the asylum claim is made against the country which has requested the extradition). This is not to ensure that the NCA or the UKCA agrees with the decision but to check that the extradition process and evidence has been understood by the decision maker. Given the importance of maintaining the integrity of the extradition process, in cases where there is public interest or finely balanced evidence, a senior manager of no less than SCS level, must also be consulted where an individual's status would prevent extradition. See also the extradition section of the Exclusion (Article 1F) and Article 33(2) guidance.

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**Official sensitive – start of section**

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# Status, permission to stay and rights of appeal

The [Immigration Act 2014](#) changed the rights of appeal in revocation cases. Section 82 of the [Nationality, Immigration and Asylum Act 2002](#) (as amended), provides a right of appeal against a decision to refuse a protection claim; a human rights claim, or the revocation of protection status. An individual has 'protection status' for the purpose of Section 82(1)(c), where they have been granted refugee status or humanitarian protection.

This means that any decision to revoke protection status attracts a right of appeal under Section 82(1)(c) of the [Nationality, Immigration and Asylum Act 2002](#) (as amended). This right is subject to the exceptions and limitations set out in [Part 5 of the 2002 Act](#). Section 92(5) sets out that an appeal under Section 82(1)(c) must be brought from within the UK if the decision to revoke protection status was made while the appellant was in the UK and must be brought from outside the UK where the decision to revoke was made while the appellant was outside the UK. As such, the revocation process can be initiated and concluded where an individual is not in the UK at the time.

You must inform individuals of their appeal rights when deciding to revoke protection status.

Dependants who do not have protection status in their own right do not have a right of appeal, but a dependant would not normally be removed whilst the main claimant has an outstanding appeal against revocation.

## Cancelling, curtailing or revoking permission to stay

It may also be necessary to revoke, cancel or curtail any extant permission to stay where you have revoked protection status. In certain cases, this will happen automatically as the result of a separate decision, for example serving a Deportation Order will automatically invalidate any extant permission to stay. It may also be necessary to curtail permission to stay in order to grant a different, more restrictive form of leave. This may include, for example, revoking indefinite permission to stay and granting Restricted Leave or curtailing the remaining years of a grant of permission to stay on a protection route and replacing it with 6 months Discretionary Leave. See the section on [Restricted Leave](#).

In every decision to revoke protection status, regardless of the grounds, you must consider whether any permission to stay should be curtailed or revoked. See [Paragraph 339B](#) of the Immigration Rules.

## Curtailing limited permission to stay

Where an individual with protection status (or a dependant) has any extant permission to stay when a decision is taken to revoke protection status, this permission to stay can be curtailed in accordance with [Paragraph 323](#) which provides that an individual's permission to enter or stay may be curtailed on any of the grounds set out in [paragraph 339A-339AC](#) and [paragraph 339GA-339GD](#). Curtailment of permission to stay does not attract a right of appeal, the appeal is against the revocation of the protection status.

## Revoking permission to enter or stay

[Section 76 of the Nationality, Immigration and Asylum Act 2002](#) provides the power to revoke indefinite permission to enter or remain. **Section 76(3)** only applies to refugees and will most likely accompany a decision to revoke refugee status.

## Cancelling permission to stay when the individual is not in the UK

If an individual is not in the UK when the decision is taken to revoke protection status, any right of appeal must be brought from abroad. There is no requirement to allow the individual to return to the UK to exercise their appeal rights. Any permission to stay the individual has can be cancelled under [Article 13\(7\) of the Immigration \(Leave to Enter and Remain\) Order 2000](#) using the grounds in [321A-AC of the Immigration Rules](#) or [Section 76 of the Nationality, Immigration and Asylum Act 2002](#).

## Section 3D of the Immigration Act 1971

There is no longer a right of appeal against a decision to vary or revoke permission to stay. When dealing with a decision to revoke protection status, if a decision is taken to revoke any existing permission to stay at the same time section 3D will not apply. This is because any appeal is only against the decision to revoke protection status, not against the decision to revoke permission to stay. So once the permission to stay is revoked or curtailed, even if there is a right of appeal against the revocation of protection status, the individual has no permission to stay.

A decision to vary permission to stay so that there is no permission to stay remaining (often referred to as curtailment with immediate effect) or to revoke permission to stay did carry a right of appeal before 6 April 2015. This means that where there is an in-country appeal outstanding against a variation or revocation (of permission to stay) decision then the claimant continues to be on 3D permission to stay.

## Considering if other types of permission to stay should be granted

[Appendix FM](#) to [paragraph 276ADE\(1\)](#) of the Immigration Rules provide the basis on which an individual, who is not a foreign criminal liable for deportation, can apply for

entry clearance to or leave to remain in the UK on family life grounds or leave to remain on private life grounds. Where Article 8 family and/or private life reasons are raised, you should consider whether a grant of permission to stay on this basis is appropriate only where protection status is being revoked. The individual will still have a right of appeal against revocation of status, even where permission to stay on another basis is granted. See [status, permission to stay and rights of appeal](#).

## Article 8 in criminal cases

Article 8 claims from foreign criminals are considered under [paragraphs 398 to 399A of the Immigration Rules](#) which are underpinned by sections [117A to 117D of the Nationality, Immigration and Asylum Act 2002 \(as amended by section 19 of the Immigration Act 2014\)](#). For further information see Criminology guidance for Article 8 ECHR cases.

