



Home Office

# Assessing credibility and refugee status in asylum claims lodged before 28 June 2022

Version 10.0

# Contents

Contents.....	2
About this guidance.....	5
Relevance of the date that the asylum claim was made .....	5
Transitional arrangements.....	5
Contacts .....	6
Publication.....	6
Changes from last version of this guidance .....	6
Introduction.....	7
Post-Nationality and Borders Act 2022 claims.....	8
Background.....	8
Policy intention.....	9
Definitions .....	9
Application in respect of children.....	9
Safeguarding.....	10
Safeguarding children .....	11
Signposting to support services .....	11
Relevant legislation .....	12
The Refugee Convention.....	12
The European Convention on Human Rights (ECHR) .....	12
European legislation .....	12
Nationality and Borders Act 2022.....	13
Immigration Rules.....	13
Other relevant legislation.....	13
Preliminary consideration.....	14
Asylum applications from children and those who made claims whilst they were children.....	14
Safe third country cases.....	14
European nationals.....	14
Multiple applications .....	14
Criminal charges, convictions and or deportation orders .....	15
Potential victims of modern slavery.....	15
Obtaining evidence.....	18
The burden of proof .....	18
Evidence to be considered .....	18

Taking evidence at interview .....	19
Documentary evidence .....	19
Overseas documents .....	21
UK documents .....	22
Medical evidence .....	22
Other expert evidence .....	23
Country of origin (COI) information .....	24
Assessing whether an individual has a well-founded fear of persecution .....	25
Assessing Convention reasons .....	25
Imputed Convention grounds .....	26
Race .....	26
Religion .....	27
Religious conversion and apostasy .....	28
Christian converts .....	29
Nationality .....	30
Membership of a particular social group .....	31
The link between membership of a PSG and other Convention grounds .....	31
Definition of a PSG .....	31
Characteristics that cannot be changed .....	32
Societal recognition .....	33
The link between the fact of persecution and the existence of the group .....	34
Persecution ‘for reasons of’ membership of a PSG .....	34
Political opinion .....	35
Imputed political opinion .....	35
Actions which imply a political opinion .....	36
Expression of political opinion in the UK .....	36
Future expression of political opinion .....	37
Gender issues in the asylum claim .....	37
Refugees ‘sur place’ and activities in the UK .....	38
The meaning of persecution .....	39
Who can be an ‘actor of persecution’? .....	40
Prosecution .....	41
How to identify the material facts of a claim .....	42
Standard of proof .....	42
Structured approach to credibility assessment .....	44
Underlying factors .....	45
The effect of trauma on memory and disclosure .....	46

The impact of lies on credibility .....	46
Credibility indicators.....	48
Sufficiency of detail and specificity .....	48
Internal consistency .....	48
Modern slavery factors .....	49
External consistency .....	49
Country information .....	50
Considering medical evidence .....	51
Plausibility.....	51
Benefit of the doubt.....	52
Behaviour that is damaging to credibility.....	53
Specified types of behaviour.....	54
What is a reasonable explanation?.....	54
Failure to claim asylum in a safe third country .....	55
Claims triggered by immigration decisions .....	56
Notification .....	57
Claims prompted by the claimant's arrest .....	57
Well-founded and future fear.....	57
Sufficiency of protection .....	58
Internal relocation .....	59
General requirements.....	61
Requirement to be present in the UK.....	61
Exclusion from the Refugee Convention.....	61
Danger to the security and community of the UK .....	62
Dual nationality .....	62
Stateless persons .....	62
Certification.....	64
Certification under Section 94 of the Nationality, Immigration and Asylum Act (NIA) Act 2002 .....	64
Certification under Section 96 of the Nationality, Immigration and Asylum Act (NIA) Act 2002 .....	64
Asylum decision outcomes.....	66

# About this guidance

## Relevance of the date that the asylum claim was made

This guidance is version 10.0 and it explains how to consider asylum claims that were made before the [Nationality and Borders Act 2022](#) came into force on 28 June 2022 (and claims where [transitional arrangements](#) apply) in accordance with the UK's obligations under the 1951 United Nations Convention relating to the Status of Refugees and the 1967 Protocol (the Refugee Convention), and, in particular, how to assess the credibility of the claim.

There is separate assessing credibility and refugee status guidance for asylum claims made on or after 28 June 2022 where [transitional arrangements](#) do not apply. Please see version 11.0 for those claims.

There is also separate guidance on eligibility for Humanitarian Protection. If the claimant does not need protection you must consider any human rights issues or exceptional circumstances by referring to guidance on Family Leave and Discretionary Leave.

## Transitional arrangements

For the purposes of the transitional arrangements only, individuals who sought to register an asylum claim before the commencement date of 28 June 2022 but were provided with an appointment to attend a designated place to register their asylum application on or after 28 June will be considered to have 'made an asylum claim' before the commencement date but only if they attend their scheduled appointment (or, in the event that it is cancelled or rescheduled by the Home Office, the rescheduled appointment). Therefore, for this cohort, the policy still applies and version 10.0 of the assessing credibility and refugee status guidance is the relevant guidance to use.

However, if the individual does not attend their appointment, but later wishes to register a claim for asylum on or after commencement, they will not be considered to have 'made an asylum claim' before the commencement date unless (a) there were circumstances beyond their control that made it impossible for them to attend the appointment scheduled for them, (b) they contacted the Home Office as soon as reasonably practicable to warn/explain of the said circumstances and apply for a new appointment and (c) they provided the Home Office, as soon as reasonably practicable, with evidence to demonstrate their inability to attend the scheduled appointment which they say they were unable to attend. In such cases, version 11.0 of the assessing credibility and refugee status guidance will apply to their claim.

## 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 please 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 please email the Guidance Rules and Forms team.

## Publication

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

- version **10.0**
- published for Home Office staff on **28 June 2022**

## Changes from last version of this guidance

- updated in line with current drafting requirements
- guidance separated into 2 versions (v10 and v11) depending on whether the asylum claim was made before or after 28 June 2022 when the asylum related provisions of the [2022 act](#) came into force
- Section 8 of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 incorporated into the main body of guidance and annex removed
- terminology updated where appropriate, for example to reflect this guidance applies to religious and non-religious beliefs
- links and references to legislation, guidance, and caselaw updated

### Related content

[Contents](#)

# Introduction

This guidance is a core asylum policy product which, as a decision-maker, you must always adhere to when assessing a claimant's credibility. Each case must always be considered on its own merits. This guidance applies to claims made on or before 27 June 2022 and a limited number of claims made after that date where [transitional arrangements](#) apply. The guidance explains:

- Refugee Convention grounds
- the meaning of persecution
- obtaining and considering documentary evidence, including overseas documents, country of origin information and medical evidence
- how you must adopt a structured approach to assessing a claimant's credibility following an investigation of their personal circumstances and reasons for their asylum claim
- how you must assess whether the claimant has a well-founded fear of persecution and qualifies for recognition as a refugee under the Refugee Convention

The guidance must be read in conjunction with the main asylum policy instructions on considering protection needs in asylum claims. In particular:

- Asylum interviews
- Dependants and family members
- Discretionary leave
- Family asylum claims
- Family life (as a partner or parent), private life and exceptional circumstances
- Further submissions
- Humanitarian protection
- Processing children's asylum claims
- Refugee leave
- Withdrawing asylum claims

and where relevant:

- Certification under section 94 and 96
- Disclosure and confidentiality of information in asylum claims
- Exclusion (Article 1F) and Article 33(2) of the Refugee Convention
- Gender identity issues in the asylum claim
- Gender issues in the asylum claim
- Medical evidence in asylum claims
- Pending prosecutions in asylum claims
- Restricted leave
- Revocation of refugee status
- Sexual orientation in the asylum claim

You must also refer to the relevant [country policy and information notes](#) which include guidance on individual countries of origin. You may also wish to refer to the [UNHCR's Protection Handbook](#), which includes the Guidelines on International Protection.

## Post-Nationality and Borders Act 2022 claims

The [Nationality and Borders Act 2022](#) came into force on 28 June 2022. All asylum claims which were lodged before this date, and those where [transitional arrangements](#) apply, must be considered under the [Immigration Rules](#) which were in-place on the day of claim. Please refer to assessing credibility guidance V11.0 for considering claims made on or after 28 June 2022 as V10.0 does not apply to those claims.

For more information regarding when and where an asylum claim must be lodged, please refer to the guidance on screening and routing.

## Background

Every asylum decision-maker is part of the UK's proud tradition of providing protection to those who face persecution in their country of nationality (or former habitual residence), in accordance with our international obligations under the Refugee Convention. Carefully considering asylum claims and making well-reasoned decisions is one of our fundamental responsibilities.

Article 1A(2) of the Refugee Convention provides that a person will be a refugee if:

“... owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is out-side the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.”

The principal obligation of states who are signatories to the Convention is not to return (or 'refoule') refugees to a territory where they may be at risk of persecution.

Given the potential risks a claimant may face if they are returned to their country of nationality (or former habitual residence), the consideration of their asylum claim deserves the greatest care, or as described by the UK Courts, 'anxious scrutiny', so that just and fair decisions are made and protection is granted to those who need it.

That is why every asylum claim must be carefully considered on its individual merits, by assessing all the evidence provided by the claimant against a background of available country of origin information. Claimants are expected to co-operate with the process and disclose all relevant information to support their claim, but you must provide a safe and open environment to facilitate disclosure.



The burden of substantiating a claim to the required standard of proof lies with the claimant. Decision-makers must work with claimants in practice to ascertain and evaluate evidence. Claimants may not know what information is necessarily relevant to their claim and some aspects may be very difficult for them to disclose. You must properly and thoroughly investigate key issues and ask relevant questions to help ascertain the material facts and credibility of the claim, through a sensitive, focused, and professional approach to the claimant's oral testimony and any evidence taking into account relevant country of origin information. Please see [the burden of proof](#) section for more information.