## Resettlement cases

Those resettled to the UK under any of the resettlement schemes may be considered for revocation action where appropriate. However, it is likely that a number of factors contributed to the decision to resettle, therefore you must refer resettlement cases where revocation is being considered to the Resettlement Policy team and the Asylum Policy team.

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# Protection need ceases to apply

## Cessation of refugee status (paragraph 339A of the Immigration Rules)

The cessation clauses set out in Article 1C(1) to (6) of the Refugee Convention describe how the Convention will cease to apply to an individual who has previously been recognised as a refugee. The individual can therefore no longer be regarded as a refugee. [Paragraph 339A \(i\)-\(vi\)](#) of the Immigration Rules provides for an individual's refugee status to be revoked where they have ceased to be a refugee; this mirrors Article 1C of the Refugee Convention.

[Paragraph 339A\(i\) – \(iv\)](#) of the Immigration Rules reflects a change in the refugee's personal situation and paragraph 339A (v) and (vi) reflects changes in the country situation and/or the refugee's personal situation. In considering whether the country situation is suitable for revocation, you must ensure the change in circumstances is of such a significant and non-temporary nature that the fear of persecution can no longer be regarded as well-founded.

## The cessation clauses (Article 1C of the Refugee Convention)

The circumstances in which refugee status may be taken to have ceased, as set out in Article 1C of the Refugee Convention, are as follows:

- voluntary re-availment of national protection: an individual voluntarily chooses to re-avail themselves of the protection of the country of their nationality (paragraph 339A(i))
- voluntary re-acquisition of lost nationality: a refugee, having lost (or been stripped of) their nationality of the country in respect of which they were recognised as having a well-founded fear of persecution, voluntarily re-acquires that nationality (paragraph 339A(ii))
- voluntary acquisition of a new nationality and protection: a refugee acquires a new nationality and enjoys the protection of the country of their new nationality and has no fear of persecution in that country (paragraph 339A(iii))
- voluntary re-establishment in the country where persecution was feared: a refugee travels to and re-establishes themselves in the country from which protection was sought (paragraph 339A(iv))
- nationals whose reasons for becoming a refugee have ceased to exist (paragraph 339A(v)) because:
  - the circumstances that led to refugee status being granted have ceased to exist and the refugee can no longer continue to refuse the protection of their own country of nationality
  - protection has now become available where it once was not
- stateless persons whose reasons for becoming a refugee have ceased to exist (paragraph 339A(vi)): a stateless person with refugee status may be able to return to their country of former habitual residence because the circumstances

in which they were recognised as a refugee have ceased to exist and they have a right to reside there

Where a stateless person is unable to reside in their country of former habitual residence, they may meet the requirements for statelessness leave. See Stateless leave to remain applications.

Where a cessation clause applies, such that an individual no longer needs protection, their refugee status will be revoked under Paragraph 339A (i) to (vi) of the Immigration Rules.

## Re-availment: Immigration Rule paragraph 339A(i)–(iv)

Re-availment is where a refugee chooses to return to their own country and/or to obtain and/or use a passport issued by that country. Paragraph 121 of the United Nations High Commissioner for Refugees (UNHCR) handbook states:

If a refugee applies for and obtains a national passport or its renewal, it will, in the absence of proof to the contrary, be presumed that [he] intends to avail himself of the protection of his country of nationality.

Where a refugee has obtained a passport and travelled to their country of origin or former habitual residence, the circumstances of the case must be reviewed to consider whether refugee status should be revoked. However, you must take into account any explanation provided by the individual and any exceptional, compassionate circumstances that may render revocation inappropriate. See [compassionate circumstances](#) below.

## Travel documents

Where the Home Office encounters a refugee who has travelled on a national passport or a Refugee Convention Travel Document (CTD) which indicates a return to their country of origin, the document must be retained while their status is reviewed, under section 17 of the [Asylum and Immigration \(Treatment of claimants, etc\) Act 2004](#). Where an individual is found to be in possession of both a national passport and a CTD, the Home Office will retain both documents while their status is reviewed. Where they only hold a CTD and there is no evidence to suggest a national passport is held, the CTD cannot be impounded until a decision is taken on whether revocation is appropriate. If such action is considered appropriate, the travel document will be destroyed.

An Immigration Officer can admit the individual on continuing permission to stay while consideration is given as to whether to revoke refugee status. In exceptional cases, an Immigration Officer may suspend the leave of an individual subject to revocation consideration, where there are other serious considerations which would merit the suspension of permission to stay.

## No time limit (NTL) requests

Where a refugee has obtained or renewed a national passport and subsequently makes a request for a Biometric Residence Permit (BRP) confirming NTL, you must give serious consideration to whether these actions constitute re-availment. However, where a refugee has requested a BRP confirming NTL and their passport was held prior to recognition as a refugee, you should normally remind them that it is inconsistent with their refugee status to travel on a national passport and if they want to travel abroad they can apply for a CTD. Such a request does not necessarily mean they intend to travel back to the country from which they sought asylum; they may just be unaware that they could travel outside the UK on a CTD.

Where a refugee states that they require a BRP confirming NTL for identity purposes, they should be informed that a CTD would fulfil that requirement without jeopardising their refugee status in the UK. Where a refugee insists on their request for an NTL stamp following the issue of such a letter, and the reasons for that request calls into question their continued need for protection, you must refer the case to the Status Review Unit to consider cessation action.

## Compassionate circumstances

Refugees are entitled to apply for a CTD. If a refugee holds a national passport when they are granted refugee status, this will be retained by the Travel Documents Section (TDS) when a CTD is issued. Persons granted refugee status in the UK cannot hold both a CTD and their own national passport. If a refugee wants their national passport back and if they chose to travel on their own national passport, their case must be reviewed and they would be in danger of losing their refugee status. TDS will consider returning the refugees national passport in certain exceptional circumstances where a refugee makes such a request; however, they would first have to return any CTD they hold. It is expected that the length of the visit to their country of origin or country of former habitual residence will be consistent with the purpose of that visit and the individual should be informed of this when their passport is returned to them.

## When refugee status can lapse: cessation cases

In cases of voluntary re-availment or the acquisition of a new nationality, as set out in [Paragraphs 339A \(i\) to \(vi\)](#) of the Immigration Rules, refugee status shall be deemed to have lapsed by law in the case of cessation.

Refugee status will also be considered to have lapsed by law where the refugee has unequivocally renounced their refugee status. See [renunciation of refugee status](#) section.

[Paragraph 339BB](#) sets out exceptions to the procedure required in paragraph 339BA. Where refugee status is treated as having lapsed, there is no need to inform the person in writing of the reasons for the reconsideration or provide them with the opportunity to submit reasons why refugee status should not be revoked. Similarly,

there is no need to inform UNHCR. This may apply where refugee status is revoked under [paragraph 339A](#).

However, you must be cautious in applying this provision and where there is doubt as to whether someone still needs protection, and they remain in the UK, you should normally give them the opportunity to provide reasons why their status should not be revoked.

## Change in circumstances: Immigration Rule paragraph 339A(v)-(vi)

Cases where application of [paragraph 339A\(v\)-\(vi\)](#) may be appropriate must be subject to an assessment on their individual merits. You must also consider whether compelling reasons have been provided by the refugee as to why they are refusing to re-avail themselves of protection of their country of nationality or former habitual residence.

## Changes in country situation

Changes in the country situation must be significant and non-temporary such that a fear of persecution can no longer be regarded as well-founded. You must use up to date country of origin information in order to assess whether there has been a sufficient change in country situation as to warrant revocation of refugee status. The overthrow of one political party in favour of another might only be transitory or the change in regime may not mean that an individual is no longer at risk of persecution. The changes must be such that the reasons for becoming a refugee have ceased to exist and there are no other reasons for an individual to fear return there. In the case of stateless persons, they must be able to return to their country of former habitual residence for the purposes of residency and not be at risk of persecution there.

## Internal relocation

Where it is considered that it would be reasonable to return an individual to a specific part of a country, the fact that they have previously been recognised as a refugee must form part of the overall assessment. This overall assessment includes, but is not limited to, full consideration of:

- the situation in the country of origin
- means of travel
- proposed area of relocation in relation to the individual's personal circumstances

Even where country information and guidance suggest that relocation is possible, it is the ability of the individual and any dependants to relocate in practice which must be assessed, bearing in mind that the changes must be significant and non-temporary.



## Changes in personal circumstances

Where the original reasons for recognising an individual as a refugee no longer exist due to a change in personal circumstances, you must consider whether other factors mean that they are still at risk. It is possible that the grant of refugee status was for more than one reason or that there are additional factors that mean refugee status should be retained. For example, a woman may have been granted because she refused to agree to a forced marriage. If she is now married, she may still face a risk of persecution if she has married without the consent of her family.

Refugees must be provided with the opportunity to respond where revocation action is being considered. See [Requirement to provide the opportunity to respond](#). You must carefully consider any evidence provided as to why the individual still fears return before revoking refugee status on grounds of a change in personal circumstances. It will only be appropriate to revoke such status on grounds that such status has ceased where an individual no longer has a well-founded fear of persecution on any grounds and it is safe for them to return.

## Compelling reasons arising out of previous persecution

Article 1C(5) and (6) of the Refugee Convention contain an exception to the cessation provisions, allowing a refugee to invoke 'compelling reasons arising out of previous persecution' for refusing to re-avail themselves of the protection of their country of origin.

This exception applies to cases where refugees, or their family members, have suffered truly atrocious forms of persecution and it is unreasonable to expect them to return to their country of origin or former habitual residence. This might, for example, include:

- ex-camp or prison detainees
- survivors or witnesses of particularly traumatic violence against family members, including sexual violence
- those who are severely traumatised

The presumption is that such individuals have suffered grave acts of persecution, including at the hands of the local population, and therefore cannot reasonably be expected to return. Application of the 'compelling reasons' exception is interpreted to extend beyond the actual words of the provision to apply to Article 1A(2) refugees and reflects a general humanitarian principle.

As this provision is expected to apply only in the most exceptional of cases, any decision not to proceed with revocation on this basis must be taken by a senior caseworker.

## Humanitarian protection ceases to exist

Paragraph 339GA of the Immigration Rules will only apply where the change of circumstances, whether country or personal, is of such a significant and non-

temporary nature that the person no longer faces a real risk of serious harm. The majority of grants of humanitarian protection will be based on a fear of non-state actors against which the state is unable to provide sufficient protection, and it is unlikely that the need for humanitarian protection will cease to apply simply because the holder accepts the protection of the country of nationality in a temporary or limited way, for example by obtaining and using a passport. You must assess each case on its individual merits to see whether the actions of the person and the reasons for returning to the country of origin justify the conclusion that humanitarian protection is no longer needed. Broadly the same principles of cessation of refugee status considerations apply, therefore see [Change in circumstances: Paragraph 339A\(v\)-\(vi\)](#).