## Policy intention

The policy objectives which inform our approach to considering asylum claims and assessing credibility are to ensure that:

- asylum claims are correctly decided, in accordance with our obligations under the Refugee Convention and the European Convention on Human Rights (ECHR), in a timely and sensitive way and on an individual, objective and impartial basis
- all claimants are treated with respect, dignity and fairness regardless of age, disability, ethnicity, nationality, race, gender, gender identity, sexual orientation, relationship or family status, religion, belief or lack of belief
- credibility is tested in an appropriate and sensitive way to ensure we grant protection to those who need it and provide well-reasoned refusal decisions for those who do not need protection
- while recognising that all asylum seekers are potentially vulnerable, ensuring that particularly vulnerable claimants are identified, the particular difficulties they may face in disclosing their experiences are given due consideration when assessing their credibility, and that they are given help in accessing appropriate services - for example, where there are concerns about physical and mental health, experience of torture, trafficking, sexual or domestic violence or child protection concerns.

## Definitions

The terms 'asylum application' and 'asylum applicant' are interchangeable with 'asylum claim' and 'asylum claimant'. The Immigration Rules refer to asylum applicants, so the same term has been used when referring to the Immigration Rules, otherwise claimant is used.

## Application in respect of children

[Section 55 of the Borders, Citizenship and Immigration Act 2009](#) requires the Home Office to carry out its functions in a way that takes into account the need to safeguard and promote the welfare of children in the UK. In dealing with parents and children, you must see the family both as a unit and as individuals. Although a child's best interests are not a factor in assessing whether a fear of persecution is well-founded, the way you interact with children throughout the decision-making

process and any decisions following the determination of refugee status must take account of the section 55 duty.

You must comply with this duty when carrying out actions set out in this instruction in respect of children and those with children. You must follow the principles set out in the statutory guidance [Every Child Matters - Change for Children](#).

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 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

Considering claims from those who are under eighteen must be conducted by decision-makers who have completed the requisite training and are qualified to interview and decide them. See Children's asylum claims guidance. Even if a separate claim is not being made, it is important not to lose sight of the child as an individual, as well as part of a family, to be vigilant and responsive to their protection and welfare needs and to consider how this could impact on the needs of the family as a whole.

When a child does not qualify for refugee status, you must next consider whether they qualify for a grant of humanitarian protection (HP). As with a grant of asylum, a decision to grant HP will normally be in keeping with a duty to take account of the need to safeguard and promote the welfare of the child.

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

## Safeguarding

Protecting vulnerable adults and children is a key cross-cutting departmental priority and safeguarding is everyone's responsibility. If you believe that anyone may be in danger at any stage of the asylum process, you need to take immediate action to ensure their safety. In all circumstances a referral should be made to the Safeguarding Hub and advice sought on case progression.

In an emergency, the case must be referred to emergency services without delay. The first person to become aware of an emergency must contact 999 and request the appropriate emergency service. Afterwards, you must then make a referral to the Safeguarding Hub for actions to be progressed.

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 SCW to check whether service of the asylum decision is appropriate, or if the safeguarding issue needs to be considered together with the asylum claim.

## Safeguarding children

You must be vigilant that a child may be at risk of harm and where you are concerned about their welfare or protection issues be prepared to refer cases immediately (whether that child is a dependant of the asylum claim or not). In such circumstances you must immediately contact the Safeguarding Hub, who will refer the case to the relevant local authority in accordance with the guidance in local authority child referrals. In an emergency, you must refer the case to emergency services immediately.

When referring cases involving children, there is no requirement to obtain the consent of any adults involved as the safeguarding of children is our primary responsibility as detailed in Section 55 of the Borders, Citizenship and Immigration Act 2009.

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.

## Signposting to support services

Asylum claimants receive the [information booklet for asylum applications](#) which includes information on support services and you can refer them to the contacts for appropriate support which are detailed in this leaflet.

### Related content

[Contents](#)

# Relevant legislation

Current UK asylum law is derived from a range of sources; international and European Law, primary and secondary legislation, the Immigration Rules (which are in turn supported by policy and guidance), and a substantial body of caselaw.

## The Refugee Convention

The [Refugee Convention](#) is the primary source of the framework of international refugee protection. As a post-Second World War instrument, it was originally limited in scope to those fleeing events occurring before 1 January 1951 and within Europe. The 1967 Protocol removed these limitations to give the Refugee Convention universal coverage. It has since been supplemented in the European Union and other regions by a subsidiary protection regime, as well as through the progressive development of international refugee and human rights law.

Under [Paragraph 328](#) of the Immigration Rules, all asylum applications have to be decided in accordance with the Refugee Convention. Many of the principles set out in the Refugee Convention have been applied and interpreted by UK law, through statute, caselaw, and policies.

## The European Convention on Human Rights (ECHR)

The [ECHR](#) (formally the Convention for the Protection of Human Rights and Fundamental Freedoms) is an international convention to protect human rights and political freedoms in Europe. Drafted in 1950 by the [Council of Europe](#), the Convention entered into force on 3 September 1953. The Convention established the [European Court of Human Rights](#) (ECtHR). Any person who feels his or her rights have been violated under the Convention by a state party can take a case to the Court.

The ECHR has been given effect to in UK law through the Human Rights Act 1998. This makes it unlawful for a public authority to act in breach of the UK's obligations under the ECHR. Decision-makers are in some cases required to assess whether an individual has protection needs related to their rights under the ECHR and this is dealt with through separate guidance on claims for Humanitarian Protection and Family Life.

## European legislation

The EU set up the Common European Asylum System (CEAS), consisting of a series of legislative measures at an EU level, which introduced minimum and then common standards in the field of asylum. When a member of the EU, the UK opted into a number of the Directives within the CEAS with the obligations of those Directives being incorporated in UK legislation. The EU Directives themselves are no longer binding; however, any requirements that have been incorporated into UK legislation must continue to be complied with unless changed.

## Nationality and Borders Act 2022

The [Nationality and Borders Act 2022 \(the '2022 Act'\)](#) made changes to the way in which asylum claims made after the 2022 Act came into force on 28 June 2022 are determined. Therefore, unless the case falls under transitional arrangements, you must follow V11.0 of the Asylum Instruction for assessing credibility for asylum claims made on or after 28 June 2022, and you must continue to use V10.0 for asylum claims made before this date.

## Immigration Rules

[Part 11 of the Immigration Rules](#) sets out the provisions for the consideration of asylum claims and reflects our obligations under the Refugee Convention

## Other relevant legislation

Section 2 of the [Asylum and Immigration Appeals Act 1993](#) sets out that nothing in the Immigration Rules shall lay down any practice which would be contrary to the Refugee Convention.

Section 8 of the [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004](#) requires you to take into account the claimant's conduct when applying the benefit of the doubt to unsubstantiated aspects of an asylum claim. It is essential to provide the claimant with an opportunity to explain the reasons for such behaviour. See [credibility indicators](#).

### Related content

[Contents](#)

# Preliminary consideration

Before considering an asylum claim, you must check Home Office records to identify whether any of the following issues apply and if so, you must refer to the relevant asylum instruction before any decision is made.

## Asylum applications from children and those who made claims whilst they were children

If an asylum seeker makes a claim as a child, but their 18th birthday passes before their claim has been decided, they are legally an adult. An asylum seeker who has recently turned 18 is a young adult and as their asylum claim relates to circumstances experienced as a child, you must take into account their age, level of maturity and experiences when interviewing and deciding the claim. For further details about how to handle these cases, please refer to the guidance on processing children's asylum claims. See processing children's asylum claims for specific guidance on cases involving children.

## Safe third country cases

You must consider whether the claim should be referred for third country inadmissibility action if it appears that the Third Country Unit (TCU) has not already considered such a course, or if significant new information relevant to inadmissibility has emerged since such consideration (for instance, disclosures during the asylum interview, in the preliminary information questionnaire (PIQ) or in other statements). Cases may be suitable for inadmissibility action if the claimant was previously present in or has a connection to a safe third country. See inadmissibility asylum instruction for further information.

## European nationals

For guidance on claims from European Union (EU) or European Economic Area (EEA) nationals you must refer to the instruction on claims from EEA/EU nationals. EU countries are presumed to be safe countries of origin and, where appropriate, claims from EU nationals must be treated as inadmissible.

## Multiple applications

You must not make an asylum decision unless the claimant has been fingerprinted to the requisite standard for the Immigration asylum biometrics system (IABS) and other biometric matches/evidence. Where there is evidence that the claimant has previously claimed asylum in another identity, you must refer to guidance on multiple applications. Those who lodge fraudulent claims are liable to prosecution under Section 24A of the [Immigration Act 1971](#).

If there are gender identity issues in the asylum claim, even if that is not the basis of the claim, there may be IABS matches, Visa matches other biometric matches or

evidence under a different identity, and you should seek advice from Asylum Register Policy.

## **Criminal charges, convictions and or deportation orders**

Cases where criminal charges are being brought against the claimant should initially be referred to a SCW. Where the claimant has a pending criminal prosecution, please refer to the pending prosecutions in asylum claims guidance. Most will normally be interviewed and processed in the usual way but cases where serious crimes of violence are involved should be immediately brought to the attention of senior management. Any case where there has been a custodial sentence and Foreign National Offenders Returns Command (FNORC) has not already started deportation action must be referred to their workflow team for consideration.

## **Potential victims of modern slavery**

If at any stage of the process there are indicators to suggest an adult could be a potential victim of modern slavery, you must consider making a referral into the National Referral Mechanism (NRM) in accordance with the UK's obligations under the Council of Europe Convention on Action against trafficking in Human Beings. Modern slavery includes human trafficking and slavery, servitude and forced or compulsory labour. The decision as to whether to refer a potential victim into the NRM is one of professional judgment based on the evidence available to you. If you are unsure whether indicators are present and a referral into the NRM is needed, you must refer to a SCW or technical specialist.

Where indicators are present, and the adult individual has given their informed consent, you must discharge the [Duty to Notify](#) by making a referral to the NRM via the [Modern Slavery Portal](#). Where informed consent has not been given, the 'Duty to Notify' is discharged by sending notification through the same Portal.

All potential child victims of modern slavery must be referred into the NRM. Their consent is not required, although every effort should be made to ensure the child understands what is happening. A referral must be made using the Modern Slavery Portal, and as the first responder, you must ensure the Local Authority children's services are contacted immediately.

You must be vigilant and aware that indicators can present themselves at any stage of the process: pre asylum interview, during the interview or post interview. For more information see Modern Slavery Guidance.

---

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

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

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

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

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

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

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

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

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

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

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

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



**Official – sensitive: end of section**

---

**Related content**

[Contents](#)

# Obtaining evidence

## The burden of proof

The burden of substantiating an asylum claim lies with the claimant, who must establish to the required [standard of proof](#) (a reasonable degree of likelihood) that they qualify for refugee status.

[Paragraph 339I](#) of the Immigration Rules requires the claimant to submit all material factors required to substantiate their claim as soon as possible. It emphasises that the burden is on the claimant to provide evidence, but also makes clear that you have a duty to assess information put forward in co-operation with the claimant. You must examine, investigate and research the available evidence and, if appropriate, invite further evidence to be provided, although you may well be in a better position than the claimant to help substantiate certain aspects of their account. As part of this, you must refer to relevant country information.

The effect on credibility of the failure or inability to provide evidence will depend on all the circumstances, including on the nature of the evidence requested and whether it is reasonable to expect the claimant to be able to disclose or obtain it.

It must be noted that claimants may have difficulty in providing documents to support their claim for many reasons, including: they had to flee without time to gather the evidence, they cannot safely contact family or friends in their home country to request documents be obtained and sent, or the fact that threats of persecution are not recorded in document form.

## Evidence to be considered

The evidence which a claimant presents, or which is otherwise available, will differ in each individual case, but you must carefully consider all relevant available evidence to reach an informed decision. This may include, but is not limited to:

- screening interview record
- statements made to an Immigration Officer before the claim is lodged
- information supplied when the person applied for a visa. See the visa matches instruction for more information
- preliminary information questionnaire (PIQ)
- statement of evidence form (SEF)
- asylum interview record
- any other evidence provided by the claimant, for example, written statements, newspaper or internet articles, statements from family members or associates, police reports, political party membership cards
- relevant country of origin information (COI)
- Home Office files relating to previous or current immigration applications by the claimant or any family members where appropriate (please refer to the disclosure guidance for information on transfer of information between cases)

- passports, which must be checked for entry or exit stamps and visas, to confirm the claimant's immigration status and history
- section 8 related conduct before the asylum claim was lodged (see [credibility indicators](#))
- any medical records and reports, including Rule 35 reports completed by detention centre doctors - see medical evidence in asylum claims for more information
- any other expert evidence relevant to the claim
- any language analysis report
- UKVI's biometric data-sharing process

## Taking evidence at interview

A pre-interview examination of the claim, which will include the claimant's statements, any other evidence submitted, and reference to the relevant country information, may lead to a view that the claim is likely to merit a grant of asylum. Claimants will normally be expected to attend a substantive interview, except where an interview may be omitted in accordance with [paragraph 339NA](#) of the Immigration Rules.

The asylum interview guidance provides advice on carrying out effective interviews to obtain relevant information to establish, as far as possible, whether the claimant meets the requirements for an asylum claim to succeed. The claimant's oral testimony is usually the most important evidence, and often the only substantive evidence that relates specifically to their individual protection needs. It is also important to remember that, in some circumstances and particularly in relation to highly sensitive information, disclosure may not happen during the interview, despite the interviewer's best efforts. Before conducting any asylum interviews, you must be fully trained and familiar with guidance on Asylum Interviews.

Although the interview is the primary opportunity to clarify unclear statements or inconsistencies within statements or other evidence or with country information material to the claim, you have the discretion to seek explanations in writing or by telephone after the interview where it would make a difference to the outcome of the case or the quality of the decision. For example, where new evidence is identified post-interview and the claimant needs to be given an opportunity to address any concerns, or where points have not been covered in enough detail on which to make a decision, or where country information research finds information which directly contradicts the claimant's statements or appears to do so and you do not feel it is appropriate to refuse the claim without asking for further information. In these scenarios, it is good practice for both the claimant and the Home Office to clarify the matter in further correspondence, rather than defer the issue to the appeal stage. Where the claimant is represented, all contact must normally be made through their nominated legal representative, except where there are [safeguarding](#) concerns.

## Documentary evidence

Documentary evidence may be submitted at various points during an asylum claim, including at screening, together with a Preliminary Information Questionnaire (PIQ),

at the substantive interview, or after the interview. For advice on retaining documents, please see the guidance on [drafting, implementing and serving asylum decisions](#).

Documents submitted during the asylum interview must be listed on the interview record along with the claimant's responses to questions about content, relevance to the claim, and how and when the documentation was obtained. This information will help establish reliability during the asylum decision-making process.

There should also be a note of any original documents retained during the interview, as well as any other actions that were taken with regards to the documents. The section below details the different approaches that you must take depending on whether the documents are produced in the UK or overseas.

In making decisions about the material facts of an asylum claim, you must take all of the evidence into account in a holistic assessment. This means that you cannot simply rely on doubts as to the veracity of the account given by the claimant as a reason for rejecting other evidence that may support the asylum claim. Equally, if a document does turn out to be unreliable, this isn't a reason to automatically reject the other evidence submitted. The overall assessment can only be made after all of the evidence has been considered and assessed.

There are also specific principles, addressed in more detail below, that will help you assess particular types of external evidence, including:

- foreign documents
- documents that originate from within the UK
- medical reports
- expert reports
- witness statements

You should be aware of [QC \(verification of documents: Mibanga duty\) \[2021\] UKUT 33 \(IAC\)](#), which advises there are certain limited circumstances where you are required to make enquiries to verify the authenticity of a document. However, this requirement will only arise in exceptional circumstances where all of the following apply:

- the document forms a central part of the claim
- the document can be easily authenticated (taking into consideration issues such as costs and technical and logistical concerns)
- the authentication is unlikely to leave any "live" issue as to the reliability of its contents

This duty to authenticate a document will therefore arise rarely and if you need further advice on whether to consider making further enquiries you should consult a SCW for advice.

## Overseas documents

Overseas documents should be considered under the [Tanveer Ahmed \[2002\] UKIAT 000439](#) principles, as set out by the, then, Immigration Appeal Tribunal.

If the claimant submitted a document in a foreign language before or during their asylum interview, the interview notes should contain their explanation of what it is and what relevance it has, and any translation required must have been submitted within an agreed period.

The first principle of Tanveer Ahmed is that ‘...it is for an individual claimant to show that a document on which he seeks to rely can be relied on’. If a claimant has produced an original overseas document (for example an arrest warrant), you should consider the content, relevance to the claim and how and when it was obtained. This will go towards establishing reliability, but the second principle (outlined below) should also be applied before making any finding.

The second principle is that ‘[t]he decision-maker should consider whether a document is one on which reliance should properly be placed after looking at all the evidence in the round.’ This means that a decision on the reliability of the overseas document should not be made on the basis of the document alone. Consideration should be given to all available evidence that relates to the [material fact](#). Considering all the evidence together will allow you to establish how much weight can be placed on the document submitted. It is not appropriate to attach little or no weight to a document without giving reasons based on the available evidence regarding its reliability.

The third principle in Tanveer Ahmed relates to asserting that a document is forged. The Immigration Appeal Tribunal stated: ‘Only very rarely will there be the need to make an allegation of forgery, or evidence strong enough to support it. The allegation should not be made without such evidence. Failure to establish the allegation on the balance of probabilities to the higher civil standard does not show that a document is reliable. The decision-maker still needs to apply principles 1 and 2.’

Asserting that a document is a forgery shifts the burden of proof to the decision-maker. The fact that official documents in the country of nationality (or former habitual residence) are generally unreliable is not enough to establish that it is forged. If authenticity is crucial to the case, you must seek guidance from National Document Fraud Unit (NDFU), Country Policy and Information Team (CPIT), or an officer who has received specialist training.

Any document verification must not breach our obligations under [Immigration Rule 339IA](#) or risk disclosure of confidential or personal information without informed consent. You must follow the disclosure and confidentiality of information in asylum claims guidance when considering document verification.

Any passports or other form of other identification such as birth certificates or identity cards submitted by the claimant or any dependants, should be retained as they may

be required for documentation purposes at a later stage. For more information see the guidance on safeguarding valuable documents.

## UK documents

The principles outlined in the Tanveer Ahmed case apply to overseas documents and should not be cited in reference to UK documents. However, decision-makers should not necessarily accept UK documents uncritically.

Documents from the UK which may be submitted by claimants include for example, expert reports, leaflets or photographs from UK-held demonstrations, or membership cards for UK based wings of overseas political organisations. Consideration must still be given to content and relevance of the evidence to the claim.

Medical reports are explained in detail in the medical evidence in asylum claims guidance and are dealt with under separate principles.

When considering expert reports, decision-makers should consider issues such as the author's impartiality, qualifications or experience when assessing the evidence presented to them.

---

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

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

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

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

---

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

## Medical evidence

There is no specific requirement for claimants to provide medical evidence in support of an asylum claim and it is likely to be available in only a minority of cases. If it is provided, however, it should provide information about matters relating to the individual that are relevant to the claim. Medical evidence may help with:

- recognising potential reasons for difficulties in recalling or recounting past events
- assessing whether the harm they fear would rise to the level of persecution in their particular circumstances

- assessing their ability to seek protection or to relocate within their own country

Medical evidence may also include important information regarding indicators of vulnerability and underlying factors that may be relevant to understanding the past or present behaviour of the claimant, and not just the basis of the claim.