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# Misrepresentation

Whilst the Refugee Convention contains no specific provisions for the revocation of refugee status on the basis of misrepresentation (previously referred to as 'cancellation'), paragraph 117 of the United Nations High Commissioner for Refugees ([UNHCR\) handbook](#) sets out the following circumstances where it would be appropriate to consider doing so:

- refugee status was obtained by misrepresentation of material facts
- the refugee possesses another nationality that was not disclosed at the time of the original decision
- the exclusion clauses would have been applied had all the relevant facts been known

The Immigration Rules provide similar provisions for the revocation of refugee status and humanitarian protection where the individual has misrepresented material facts.

## Misrepresentation of material facts

[Paragraphs 339AB and 339GD](#) of the Immigration Rules relate to situations where an individual with refugee status or humanitarian protection has misrepresented or omitted facts, including use of false documents, and this behaviour was decisive in the decision to grant protection status. This means that had the facts been known, such status would not have been granted. If there is a pending prosecution for obtaining permission to stay by deception, the Home Office will normally wait for the outcome of the criminal proceedings. However, this is not a formal policy requirement and consideration of revocation action can still proceed where appropriate. See guidance on pending prosecutions.

Where refugee status is being revoked on this basis, you must also consider whether to curtail or revoke any associated permission to stay. An individual who obtains permission to stay (limited or indefinite) by deception is an illegal entrant. If it is decided to take illegal entry action (under [Schedule 2 to the Immigration Act 1971](#)) the permission to stay can be invalidated. Similarly, where permission to stay (whether limited or indefinite) has been obtained by deception, an individual is liable to removal under [section 10 of the Immigration and Asylum Act 1999](#) (for cases where the leave was granted after 1 October 1996).

Any conditions attached to the individual's permission to stay, which may have given them certain entitlements (for example, to take employment or recourse to public funds), will also end once permission to stay is curtailed or revoked.

## Defence under Article 31 of the Refugee Convention

Article 31 of the Refugee Convention, which is reflected in [section 31 of the Immigration and Asylum Act 1999](#), provides that refugees should not have any penalties imposed upon them as a consequence of illegal entry or presence in the country of refuge, provided they:

- travelled to the country of refuge directly from the territory in which they fear persecution
- present themselves to the domestic authorities without delay
- show good cause for their illegal entry or presence

See [Section 31 of the Immigration and Asylum Act 1999 and Article 31 of the 1951 Refugee convention](#) guidance for further details.

## Considering evidence of misrepresentation

Where there is evidence to suggest that the grant of refugee status was obtained by misrepresentation or omission of material facts, you must be satisfied that:

- clear and justifiable evidence of deception exists, for example:
  - evidence that the individual is not the nationality they claimed to be
  - evidence that documents supplied to support the claim are not genuine
  - evidence of actions after the grant that call into serious question the veracity of the claim
- the deception was material to the grant of protection status (were it not for the deception, the claim would have been refused)

Even where deception is admitted or proven, you must consider whether the person still qualifies for a grant of protection status for any other protection-based reasons. It will only be appropriate to revoke protection status on grounds of misrepresentation where an individual does not need protection (they do not qualify for refugee status or humanitarian protection).

## Possession of another nationality

Where an individual is in possession of another nationality and failed to disclose this during the consideration of the asylum claim, their protection status should be reviewed and may be revoked. This can apply to an individual holding dual nationality and failing to declare one or both nationalities, as they may have residency rights in a country in which they have no well-founded fear of persecution or no fear of serious harm / a breach of their Article 2 or 3 European Convention on Human Rights. This is different to obtaining a national passport and / or using it to return to the country of origin – for these cases refer to [protection need ceases to apply](#).

## Evidence obtained through a family reunion application

Cases involving misrepresentation may be identified following a family reunion application. In such cases, the protection status of the sponsor must be reviewed to consider whether the misrepresentation was material to the grant of protection status and whether such status should be revoked. Consideration of the family reunion application must be postponed until the review has been completed. Where the sponsors' protection status is revoked, the family reunion application must be refused.

Where evidence of misrepresentation derives from information provided by family members, careful consideration must be given as to whether the accounts are so different that they are incompatible and whether this was material to the grant of status. You must consider the possibility that family members may not confide in each other everything that happened to them. For example, a child may not have been told the reason why their parents left or a person may have been completely unaware of their partner's political interests. Minor discrepancies in dates or lack of knowledge of political activities will not of themselves be sufficient grounds for revocation. If the accounts are considered to be incompatible, the sponsor is expected to provide an explanation. This will usually be obtained by writing to the sponsor but it may be necessary to arrange an interview. See [interviewing](#) section. You must inform the individual that consideration is being given to the revocation of protection status and they have the opportunity to respond. See section on [requirement to provide the opportunity to respond](#).

### **Related content**

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# Exclusion or a danger to the UK

Refugee status can be revoked where the individual should have been excluded from the Refugee Convention under Article 1(F), or where Article 33(2) of the Refugee Convention applies to the individual.