Medical evidence may include forensic documentation of torture – a medico legal report – which can potentially corroborate an account of torture and contextualise behaviour otherwise considered damaging to credibility. Medical evidence can also include a medical letter, copy of GP records, prescription or appointment card, which is evidence the person has a medical condition requiring treatment, which has been assessed independently of their asylum issues. This can be helpful if the claimant has stated in their interview that they have sleep problems, memory difficulty or depression. Basic medical evidence corroborating this can be taken into account when considering inconsistencies in their account.

Victims of torture or other forms of violence may have difficulties in recounting specific details because of the sensitive nature of those experiences or the effect of traumatic events on their memory. The asylum interview guidance contains advice on interviewing claimants who claim to have been tortured or subjected to serious harm and makes it clear that evidence at interview may be sufficient to accept a claim to have been tortured without the need for specific medical evidence.

Any medical evidence provided by the claimant should be accorded the appropriate weight in the assessment of credibility and consideration of the asylum claim. You must follow the Medical evidence in asylum claims guidance which includes advice on dealing with requests to submit medical evidence, considering and assessing medical evidence, giving evidence appropriate weight and a section on clinical judgements.

For further information on documentation considerations in respect of transgender or intersex claimants, please refer to Gender identity issues in the asylum claim guidance.

## Other expert evidence

Claimants may also submit other expert evidence. This may include, for example, evidence from:

- experts on the country of nationality (or former habitual residence)
- language analysts
- health professionals with country or thematic expertise

Such evidence should provide independent, unbiased opinions relevant to the material facts of an individual case and set out the writer's qualifications or experience.

## Country of origin (COI) information

Decisions must take reliable, relevant and up-to-date country of origin information (COI) into account.

COI is relevant at various stages of the decision-making process. The structure of the assessment of whether a claimant has a well-founded fear of persecution is set out in more detail below, but COI will assist you in:

- understanding the claimant's account
- preparing appropriate questions for the interview
- determining how credible certain statements made by the claimant are
- assessing credibility and risk on return

The Country Policy and Information Team (CPIT) undertakes COI research and publishes Country Policy and Information Notes (CPINs) and other COI documents for the use of officials handling asylum and human rights cases.

During the decision-making process, you must be familiar with the Country Policy and Information documents, including the relevant [CPIN](#). In addition to the CPINs, other COI products, such as COI responses, may also be available for some countries which are relevant to the case and help you with the decision-making process.

While CPINs provide COI specific to claim-types in a particular country, you must still consider each case on its individual facts against the available relevant background COI.

Where there is no relevant or up-to-date country information in an existing CPIN or other COI product, you should ask CPIT to undertake research on the particular country and/or issue using their online information request service. Before doing so, you must decide whether the information you are seeking is likely to be crucial in order for you to make a decision on the claim. You must discuss and seek agreement with a SCW or technical specialist before submitting any requests to CPIT.

COI not available in CPIT's published products may become available during the application and consideration process. For example, the claimant may sometimes submit COI in support of their application, including reports written by country experts, or decision-makers may sometimes undertake their own country research to supplement CPIT's existing material in preparing for an interview. If the country information submitted or obtained by research is likely to be relevant to other cases, generally reliable and not included in existing COI products, you should send electronic copies of the documents and/or weblinks to the sources to CPIT where possible.

### Related content

[Contents](#)



# Assessing whether an individual has a well-founded fear of persecution

[Article 1\(A\)\(2\)](#) of the Refugee Convention states a person is a refugee if, amongst other things, they have a well-founded fear of persecution.

Only those with a well-founded fear of persecution on account of one or more Convention reasons (i.e. race, religion, nationality, and membership of a particular social group or political opinion) should be recognised as refugees. It affords protection in well-defined circumstances where a person faces a real risk of serious ill treatment on a discriminatory basis. These circumstances often overlap.

When considering asylum claims made before the 2022 Act came into force on 28 June 2022, you must undertake a holistic assessment of all relevant factors to reach a decision. This will include taking into account statements made by the claimant together with information about the situation in the country to which the claimant may be removed if the claim fails. This must be assessed to a low standard of proof; reasonable likelihood.

When considering a claim, you must:

- identify the material facts of the claimant's claim
- assess the credibility and reliability of evidence provided by the claimant
- decide what material facts are accepted and which are rejected
- decide where the claimant has not submitted documentary evidence to support their statements, whether the conditions under paragraph [339L of the Immigration Rules](#) are met
- decide whether the harm the claimant fears amounts to persecution
- decide whether the harm the claimant fears is for a Convention reason
- decide whether the claimant in fact fears persecution
- determine whether the claimant is at risk of persecution
- determine whether the claimant would be protected from persecution by the State, or organisation controlling the state in the country of persecution
- determine whether the claimant can internally relocate

## Assessing Convention reasons

The 1951 Refugee Convention is a core legal document which outlines the rights of refugees and the legal obligations of its signatories to protect them. Under the Immigration Rules, all asylum decisions must be made in accordance with the [Refugee Convention](#).

Where protection needs have been established, you must be wary of rejecting claims as non-Convention based, without carefully considering whether there is in fact a connection to a Convention ground and thus a valid claim to refugee status.

If a claimant is not a refugee and does not qualify for asylum, but there is a well-founded fear of persecution (or real risk of serious harm) for a non-Convention reason, decision-makers must consider granting Humanitarian Protection. For guidance, see Humanitarian Protection.

## Imputed Convention grounds

An individual may face persecution because of a Convention ground which is imputed to them by actors of persecution. Regulation 6(2) of the Qualification Regulations states:

“When assessing if a claimant has a well-founded fear of being persecuted it is immaterial whether he actually possesses the racial, religious, national, social or political characteristic which attracts the persecution, provided that such a characteristic is attributed to the claimant by the actor of persecution.”

In [RT Zimbabwe](#) the Supreme Court held that the Convention affords no less protection to the right to express, or not to express, political opinion openly than it does to the right to live openly as a homosexual (for example). The Convention reasons reflect characteristics or statuses which either the individual cannot change or cannot be expected to change because they are so closely linked to his identity or are an expression of fundamental rights, including the right to hold an opinion or not to do so. The Court’s findings potentially affect every Convention ‘ground’.

## Race

The term ‘race’ in its broadest sense includes all kinds of ethnic groups that are referred to as ‘races’. Regulation 6(1)(a) of the 2006 Regulations states that “The concept of race shall include, for example, considerations of colour, descent or membership of a particular ethnic group”.

Discrimination on racial grounds will amount to persecution if a person’s human dignity is affected to such an extent as to be incompatible with the most elementary and inalienable human rights. The fact of belonging to a racial group will normally not be enough to substantiate a claim for protection, but there may be situations where membership will in itself be a sufficient ground to fear persecution.

In some cases, the potential harm may clearly be severe enough to constitute persecution, such as where there is a risk of genocide or “ethnic cleansing”, where the sanctions for transgressing racial barriers include serious physical assault or lynching, or where a person’s race gives rise to a real risk of unjust prosecution and imprisonment or disproportionate punishment for criminal offending. In other cases, it will be necessary to consider whether a number of less serious acts of harm or discrimination on racial grounds may rise to the level persecution because of their cumulative effect, as discussed below in the section “[The meaning of persecution](#)”. It is also important to consider whether a risk of persecution may arise out of the intersection of race or ethnicity with another personal characteristic, such as gender, religion, or age, or whether a religious belief or political opinion may be attributed to a person by reason of their race or ethnicity.

## Religion

Regulation 6(1)(b) states that ‘The concept of ‘religion’ shall include, for example, the holding of theistic, non-theistic and atheistic beliefs, the participation in, or abstention from, formal worship in public or private, either alone or in community with others, other religious acts or expressions of view, or forms of personal or communal conduct based on or mandated by any religious belief’.

In many societies, religion is understood to be at least in part a reflection of identity, ethnicity, family background, or place of residence, rather than a matter of personal conviction. In such cases, it may be irrelevant to the risk of persecution whether an individual has received a religious education, participates in religious rituals, or even has any personal faith at all. They may still consider themselves, and be considered by others, to be “Jewish” or “Muslim” or “Shia Muslim” based on their parentage or last name, for example, even if they have adopted another faith or are agnostic or atheist in their personal beliefs. A claimant may also face persecution simply for being or being perceived to be a member of a faith community.

A claimant may also face restrictions on their freedom of religion in their country of origin. These may include, for example, prohibition of membership of a religious community, prohibition of worship in private or public, prohibition of religious instruction, or prohibition on intermarriage. They may also take the form of requirements to demonstrate adherence to a particular religion through professions of faith, participation in acts of worship or compliance with religious codes or dress or behaviour. Persecution for actual or perceived religious belief or membership of a religious community may include acts of serious assault or unlawful killing. They may also include acts of discrimination, such as restrictions on the right to access education or health services, or on the right to earn a living. Some acts of discrimination may be individually less serious but may rise to the level of persecution because of their cumulative effects.

However, simply claiming to hold a set of beliefs which result in persecution in the country of nationality (or former habitual residence) is not enough to substantiate a claim to refugee status. You must decide whether the claimant genuinely adheres to the religion or belief to which they profess to belong, how that individual observes those beliefs in the private and public spheres, and whether that would place them at risk of persecution on return to their country.

Whether these restrictions amount to persecution in a particular case will depend on the consequences of non-compliance, the impact on the claimant of compliance, and, if the person has complied with the restrictions in the past, whether they would do so in the future and for what reasons.

This assessment must include consideration of the principles set out by the Supreme Court in [HJ \(Iran\) and HT \(Cameroon\)](#) and [RT \(Zimbabwe\)](#). Under both international and European human rights law, the right to freedom of thought, opinion and expression protects non-believers as well as believers and extends to the freedom not to hold and not to express opinions. Individuals cannot be expected to modify

their beliefs, deny their religious faith or lack of belief, or feign belief in the state 'approved' faith to avoid persecution.

Although the assessment of credibility must not depend solely upon a test of religious or belief-based understanding and knowledge, it is reasonable to expect the claimant to possess knowledge of the core elements of any faith or belief they profess to hold taking any [underlying factors](#) into account. For further information please refer to the guidance on asylum interviews.

## Religious conversion and apostasy

For the purpose of this guidance the term 'apostasy' means the renunciation, abandonment of or withdrawing from a former religious identity or principle.

Some asylum claims are based on a claimant's fear of the consequences of their conversion from the religion of their birth or upbringing to a different religion, or of simply no longer believing in or practising that faith, that is without necessarily adopting a new faith.

At interview, the claimant ought to have been able to describe their personal experience in the faith they grew up in and were expected to adhere. If the asylum claim is based on their apostasy, they should have been able to explain their reasons for no longer believing in or practising that faith. If the claim is based on conversion, they should have been able to describe their encounters or contacts with their new faith, for example, the people who inspired them or the readings which attracted them, and which contributed to their decision to accept and follow the faith. For more information see the asylum interview guidance.

You must carefully consider the claimant's motivation behind withdrawing from a religious identity, and/or the conversion and their journey to their new faith, which should have been explored during their asylum interview and may also be addressed in any evidence from church witnesses. For example, they may have converted following positive experiences associated with their new faith or on account of negative experiences in their previous religion, including expected behaviours or tenets that they do not want to adhere to, which caused them to explore other faiths. There may be a supernatural dimension, for example, they may recount experiences of dreams or visions that motivated them to convert. The impact of such an experience may be of significance in their reasons and motivation to convert and must not be disregarded as evidence. The evidence provided at interview should also enable an assessment of whether and how the individual's understanding and practise of their new faith began.

In terms of assessing whether a claimant fears persecution on the basis of their religion, on the grounds of conversion or apostasy, the claimant's testimony will be taken into account including on their beliefs and experiences in their country of nationality (or habitual residence).

In cases of religious conversion, while the fear of persecution will in many cases only arise if the conversion is genuine, there may be cases in which a person would be at

risk of persecution even for a feigned conversion. It could be, for example, that their subsequent renunciation of that conversion is not believed, and they continue to be perceived as an apostate. Alternatively, the act of having feigned a conversion abroad could itself be considered deserving of punishment by a persecutor, for example, if it was taken as a sign of disloyalty or dishonour.

Whether or not a convert will be persecuted depends on their individual circumstances and the attitudes and application of the laws in their country. The credibility of the claimant's conversion will need to be established to a reasonable degree of likelihood, taking account of all available evidence, primarily the claimant's own testimony about their beliefs and experiences, the country information about religion in the country of nationality (or former habitual residence) and any other evidence provided by the claimant. Bearing in mind the high degree of reliance on the person's testimony, you may need to consider whether to give the claimant the benefit of the doubt taking into account their personal credibility.

For a discussion of opportunistic sur place activities more generally, see the section on [sur place](#) activities below, which should be applied in such cases.

## Christian converts

Where the genuineness of an individual's conversion is relevant, it is important to take into account the individual circumstances in which they learned and practiced their new religion. In practice, it is a conversion from Islam to Christianity which is most often encountered. A claimant's understanding and practice of their new faith may have begun privately or clandestinely in their home country. However, it is also likely that the practise of their faith in the UK will reflect the particular Christian tradition, for example, Baptist, Church of England, Orthodox, Pentecostal, or Catholic, that the person now claims to follow. There are some important nuances of belief and practice between different Christian denominations and how faith may be expressed both in the country of nationality (or former habitual residence) and in the UK – you must be aware and be sensitive to this.

What is being assessed is primarily whether the claimant has genuinely left the faith of their upbringing and become a Christian. To be credible, something so potentially life-changing should not be perfunctory, vague, or ill-thought out. It is likely to include being baptised (a fundamental rite of initiation common to most Christian traditions) or being instructed and prepared for baptism. It is also likely to include a public expression of their new faith through attending church worship, being known to the church's leadership (normally ordained ministers) and association with fellow believers.

Although the claimant's understanding of Christianity and of the particular Christian tradition they have joined (if any) is relevant, you are not expected to be qualified to assess the accuracy or relevance of answers to more than the most basic knowledge questions and so this should not be the main line of questioning at interview, or (usually) the determining factor in decisions. It should also be borne in mind that a claimant whose experience of Christianity began underground or in private may have more limited knowledge of, for example, Catholic teaching or sacraments. Whilst it is reasonable to expect a claimant to have some understanding

or knowledge of their religion or belief this must be considered in light of their experience, their personal practise and how the religion or belief is practised in their country. You should not have unrealistic expectations of sophisticated religious beliefs from converts. However, statements of belief or answers to questions which are clearly wrong will call into question the credibility of the conversion.

As with any claim, you should also be aware of other characteristics held by Christian claimants and how they all interconnect. In particular, female or those from ethnic, linguistic or cultural minorities may face additional related vulnerabilities.

In the case of [MH \(review; slip rule; church witnesses\) Iran - \[2020\] UKUT 00125 \(IAC\)](#) the Upper Tribunal held that “Written and oral evidence given by ‘church witnesses’ is potentially significant in cases of Christian conversion (see TF & MA v SSHD [2018] CSIH 58)” but that “such evidence is not aptly characterised as expert evidence, nor is it necessarily deserving of particular weight, and the weight to be attached to such evidence is for the judicial fact-finder”.

The degree of weight to be given may depend on how much knowledge and experience the witness has of matters such as (a) the practices of the church of which they are a member, (b) observing and interacting with those seeking to become members of the church, (c) others who have gone through similar processes of engagement in church activities with a view to becoming members of the church, and (d) the individuals concerned and of the manner in which they have thrown themselves into church activities.

Ultimately, evidence even from a senior church member is not determinative. The task of drawing conclusions on such evidence rests with the decision-maker. As such, when considering if a conversion is genuine, to a reasonable likelihood, you must consider all evidence in the round, including, where relevant such factors as the claimant’s participation in church activities, the timing of their conversion, their knowledge of the faith, and the opinions of other members of the congregation as to the genuineness of the conversion.

## Nationality

Regulation 6(1)(c) of the Qualification Regulations states that, ‘The concept of nationality shall not be confined to citizenship but shall include, for example, membership of a group determined by its cultural, ethnic or linguistic identity, common geographical or political origins, or its relationship with the population of another state.’

As a result, the term ‘nationality’ may occasionally overlap with the term ‘race’. Persecution for reasons of nationality may consist of adverse actions and measures against a national (ethnic or linguistic) minority and in certain circumstances the fact of belonging to such a minority may in itself give rise to a well-founded fear of persecution. This persecution may range from acts of physical violence, imprisonment or forced displacement to acts of harassment or discrimination that may, taken cumulatively, rise to level of persecution.

The co-existence within the boundaries of a State of two or more national (ethnic, linguistic) groups may create situations of conflict and persecution. It may not always be easy to distinguish between persecution for reasons of nationality and persecution for reasons of political opinion when a conflict between national groups is combined with political movements, particularly where a political movement is identified with a specific 'nationality'. However, in such a situation a grant of asylum might be appropriate on one or both Convention grounds.

A persecuted nationality or ethnic group does not necessarily have to be a minority. There will be cases where a person belonging to a majority group fears persecution by a dominant minority.

## Membership of a particular social group

A claim for asylum based on membership of a PSG may overlap with a claim based on other grounds. The question of whether a PSG exists and the extent to which members are discriminated against depends on the country in question. What constitutes a PSG in one country may not in another. You must refer to the relevant country information published by CPIT.

There is no fixed list of what groups may constitute a particular social group (PSG); the Convention includes no specific list of social groups. Rather, the term membership of a PSG should be read so as to be open to the diverse and changing nature of groups in various societies and evolving international human rights norms.

## The link between membership of a PSG and other Convention grounds

The Convention grounds are not mutually exclusive. A claimant may be eligible for refugee status under more than one of the grounds identified in Article 1A(2). For example, a female claimant may allege that she is at risk of persecution because of her refusal to wear traditional clothing. Depending on the particular circumstances of the society, they may be able to establish a claim based on political opinion (if their conduct is viewed by the State as a political statement that it seeks to suppress), religion (if their conduct is based on a religious conviction opposed by the State) or membership in a particular social group (individuals who transgress social norms).

## Definition of a PSG

In some instances, a PSG will already be identified in caselaw relating to the country concerned, while some groups are likely to form a PSG across many different countries. For example, LGBT+ persons and persons who do not identify with the gender assigned at birth will, for example, form a PSG in most countries. See guidance on gender issues in the asylum claim, gender identity issues in the asylum claim, and sexual orientation issues in the asylum claim.

You must nevertheless understand how a PSG is identified. Regulation 6(1)(d) states that:

“A group shall be considered to form a particular social group where, for example:  
a) members of that group share an innate characteristic, or a common background that cannot be changed, or share a characteristic or belief that is so fundamental to identity or conscience that a person should not be forced to renounce it, and  
b) that group has a distinct identity in the relevant country because it is perceived as being different by the surrounding society.”

This approach to identifying the existence of a social group reflects that taken by the UK courts, most significantly in the House of Lords’ judgment in [Shah and Islam \[1999\] UKHL 20](#). Since then it has commonly been accepted that members of a particular social group share an immutable (or innate) characteristic and that recognition of the group by surrounding society will help identify it as a distinct entity.

In practice, the 2 features will generally go together. Groups with a common immutable characteristic which is externally obvious, for example, being male or female, will usually have a distinct identity within their home societies. Even if an immutable characteristic shared by a group is not externally obvious, for example, being gay, the group will quickly become recognised as distinct within society if, for example, there is a recognisable gay community, or the authorities take steps to ban homosexuality or same-sex relations.