Humanitarian protection can be revoked where the individual should have been excluded from humanitarian protection. The humanitarian protection exclusion provisions are broadly similar to those applicable to those with refugee status.

## Refugee status

### Exclusion under Article 1F of the Refugee Convention

Decisions to revoke refugee status are taken in accordance with [paragraph 339AA](#) of the Immigration Rules. This permits Member States to revoke refugee status if, following the grant of status, it is established that the person should have been or is excluded from being a refugee.

Where evidence comes to light following a grant of refugee status such that there are serious reasons for considering that an individual:

- a) has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes
- b) has committed a serious non-political crime outside the country of refuge prior to admission to that country as a refugee
- c) has been guilty of acts contrary to the purposes and principles of the United Nations

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See Exclusion (Article 1F) and Article 33(2) of the Refugee Convention guidance for more details.

### Danger to the UK (Article 33(2) of the Refugee Convention)

Decisions to revoke refugee status are taken in accordance with [paragraph 339AC\(i\)-\(ii\)](#) and [paragraph 334 \(iii\) and \(iv\) of the Immigration Rules](#). This permits revocation of refugee status, if there are reasonable grounds for regarding the individual as a danger to the security of the UK. This provision is identical to the

refoulement provisions provided for under Article 33(2) of the Refugee Convention. Where someone is considered to be a danger to national security or a danger to the community after being convicted of a serious crime, refugee status must be revoked.

Where refugee status is revoked on the grounds that Article 33(2) applies, but removal cannot proceed, for example due to an European Convention on Human Rights (ECHR) barrier, then consideration must be given to granting another form of permission to stay, for example Restricted Leave or Discretionary Leave. Such individuals remain recognised as refugees under the Refugee Convention, but do not have refugee status under the Immigration Rules and therefore cannot qualify for permission to stay on a protection route.

Article 33(2) of the Refugee Convention provides for refugees to be returned to their country of origin, even though they may face persecution, where either:

- there are reasonable grounds for considering they are a danger to the national security of the host state
- they pose a danger to the community after having been convicted by a final judgement of a particularly serious crime

This provision provides an exception to the principle of non-refoulement in Article 33(1) and applies equally to those who have already been granted refugee status and leave and asylum seekers who prove to be serious threats to public security, including those who exhibit extremist behaviours.

Article 33(2) is reflected in Section 72 of the [Nationality, Immigration and Asylum Act 2002](#) as amended by [section 38 of the Nationality and Borders Act 2022](#) which provides that, for the purposes of Article 33(2) of the Refugee Convention, an individual is presumed to have committed a particularly serious crime and be a danger to the community if they are sentenced to imprisonment of at least 12 months. Section 72(6) provides that a presumption under section 72 that a person constitutes a danger to the community is rebuttable by that individual, and you must ensure that such evidence is carefully considered in the context of the individual case.

Where Article 33(2) applies, a refugee may be removed from the UK in spite of the fact they are a refugee according to the Refugee Convention. However, whilst an individual remains at risk of persecution or serious harm in their country of origin they cannot be removed there as this would be contrary to our obligations under Article 3 ECHR. Where it is not possible to remove the individual, refugee status can and should be revoked under [paragraph 339AC](#) and any permission to stay on a protection route (limited or indefinite) may be replaced with a shorter period of leave with more restrictive conditions imposed.

## Restricted Leave

The Restricted Leave policy covers those refused under Article 33(2) of the Refugee Convention. Restricted leave may be granted in these circumstances where removal would breach our obligations under the ECHR. Where the refugee (or any dependant) has been convicted by a final judgment of a particularly serious crime,



this constitutes a danger to the community and the case must be referred to Foreign National Offenders Returns Command (FNORC) in the first instance. For further guidance see Exclusion and Article 33(2), Restricted Leave and Discretionary Leave.

In cases subject to automatic deportation, the effect of a Deportation Order (DO) is that any extant leave is automatically revoked or curtailed. This means that where a DO is in place, no separate work to curtail or revoke leave is required.

## Humanitarian protection

Under [paragraph 339GB of the Immigration Rules](#), humanitarian protection will be revoked if the Secretary of State is satisfied that the individual is excluded from humanitarian protection under [paragraph 339D of the Immigration Rules](#).

You must refer to the exclusion from humanitarian protection section of the humanitarian protection guidance.

## Granting permission to stay

Where an individual is being excluded or refused under Article 33(2), you must refer to guidance on exclusion under Articles 1(F) and 33(2). Such individuals will not benefit from refugee leave and will instead be granted much shorter periods of leave if they still need protection, see Restricted Leave.

Criminals or extremists should not normally benefit from leave on any basis as it is a Home Office priority to remove them from the UK. Where a protection status is revoked due to serious criminality, in accordance with this guidance, but the individual cannot be removed, it may appropriate to grant shorter periods of leave under the Restricted Leave or Discretionary Leave policy.

In all cases where exclusion or Article 33(2) applies, any limited leave granted under either the Restricted Leave or Discretionary Leave policy should normally be for 6 months and the cases reviewed regularly to facilitate removal as soon as possible. Any decision not to pursue deportation on ECHR grounds must be approved by a senior officer at no lower than Grade 5.

It is Home Office policy that where protection status is not being revoked but the individual has been involved in any criminality, they may be granted permission to stay where there continues to be a need for protection, unless there are compelling reasons to grant a longer period.