If there is existing caselaw, CPIN or other CPIT product that confirms that a relevant PSG exists within a certain country or society, you will not need to make your own decision as to whether a PSG exists in a particular case. However, there will also be profiles or countries for which there is no authoritative caselaw or guidance. In such cases, you will need to take into account the following principles:

- members of the group must possess a common immutable or innate characteristic that cannot be changed or a characteristic that is so fundamental to human identity that they should not be required to change it
- cohesiveness is not a requirement – members of the group do not have to know each other, work or live together or have anything in common other than an immutable characteristic which distinguishes them from the rest of society; so social groups can therefore be fairly broad, for example, women or LGBT+ persons in a particular country
- it is not necessary to show that all members of the PSG are persecuted – as that would be the same as saying, for instance, that every Christian in a particular country would have to be persecuted before asylum could be granted on grounds of religion, which, of course, is not the case
- the group should have a distinct identity within the relevant country because it is perceived as being different by the surrounding society
- the group must exist independently of the persecution it suffers – persecution cannot be the only factor which defines the group

## Characteristics that cannot be changed

Characteristics which are beyond the power of an individual to change, or which are so fundamental to individual identity or conscience that they ought not to be required



to change, will include, but are not limited to, gender, gender identity, sexual orientation, family membership, linguistic background or an indelible association with a particular group in the past.

Regulation 6(1) (e) explicitly states that “sexual orientation cannot be understood to include acts which are considered to be criminal in accordance with national law of the UK” for example paedophilia.

In practice, groups whose members are targeted based on a common immutable or fundamental characteristic are also often perceived as a social group in their societies. Even where a characteristic is neither immutable nor fundamental to one’s identity – such as having practiced a particular profession or coming from a particular social class – that characteristic may still give rise to a risk of persecution where the persecution is on account of a person’s history or background, because the past cannot be changed and is therefore “immutable”. A person might be targeted, for example, because they or their family were large landowners in the past, or because they previously worked in a profession whose members are viewed with suspicion.

It is also necessary to remember that asylum claims fall to be decided with regard to the risk of persecution as at the date of decision. This means that the relevant question is whether the characteristic can be changed at the present time. If it cannot, then it must be considered immutable. If, for example, in a particular country boys and young men are at risk of forced recruitment or young women are at risk of forced marriage or sexual assault, they should not be denied protection on the grounds that “young men” or “young women” grow older and therefore membership of these groups are not immutable. A young person cannot change their age. Similarly, a woman who was previously trafficked into sexual exploitation might be at risk of re-trafficking because of her poverty, limited education and skills, and lack of social and familial support. These characteristics are not innate but, viewed realistically rather than theoretically, are not ones that she can change.

## Societal recognition

In addition to a common immutable characteristic, a PSG must have a distinct entity within the relevant country because it is perceived as being different by surrounding society.

Whether or not a group is perceived as being different by surrounding society will depend on the country concerned. The case of [Shah and Islam](#) illuminated the extent to which women were discriminated against by a male-dominated society. Women in that society were viewed as a distinct and inferior group. These attitudes were so entrenched that the state authorities were unwilling to intervene even when husbands beat or threatened to kill their wives. This means you must make a holistic assessment of the law, its implementation, measures and actions of the state and societal attitude and actions towards a group.

## The link between the fact of persecution and the existence of the group

A PSG must exist independently of the persecution some of its members suffer. A random collection of people whose only shared experience is that of persecution does not form a PSG. But persecution may help to identify the group and may even result in the creation of a PSG. An example cited by the House of Lords in [Shah and Islam](#) is as follows:

“Left-handed men are not a social group. But, if they were persecuted because they were left-handed, they would no doubt quickly become recognisable in their society as a particular social group. Their persecution for being left-handed would create a public perception that they were a particular social group. But it would be the attribute of being left-handed and not the persecutory acts that would identify them as a particular social group.”

If you are in doubt about whether a group has a distinct identity within a particular society and forms a particular social group, you must discuss the case with your SCW and, if necessary, they can seek advice from Asylum Policy and/or CPIT.

## Persecution ‘for reasons of’ membership of a PSG

Claimants who fit the principles listed in the section ‘definition of a particular social group’ above are members of a PSG. If the state, for example, singles out a particular group by criminalising and/or punishing same-sex sexual activity or rounding up and violently punishing individuals on the grounds of their suspected sexual orientation there can be little doubt that the persecution is for reasons of their membership of a PSG.

Where non-state actors are concerned, persecution would still be ‘for reasons of’ membership of a PSG if the actors of persecution targeted a specific group because they were perceived as being different from surrounding society. For instance, in a society where traditional male attitudes are deeply entrenched, there may be expectations about the behaviour of women but not men, for example, their clothing, who they associate with, or the jobs they do. If women were beaten or killed if they failed to observe those traditions and state protection was unavailable, the underlying reason for the persecution would be the gender of the victims and refugee status would be appropriate.

Attacks by non-state actors will not always be discriminatory. A gang may launch indiscriminate attacks against anybody in their neighbourhood, irrespective of, for example, ethnic background or sexual orientation. In these circumstances, the victims would have difficulty in showing they were persecuted for reasons of their membership of a social group, unless they could demonstrate that the state authorities discriminated against them in the protection afforded, for example, by refusing to protect certain groups but were prepared to intervene to assist more favoured groups.

In [Shah and Islam](#), the House of Lords recognised that the appellants, both women from Pakistan who were at risk of ill-treatment at the hands of violent husbands, were refugees for reasons of their membership of a particular social group – they were persecuted because they were women in Pakistan. The Lords held that women in Pakistan shared a common immutable characteristic of gender, they were discriminated against in matters of fundamental human rights (thus marking them out as a distinct group within society) and the state refused to protect them because they were perceived as not being entitled to the same human rights as men. The Lords pointed out that the distinctive feature of this case is that women in Pakistan are unprotected by the state. The Lords also found that just because some women were able to access protection because of their privileged position, this did not prevent women from being a particular social group (although the availability of protection will be relevant to other parts of the decision as to whether the claimant may be entitled to refugee status in the UK).

## Political opinion

Regulation 6(1)(f) of the 2006 Regulations states that ‘The concept of political opinion shall include the holding of an opinion, thought or belief on a matter related to the potential actors of persecution and to their policies or methods, whether or not that opinion, thought or belief has been acted upon [by the claimant]’.

A person is not expected to lie about their beliefs or lack of belief in order to avoid persecution. Therefore, a person who would be reasonably likely to have to deny their political beliefs or to feign political beliefs that they do not have in order to avoid persecution may be entitled to refugee status.

The expression of a political opinion will not be enough to engage the protection of the Convention. A person must establish that they have a well-founded fear of persecution for reasons of their opinion, usually an openly expressed opinion directed against and not tolerated by the authorities of the country of return.

## Imputed political opinion

As set out in the [Imputed Convention Grounds](#) section, a person may have a well-founded fear of persecution because of a characteristic that they do not in fact have but that is attributed or imputed to them by a persecutor. A persecutor may impute a political opinion to a person because of their ethnicity, their religion, their place of birth or residence, their family ties, or their profession. Membership in a non-political organisation may also be treated as an expression of a political opinion by a State that does not tolerate any non-State aligned organisations or movements.

Political opinion can be imputed by non-State as well as State actors. For example, a rebel group might treat anyone who chooses to work for the government as implicitly supporting it, even if they work in a non-political role.

Failure to express support for a political or militant movement may also be taken as an expression of support for its enemies. Examples might be where a person is targeted by a rebel group for refusing to provide its fighters with food or shelter, or

where the state beats or imprisons people who refuse to participate in pro-State marches or assemblies. As discussed in more detail below, the motivations of a persecutor may be mixed and include, for example, both financial and political motives.

There may be situations, where the absence of an opinion is interpreted as opposition to the ruling party and grounds for persecution on the principle of ‘those who are not for us are against us’. For example, a totalitarian or one-party state may perceive individuals or groups as a threat and may be imputed to have a political agenda, whether or not they actually have any political opinion.

Non-state actors, such as rebel groups, may also impute a political opinion to individuals who work for the government or who refuse to give them money, and, in some circumstances, a person’s neutrality might lead to them having a political opinion imputed to them. A rebel group’s motives for targeting certain individuals might be political, but there may be non-political motives as well. For example, they may attack individuals who do not support them because they perceive them to be supporters of the government, but if they also extort money from victims to buy weapons, there is clearly also an economic motive. However, if there is evidence to suggest that the persecutors have imputed a political opinion to their victim, and this is one of the reasons for attacking them, the Refugee Convention will be engaged.

Even if a rebel group has a broad political aim, for example, overthrowing the government, attacks on individuals might simply be retaliatory or criminal and not necessarily linked to an overriding political aim.

## Actions which imply a political opinion

Even if a person does not openly voice a political opinion, their actions can sometimes suggest that they hold one. If a person commits an act which implies a political opinion, but which is illegal in the country in question, and is then prosecuted in accordance with the law, it is unlikely that they would be able to establish a well-founded fear of persecution unless the punishment is arbitrary or excessive or the law itself discriminates against the person due to a Convention reason.

A person who commits a violent terrorist act may claim to have done so for political reasons but is unlikely to qualify for the protection extended by Article 1A of the Convention. This is because they should be excluded from the Convention under Article 1F. For further guidance see exclusion under Article 1F and Article 33(2) of the Refugee Convention.

## Expression of political opinion in the UK

A claimant who claims to fear persecution because of a political opinion does not need to show that the authorities in their country of nationality (or former habitual residence) knew about their opinions before they left the country. They may have concealed their political opinions in their home country because of the dangers of expressing them openly. If someone flees to the safety of the UK, where they express previously concealed political opinions, you must assess the consequences

the claimant may face if returned home. If the consequences of a claimant's actions in the UK give rise to a well-founded fear of persecution for a Convention reason, asylum should be granted. For further guidance, see [refugees sur place](#).

## Future expression of political opinion

Where a claimant establishes, to a reasonable degree of likelihood, that they have political opinions (which could, in some cases, include an absence of opinion) that may cause them to fear persecution and they actually fear such persecution and they establish that they will be persecuted on return, because of that political opinion, they will be able to establish a claim to refugee status.

However, they will also be a refugee if they will not be persecuted on return only because, out of fear, they will conceal their political opinion. If they would conceal their political opinion for some other reason, for example, because they consider political opinion to be a private matter or would not want to embarrass friends, then they will not qualify for refugee status.

## Gender issues in the asylum claim

Some claimants may face specific forms of gender-based harm such as rape, sexual assault, domestic abuse, forced marriage, female genital mutilation or honour crimes. Claims of this nature are often particularly difficult to substantiate for several reasons, for example the harm often takes place within the private sphere, it may not be unlawful or considered wrong in the claimant's community or country of origin, or an inability to access police protection or medical treatment. These claimants are unlikely to be able to provide documentary evidence to support their claim. It is likely that greater reliance will therefore need to be placed on their oral testimony and consideration of benefit of the doubt. This may also be the case for claims based on gender identity or from intersex individuals. The shame and trauma that a person has experienced as a result of gender-based harm may, however, result in their oral testimony being less than complete, coherent or consistent. Please refer to [underlying factors](#) for more information.

It may also mean that they delay disclosure of particularly traumatic events such as, for example, incidents of sexual violence. You must be familiar with guidance on gender issues in the asylum claim, gender identity issues in the asylum claim and sexual orientation in asylum claims.

You must consider whether issues arising from a claimant's gender may be relevant to their claim. For example, the experiences of men and women in their countries of origin can often differ, and activism and resistance may manifest themselves in different ways. Certain types of persecution and ill-treatment will be specific to, or more commonly affect, women or girls, men or boys; and social and cultural norms may affect the ability to obtain effective protection. There are types of persecution that mainly affect men and boys as well, such as forced recruitment.

Even where gender is not a central issue, you must carefully consider the extent to which any gender related issues may impact on the claim. This is to ensure that all

aspects of an asylum claim are fully and fairly considered. You must also refer to the instructions on asylum interviews, victims of modern slavery, gender issues in the asylum claim, sexual orientation in asylum claims, and gender identity issues in the asylum claim.

## Refugees ‘sur place’ and activities in the UK

A refugee ‘sur place’ is defined in [Paragraph 339P](#) of the Immigration Rules as a person who has a well-founded fear of persecution or serious harm based on events which have taken place or activities they have been engaged in since they left their country, particularly where the activities amount to the expression and continuation of convictions or orientations held in their country.

This means that a person who is already in the UK, who did not fear persecution when they left their country, can still be a refugee. This is usually when a change of circumstances occurs in their home country which gives rise to a well-founded fear of persecution. But people may also become refugees ‘sur place’ due to activities they engage in or beliefs they have come to hold since leaving their country. As with any asylum claim, the gathering and assessment of any UK-based evidence which may be submitted or requested should recognise that this evidence should be readily available and that failure to produce it, where it is reasonable to expect it, is likely to result in adverse credibility inferences being drawn.

You must decide whether the person’s actions or genuine beliefs give rise to valid claims to refugee status, irrespective of whether you believe the individual’s actions were genuine or engineered to provide grounds to fear persecution. In [Danian v SSHD \[1999\] EWCA Civ 3000](#) the Court of Appeal established that there can be no exclusion from the assessment of a well-founded fear in cases where there is suspicion, or even evidence, that the individual’s actions since arrival in the UK were undertaken ‘in bad faith’ to generate or contribute to an asylum claim.

In reaching that judgment, the Court of Appeal added that:

"Any claimant will still have to establish that he has a well-founded fear of persecution. As has been frequently pointed out, someone who changes his position, or makes allegations inconsistent with the attitude that he adopted in his home country, may not find that burden easy to discharge. When the United Nations High Commissioner for Refugees acknowledged in the letter written in connexion with this case that Brooke LJ has set out, that a more stringent evaluation of the claimant's claim was likely in such a case, it was not formulating any new theory, but simply acknowledging reality".

Such cases will therefore require careful assessment, both as to whether the individual would hold and express their political, religious or other beliefs contrary to past behaviour in the country of nationality (or former habitual residence), and as to whether their actions in the UK are in themselves likely to result in persecution irrespective of the motivation for them. A finding of a claimant acting in bad faith may be relevant not only to their credibility but also to other elements of the claim, such as their risk of detection and the potential for the opportunistic nature of such activities to be apparent to the authorities. In [BA \(Demonstrators in Britain – risk on](#)

[return\) Iran CG \[2011\] UKUT 36 \(IAC\)](#), the Upper Tribunal identified five factors to consider when assessing risk on return to Iran, having regard to ‘sur place’ activities of a political nature, which may be applied to other nationalities. These may be summarised as follows:

- the nature and extent of ‘sur place’ activity, for example, the claimant’s role in demonstrations, their purpose and the publicity attracted in the UK or abroad
- the risk or likelihood of identification by the regime, including its capacity to identify the claimant from publicity or its own monitoring of UK activity
- factors which could trigger inquiry/action on return:
  - whether the person is known to the regime as a committed opponent or someone with a significant political profile; or does he fall within a group which the regime regards with suspicion or as especially objectionable?
  - how the person left the country (illegally; type of visa); where have they been whilst abroad; is the timing and method of return more likely to lead to inquiry or detention for more than a short period and would this give rise to ill-treatment
- consequences of identification, for example, whether there is any known differentiation between demonstrators depending on the level of their political profile in opposition to the regime
- identification risk on return, for example, if a person is identified is that information systematically stored and used, and are border posts known to be geared to the task?

You must also consult the relevant country policy and information note for any country-specific caselaw (and background information) on sur place activities that may be applicable to the case.

## The meaning of persecution

The claimant must have both a characteristic (or a perceived characteristic) which may cause them to fear persecution as well as an actual fear of persecution. Decision-makers must assess whether the harm feared would amount to persecution. Regulation 5(1) of the 2006 Regulations states:

‘In deciding whether a person is a refugee an act of persecution must be: sufficiently serious by its nature and repetition as to constitute a severe violation of a basic human right, in particular a right from which derogation cannot be made under Article 15 of the [European] Convention for the Protection of Human Rights and Fundamental Freedoms [the ECHR];

or an accumulation of various measures, including a violation of a human right which is sufficiently severe as to affect an individual in a similar manner as specified in (a).’

The human rights from which derogation cannot be made under the ECHR include:

- Article 2 (right to life) falls into this category, except that derogation is permitted in one limited area - deaths resulting from lawful acts of war. Nor is any derogation permitted from Protocol 13 (abolition of the death penalty)
- Article 3 (prohibition of torture, inhuman or degrading treatment or punishment)
- Article 4(1) (prohibition of slavery)
- Article 7 (no punishment without law)

Not every risk which a claimant may face will necessarily be persecutory in nature. An essential part of your consideration is to decide whether the claimant has a fear of persecution, that is acts which would fall within this definition. Regulation 5(2) of the Qualification Regulations states that an act of persecution may, for example, take the form of:

- an act of physical or mental violence, including an act of sexual violence
- a legal, administrative, police or judicial measure which in itself is discriminatory, or which is implemented in a discriminatory manner
- prosecution or punishment which is disproportionate or discriminatory
- denial of judicial redress resulting in a disproportionate or discriminatory punishment
- prosecution or punishment for refusal to perform military service in a conflict, where performing military service would include crimes or acts as described in Article 1(F) of the Refugee Convention - see [military service and conscientious objection for further information](#)

This is not an exhaustive list. Other forms of mistreatment which, on their own or in accumulation with less prejudicial actions, severely violate basic human rights may also constitute persecution.

In some instances, the authorities of a country may need to take measures to restrict the exercise of certain freedoms, for example, restrictions on citizens during a time of war. Such restrictions may not in themselves constitute persecution but if applied in a discriminatory manner and have sufficiently serious consequences, they may amount to persecution. You must bear in mind the distinction between prosecution and persecution. For more information see the section on [prosecution](#).

## Who can be an ‘actor of persecution’?

Regulation 3 of the 2006 Regulations states that persecution or serious harm can be committed by:

- (a) the State,
- (b) any party or organisation controlling the State or a substantial part of the territory of the State, or
- (c) any non-State actor, if it can be demonstrated that the actors mentioned in paragraphs (a) and (b), including any international organisation, are unable or unwilling to provide reasonable protection against persecution

State actors are those acting with the authority of the State or part of the State. It includes central government (the executive, legislature, and judiciary), the machinery



of central government (for example, the civil service, armed forces, security and police forces), and state-controlled organisations.

These State actors may be acting pursuant to an official persecutory scheme openly sanctioned by the State, or by part of the State, or pursuant to a scheme that the State formally denies. They may use public and lawful methods, such as arrest and prosecution, or clandestine and formally unlawful methods, such as enforced disappearance, torture and extra-judicial killing.

Where a State actor engages in conduct that is not sanctioned by the law, whether they can be considered to be acting on behalf of the State will depend on how the State responds. There is a distinction between abuse which is authorised and tolerated and the actions of a rogue official which are not. It is not sufficient that the State formally repudiate or prohibit the conduct; there must be evidence that the State can and indeed does protect its citizens from persecution by individuals (for example by operating an effective legal system for the detection, prosecution and punishment of persecutory acts, for example, a policeman who rapes a woman may not be acting in accordance with government policy, but the state must take responsibility for the behaviour of its officials. A failure or reluctance by the State to protect its citizens may amount to state persecution.

Non-State actors may include anyone not acting with the authority of the State, from families and private citizens to tribes, political or religious groups, or armed militias. In some countries, some apparently non-State actors, such as extremist groups, militias or death squads, may in fact be funded or directed by the State or elements within the State. A non-State actor should only be considered an actor of persecution if sufficient protection is unavailable. Please see the section on [Sufficiency of Protection](#).

## Prosecution

‘A refugee is a victim - or potential victim - of injustice, not a fugitive from justice’, ([UNHCR Handbook](#) paragraph 56).