### Related content

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# Renunciation of protection status

## The renunciation process

Where an individual notifies the Home Office, whether directly to SRU or via another team, of their desire to renounce their protection status, you must serve them with a renunciation of protection status declaration.

The declaration must explain the implications of renunciation, including your assessment of the country situation upon return. The declaration must recommend that the individual seeks legal advice before making the decision to renounce their protection status (see [consideration of mental capacity](#)). The declaration will also allow the individual to explain the reason for their decision to renounce their protection status.

## Consideration of mental capacity

This section relates to individuals who lack decision making capacity, who have a mental health condition, or who are disabled under the [Equality Act 2010](#) definition by reason of a mental impairment.

This section should be read alongside the [Equality Act 2010](#), the [Mental Capacity Act 2005](#) (for England and Wales), the [Adults with Incapacity \(Scotland\) Act 2000](#) and the [Mental Capacity Act \(Northern Ireland\) 2016](#) alongside the [Mental Capacity Act Code of Practice](#).

## Understanding mental capacity

The Mental Capacity Act 2005 Section 2 (1), (2) states the following:

- (1) For the purposes of this Act, a person lacks capacity in relation to a matter if at the material time he is unable to make a decision for himself in relation to the matter because of an impairment of, or a disturbance in the functioning of, the mind or brain.
- (2) It does not matter whether the impairment or disturbance is permanent or temporary.

The Equality Act 2010 states that a disability is a physical or mental impairment that has a substantial and long-term adverse effect on a person's ability to carry out normal day-to-day activities. This could relate to one or more of the following types of impairment: a learning disability, cognitive disorder, or mental health condition.

The principles of the UK Mental Capacity legislation apply to all persons, including those in the immigration process. These include the principle that individuals should be assumed to possess capacity unless it is established otherwise on the balance of probabilities. Simply because an individual makes a decision (or decisions) that

appear unwise, this does not necessarily mean that they lack the capacity to make that decision.

If someone possesses mental capacity, they can make decisions for themselves. This includes the ability to make a decision that affects daily life as well as significant decisions, including those that may have legal consequences.

Someone who lacks capacity cannot do one or more of the following four things in relation to a decision:

- understand information given to them
- retain that information long enough to be able to make the decision
- weigh up the information available to make the decision and likely consequences of making – or not making – the decision
- communicate their decision

If an individual is unable to do one or more of these things, then their capacity to make a particular decision will be in doubt.

An individual may lack capacity to make a decision for a broad range of reasons. The following are examples of potential causes of mental incapacity:

- a stroke, head or brain injury
- a mental health condition or symptom such as delusional belief
- dementia or other neurological condition
- a learning disability
- confusion, drowsiness or unconsciousness because of an illness or because of treatment for that illness
- substance or alcohol misuse

Evidence of a mental health condition does not necessarily mean that an individual has a mental impairment or lacks decision-making capacity. A lack of capacity is not a medical condition. An individual's mental capacity relates to their ability to make a particular decision or take a particular action at the time at which the decision or action needs to be taken. This means that a person can lack capacity to make a particular decision but retain capacity to make other decisions. Equally a person can lack capacity for a time but subsequently regain capacity.

## Considering mental capacity in renunciation cases

When considering a request from an individual to renounce their protection status, you must take reasonable steps to ensure you are satisfied that the individual holds the mental capacity to make an informed decision to renounce their status. In all cases, you must conduct a detailed check on the Case Information Database (CID), Atlas or other relevant Home Office IT system to identify any concerns which may highlight that the individual lacks mental capacity and check whether any previous safeguarding referrals have been made.

If the individual does not have legal representation, then you must also review any documentary evidence on file to determine whether there is any additional evidence to suggest the claimant may lack mental capacity.

In addition, the reasonable steps which you must take to ensure that any individual who may lack mental capacity understands their decision to renounce their refugee status include:

In cases where the individual has a legal representative or someone legally authorised to act on their behalf, all relevant papers must be copied to these representatives. If in a very rare case, there is evidence the individual has been sectioned under the Mental Health Act then you should ensure you have confirmation from their Responsible Clinician to verify they have the mental capacity to understand the implications of their decision. You can ask whoever is legally authorised (where you have evidence that they have legal authorisation/power of attorney) to act on the individual's behalf to obtain this confirmation from the Responsible Clinician. The renunciation of protection status correspondence includes a declaration for the legal representatives to complete asking them to verify that the individual understands the implications of renouncing their protection status. This must be completed to process the renunciation.

If there is any information, such as a letter from the individual's legal representative or evidence from a medical professional, which indicates that the individual may not have the mental capacity to understand the implications of renouncing their protection status and a legal representative has not completed the form confirming this, you must refer the case to your Senior Caseworker and make a safeguarding referral to the Asylum Safeguarding Hub. A 'Safeguarding Referral Process' Special Conditions flag must be raised on CID or on the person alerts screen on Atlas. You must update any case notes to ensure it is clear that there are concerns with regards to the renunciation of protection status and you must note the actions you have taken.

A safeguarding referral can be made at any point if the information available suggests that this may be appropriate. You do not need to wait for a response from the individual regarding them seeking legal representation in order to make this referral.

You must ensure reasonable adjustments are made to support individuals to enable them to understand, communicate and make their own decisions. This may include paraphrasing, using simple language to explain the documents, options and the consequences of decisions and require using interpretation services if the person is not fluent in English. You must update Home Office records accordingly.

If you decide to proceed with the processing of a renunciation where a mental capacity issue has been identified, this must be agreed by a manager (HEO or above).

## Requiring further information

Generally, you should not serve another renunciation declaration where there is an outstanding safeguarding referral. However, where exceptional circumstances exist, then you can proceed to do so with the agreement of a manager (HEO or above).

Should the individual circumstances not require a safeguarding referral at this point, you must serve the relevant renunciation declaration again and provide an explanation within your covering letter as to why the previous declaration could not be accepted.

Should the subsequent declaration also not represent an unequivocal renunciation of protection status, for example because some sections of the letter have not been completed correctly, you should update CID, Atlas or any other relevant Home Office IT system with case notes to reflect this.

You should also write out to the individual to explain that you cannot accept their renunciation at this point, whilst providing the reasons.

You should not serve more than two renunciation declarations to the same individual in a 12-month period without referring the case to a senior caseworker. Any decision to serve more than two renunciation declarations to the same individual in a 12-month period must be in the most exceptional circumstances and must be approved by a manager (HEO or above).

## Administering a renunciation

If the renunciation declaration has been completed correctly and you have no concerns regarding the individual's capacity to understand the implications of their decision (see [consideration of mental capacity](#)), then you can proceed to process the renunciation of the individual's protection status.

You must do the following:

1. Issue template letter ASL.5053 - 'Notification that protection status has lapsed', which informs the individual that their status has lapsed in the UK and that any extant leave has been curtailed or revoked where applicable.
2. Update CID, Atlas or other relevant Home Office IT systems with the case outcome.
3. Scan the individual's national passport onto Atlas and then return their passport (where applicable) and cancel any other Home Office travel documents.

## Home Office support to an individual who has renounced their protection status

The Home Office may support individuals who have renounced their protection status and who wish to utilise the Voluntary Returns Service even where an Article 2/3 ECHR breach is identified to return home, as long as they meet the eligibility

criteria and are not excluded. This is because it is a voluntary return. However, individuals who are currently imprisoned following a criminal conviction or have been sentenced to 12-months imprisonment in the UK (including suspended and consecutive sentences) are ineligible for this service.

Where an individual, has renounced their protection status, but the Home Office continues to assess that they face an Article 2/3 ECHR breach upon return to their country of origin, they cannot utilise the Facilitated Returns Scheme. This is because although the individual may wish to voluntarily return to their country of origin, the UK cannot forcibly remove an individual where an ECHR breach may occur as would be the case under the Facilitated Returns Scheme.

## Re-acquiring protection status

Where an individual renounces their protection status, but later approaches the Home Office (in the UK) explaining that they require protection again, they must be directed to [claim asylum](#) at the Asylum Intake Unit. The only exception to this would be where there is evidence of an administrative error by the Home Office indicating the individual had not renounced their status.

### Related content

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# Process overview

This section outlines the process to be followed and the paperwork to be issued when considering and implementing decisions to revoke protection status.

## Initial considerations

### Referring cases to Status Review Unit (SRU)

Where an individual is encountered by a non-case working unit (for example, entry clearance officers, immigration officers at port), it is important to remember that the individual continues to have protection status until such time as their protection status is revoked – even if their permission to stay has lapsed. Where there is initial evidence that the grant of protection status should be reviewed, you must:

1. Advise the individual that their status may be subject to review.
2. Impound the Refugee Convention Travel Document (CTD) or other Travel Document.
3. For individuals who are encountered where re-availment (return to the home country or re-acquisition of a national passport) is suspected, retain the national passport.
4. Forward the case to Status Review Unit for their consideration.

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#### **Official – sensitive: start of section**

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The information in this section has been removed as it is restricted for internal Home Office use.

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#### **Official – sensitive: end of section**

### Referring cases to Foreign National Offenders Returns Command (FNORC)

Cases of interest to FNORC are usually recorded as such and should be forwarded to Foreign National Offender Returns Command (Criminal Casework) for their consideration. Any case where there has been a custodial sentence and FNORC has not already started deportation action must be referred to FNORC's workflow team for consideration.

## Re-documentation issues

You must consider as part of the revocation process what is required in respect of travel documentation to remove an individual. However, no approach should be made to the respective embassy to obtain a document until the decision has been made and served and any appeal has been heard. Although re-documentation of an individual can be difficult and protracted, the inability to obtain a travel document should not prevent revocation action where it is otherwise appropriate.

## Informing an individual of potential revocation action

### Where the individual is outside of the UK

[Paragraph 339BC](#) of the Immigration Rules permits the procedure set out in [Paragraph 339BA](#) (requirement to provide the refugee with the opportunity to respond) to be initiated, and completed, while the person is outside the UK. You must continue to follow the procedure set out in accordance with [Paragraph 339BA](#). The same principles apply when considering revocation of humanitarian protection.

You must:

1. Issue template letter ASL.5326: Proposed Revocation of Refugee Status - this informs the individual of the proposed action, the reasons why such action is being considered and invites them to submit representations within a specified number of days in support of their continued refugee status in the UK. Delete interview details unless applicable. When considering revocation of humanitarian protection, you must issue template letter ASL.5328.
2. Where the refugee has legal representation, send a copy of ASL.5326 or ASL.5328 (whichever is applicable) with the ASL.5368 Representatives Covering Letter.
3. Consider any representations see [Considering representations submitted](#).
4. Where no further action is being taken see [Decision not to proceed with revocation](#).
5. Where revocation action is being taken, you must inform United Nations High Commissioner for Refugees (UNHCR). See [Informing UNHCR of the proposal to revoke](#).
6. Where no response is received see [Informing UNHCR of the proposal to revoke](#).

## Informing UNHCR of the proposal to revoke

[Immigration Rule 358C](#) requires the Home Office to provide the UNHCR with the opportunity to present their views where refugee status is being revoked. See section [Comments from UNHCR on proposal to withdraw status](#). You must:

1. Send template ASL.3835 (Revocation Cases: Letter to UNHCR), selecting option informing UNHCR of the intention to revoke the refugee status of the individual concerned and why the individual's response to ASL.5326 (or ASL.5328) has not dissuaded us from taking such action together with the



ASL.5326 (or ASL.5328) and any representations made by the individual and/or their representative.

UNHCR should be invited to submit any comments they may wish to make normally within 10 working days. Correspondence to UNHCR should be sent to: The Representative UNHCR London, 10 Furnival Street, London, EC4A 1AB.

2. Consider any representations from UNHCR as part of the decision. There is no need to draft a formal response to UNHCR addressing the points raised, but UNHCR must be provided with a copy of the final outcome letter.
3. Contact UNHCR to agree any further extensions before proceeding if no response has been provided.

## Decision not to proceed with revocation

Where revocation is not being pursued:

1. Consider whether any changes should be made to the leave the individual has.
2. Send template ASL.3841 informing the individual that no further action is being taken.
3. Send template ASL.3835 (Revocation Cases: Letter to UNHCR) selecting option informing UNHCR of the decision not to proceed with revocation.
4. Update CID notes field that it has been decided not to proceed with revocation action on this occasion and to confirm the individual has been issued with ASL.3841.

For SRU cases, use Outcome 'Refugee Status/HP Retained'.

## Decision to proceed with revocation

You must:

1. Where applicable, complete template ASL.3844 (Authority to Revoke (Grade 7)) and forward to appropriate officer who should respond within 5 working days.
2. Where the individual (and any dependants) has Indefinite Leave to Remain (ILR), revocation should be considered in accordance with the guidance on Revocation of ILR.
3. Send ASL.5330 (Revocation of Refugee Status Letter) setting out the reasons for the decision and informing the individual to return their CTD (if applicable); BRP (or ISD) within 14 days. If proceeding with revocation of humanitarian protection send ASL.5334.
4. Complete ACD.1989 (PF1) appeal pro-forma listing all annexes; date of curtailment of limited leave or revocation of ILR and relevant family details.
5. Complete ICD.5005 IAFT5 IA (in Country) or ICD.5007 IAFT7 IA (out of country).
6. Complete ASL.1006 IA for any dependants.
7. Serve the decision in accordance with the implementing decisions guidance, including where the decision is being served to file.



## Implementing allowed appeals

If the individual is successful at appeal, the Specialist Appeals Team (SAT) and/or casework team will consider whether to challenge that decision. If it is decided not to challenge, the appeal should be implemented as soon as possible.

Where protection status has been revoked but removal cannot proceed, consideration should be given to whether shorter forms of leave are appropriate. See Restricted Leave and Discretionary Leave policy for details. Where the individual and/or dependants are subject to removal action see [preparing the case for removal and enforcement action](#) below.

## Dismissed appeals

Where an individual is Appeal Rights Exhausted (ARE) and they do not have any form of leave, they will be liable for removal. The case should be prepared in accordance with existing practice and forwarded to Immigration Enforcement to proceed with removal action.

## Preparing the case for removal and enforcement action

The following actions will apply where the individual is subject to removal action:

1. Where the individual (and any dependants), has limited leave, this must be revoked or curtailed before any removal action can be undertaken. This should normally be done at the same time as the revocation of protection decision. See Revocation of ILR and Curtailment guidance.
2. Issue IS.96 and set Reporting Conditions.
3. If applicable, impound travel documentation by contacting Travel Documents Section (TDS) and arranging for the CTD to be destroyed.
4. Complete the Harm Matrix in accordance with existing instructions.
5. Obtain travel documentation in accordance with the relevant Removals documentation and guidance.
6. Hand case over to Immigration Enforcement to arrange removal in accordance with existing practice.

### Related content

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# Template letters for revocation of protection status

DocGen reference	Title of letter
ASL.5326	Notice of Intention to Revoke Refugee Status (All grounds)
ASL.5328	Notice of Intention to Revoke Humanitarian Protection
ASL.5053	Notification refugee status lapsed
ASL.5368	Covering Letter to Representative
ASL.3835	Letter to UNHCR (Notice of intent/decision)
ASL.5330	Reasons for Revocation of Refugee Status (All grounds)
ASL.5334	Reasons for Revocation of Humanitarian Protection
ASL.3841	Decision on Intention to Revoke Refugee Status (All grounds)
ASL.3844	Assistant Director Authority Letter
ASL.3846	Intention to Cease Refugee Status under 1C(5) & Art.33(2)
ASL.3848	Referral Proforma
ASL.3849	Warning (Future Conduct) Letter

## Related content

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