Those fleeing prosecution or punishment for a criminal offence are not normally refugees. Prosecution, however, can be deemed to be persecution if it involves victimisation in its application by the authorities, for example, if it is the vehicle or excuse for the persecution of an individual or if only certain ethnic or other groups are prosecuted for a particular offence, and the consequences of that discrimination are sufficiently severe. A risk of being prosecuted under a discriminatory law can amount to persecution – for example, if a state directly or indirectly criminalises same-sex relations or expressing one’s gender identity. Punishment, which is cruel, inhuman or degrading (including punishment which is out of all proportion to the offence committed) may also constitute persecution. See also paragraphs 56-61 of the [UNHCR Handbook](#).

## How to identify the material facts of a claim

A material fact goes to the core of a claim and is fundamental as to whether an individual has a characteristic which would cause them to fear persecution and indeed whether that individual does actually fear persecution. It is really important to identify which facts are material based both on the nature of the claim and on the country context.

Examples of material facts can include a claimant's personal circumstances, for example, gender, nationality, ethnicity, membership of a political party, religious and other belief systems, sexual orientation, and past experiences of ill-treatment such as arrests, periods of detention and torture, locations and episodes of threats or violence at the hands of state or non-state agents. This list is not exhaustive, and the material facts will depend on the nature of the claim. You must also be alert to recognise that claimants may not use terms explicitly, such as torture, or may use different terms, for example for FGM.

You must distinguish the facts that are material and those which are not, based on the evidence presented. For example, a claimant may claim to have experienced ill-treatment under a previous regime. While not necessarily irrelevant, it may be that only their claimed experiences, or fear of future persecution, at the hands of the current regime are material to the claim.

It is often difficult to identify all of the material facts at the outset of a claim, so you must continuously consider whether the facts you have identified are in fact material, or whether other material facts have been overlooked.

Assessing the credibility of past and present events is an important aspect of considering a claim, because if a claimant has already been subjected to treatment amounting to persecution, or direct threats of such harm, [paragraph 339K](#) of the Immigration Rules makes it clear that this will be a serious indication of a well-founded fear of persecution or real risk of serious harm on return, unless there is good reason to believe that such ill-treatment will not be repeated.

See also the Medical evidence in asylum claims guidance for guidance on considering medical evidence and past persecution.

## Standard of proof

Once the material facts of the case have been identified, it is then necessary to assess their credibility. The level of proof needed to establish the material facts is a relatively low one – a reasonable degree of likelihood. Material facts must not be considered in isolation; the evidence must be considered in the round, and the key issues assessed in context.

'Reasonable degree of likelihood' is a long way below the criminal standard of 'beyond reasonable doubt', and it is less than the civil standard of 'the balance of probabilities' (i.e. 'more likely than not'). Other terms may be used: 'a reasonable likelihood' or, 'a real possibility', or 'real risk'; they all mean the same.

The question to be asked is whether, taken in the round, the decision-maker accepts what he or she has been told and the other evidence provided. In practice, if the claimant provides evidence that, when considered in the round, indicates that the fact is 'reasonably likely', it can be accepted. A decision-maker does not need to be 'certain', 'convinced', or even 'satisfied' of the truth of the account – that sets too high a standard of proof. It is enough that it can be 'accepted'.

For example, a claimant does not have to provide medical evidence of past torture for a claim that torture took place to be accepted, if other indicators enable its acceptance. Nor does the claimant have to provide independent evidence of personal participation in political activity if the account of political events is reasonably detailed, consistent, and plausible.

It is important that your decision is clear throughout that you have applied the appropriate standard of proof when considering whether to accept material facts. In this section we explore reasons why a claimant may have inconsistencies in their account and circumstances when this may not necessarily impact on the credibility of the material facts.

The Court of Appeal judgment in [Karanakaran v Secretary of State for the Home Department \[2000\] EWCA Civ 11 \(25 January 2000\)](#) established that you should not ignore facts which were in doubt (or uncertain) but rather consider that everything capable of having a bearing on the case must be given the weight, great or little, due to it. What this means in practice is summarised in [SM \(Section 8: Judge's process\) Iran \[2005\] UKAIT 00116 \(5 July 2005\)](#):

'It is the task of the fact-finder, whether official or judge, to look at all the evidence in the round, to try and grasp it as a whole and to see how it fits together and whether it is sufficient to discharge the burden of proof. Some aspects of the evidence may themselves contain the seeds of doubt. Some aspects of the evidence may cause doubt to be cast on other parts of the evidence... Some parts of the evidence may shine with the light of credibility. The fact-finder must consider all these points together; and ... although some matters may go against and some matters count in favour of credibility, it is for the fact-finder to decide which are the important, and which are the less important features of the evidence, and to reach his view as a whole on the evidence as a whole'.

A claimant may also have difficulty in providing documents or other tangible evidence to support their claim for many reasons, including: they had to flee without time to gather the evidence, they cannot safely contact family or friends in their home country to request documents be obtained and sent, or the fact that threats of persecution and fear of future persecution are not recorded in document form. This may be especially true for claims which relate to sexual orientation or religious beliefs. At this point a claimant's personal testimony, most likely presented at interview is vital, and again this section examines that and should be read alongside the interview guidance. For example, a claimant does not have to provide medical evidence of past torture for a claim that torture took place to be accepted, if other indicators enable its acceptance. Nor does the claimant have to provide independent

evidence of personal participation in political activity if the account of political events is reasonably detailed, consistent, and plausible.

The rejection of one fact does not automatically lead to rejection of other material facts, even if they are linked. So, for example, if it is not accepted that a claimant was tortured, it does not necessarily follow that the claimant was not politically active. However, it may logically follow that linked facts should be called into question. For example, a finding that a claimant's political beliefs are vague and limited or that they were not genuinely politically active will call into question any claims to have been detained and tortured because of their political activities or beliefs.

You may, because of the weight of adverse evidence in other aspects of the claim, reject a material fact which, when taken in isolation, could be credible. Conversely, you can accept an aspect of the claim which at first sight seemed unlikely to be true. This is part of the process of considering all relevant evidence in the round, which means material facts should not be considered in isolation and must instead be considered together in the context of the overall claim and evidence presented. In short, it is the cumulative effect of the claimant's experience which must be assessed.

## Structured approach to credibility assessment

You must focus first on the credibility of the claim, rather than on the personal credibility of the claimant. The claimant's statements and other evidence can be accepted if they are:

- of sufficient detail and specificity
- internally consistent and coherent
- consistent with specific and general [country information](#)
- predominantly consistent with any [other evidence](#)
- plausible

Each of the indicators must be applied to the material facts, taking account of any individual underlying factors which could make one or more of the indicators inapplicable or unreliable in an individual case. Each of these indicators will be addressed below. It is essential to remember, however, the following principles:

- these indicators are merely indicators, not necessary conditions; credibility can be established even where one or more of these indicators is not present
- they are not an exhaustive list
- making use of these indicators is not a substitute for the requirement to consider the evidence as a whole or 'in the round'
- credibility assessment is only part of evidence assessment

Issues of the degree of consistency, detail and specificity that should normally be expected is dealt with in the section on [underlying factors](#) set out below.

The guidance on conducting asylum interviews explains how to respectfully and sensitively adapt your approach to sensitive and distressing topics. A claimant's general demeanour must not be used to assess credibility. Whether a claimant appears tearful, nervous, stressed or calm and collected at interview is irrelevant. A claimant's response to an interview is deeply personal. Some claimants may only be able to recall stressful events in a detached and emotionless way; others will relive the experience in the re-telling and may become extremely distressed.

## Underlying factors

There are many factors that can affect memory. A claimant may have come from traumatic or otherwise challenging situations and so it is possible that their account will not be consistent in every detail. You must always take the totality of a person's circumstances into account and consider any personal factors which may explain why a claimant's testimony is inconsistent with other evidence, lacking in some detail or there has been late disclosure of evidence. These factors may include, but are not limited to:

- age
- gender
- sexual orientation or gender identity,
- physical and mental health
- variations in the capacity of human memory
- learning difficulty or disability
- emotional trauma
- level of education
- social status, culture and language
- cultural differences including social and political backgrounds
- feelings of shame
- painful memories, particularly those arising out of sexual violence, torture and other serious harm
- fear, including fear of officials in the UK
- the passage of time
- the context in which the events described took place

We cannot expect the same outcomes and behaviour from different people; particularly when we are looking at people from different social, political and cultural backgrounds. Personal circumstances and cultural differences must always be taken into account when assessing the credibility of a claim. In line with this, it is important to clearly state in your decision any factors that affect a victim's ability to give clear and consistent evidence, and how you have considered these factors in relation to any inconsistencies or 'delayed disclosure'. These factors will also be impacted by the individual's personal circumstances and cultural differences mentioned above.

For example, a 16-year-old child may not necessarily be able to provide details of their parent's political activities, or an illiterate farm worker may not necessarily be able to provide details of national political developments, despite being a grass roots supporter of the political opposition. Similarly, women may have less knowledge or information than men, as their partners may not always share information about their

work or political activity with them. Further, the barriers to disclosing sexual violence include shame and avoidance of past traumatic events. A claimant's oral testimony may not be a complete chronological narrative.

In the example of the 16-year-old child above, the claim may be based on their father being an activist in a political party (a material fact). The child provides some, but not a lot of, detail about his father's activities. The evidence is internally consistent and consistent with country information, which indicates that much of the adult population or the ethnic group in the area they are from supports (or is regarded as supporting) that political party. When considering all the available evidence in the round, it would be appropriate to acknowledge the likely effect of the child's age on their ability to provide detail of their father's political activities and that, having considered the evidence in the round, the indicators allow you to accept the material fact to the standard of 'reasonable degree of likelihood'.

## The effect of trauma on memory and disclosure

Torture, trauma and serious harm may form part of any asylum or human rights claim. Victims and survivors of such harm may find it difficult to recount or disclose details of what has happened to them because of the traumatic and sensitive nature of those experiences.

A torture victim's potential shame, distress, embarrassment and humiliation about recounting their experiences are difficulties which may need to be overcome. A claimant may find talking about such experiences particularly difficult in the context of an official process. Those who have suffered at the hands of their own authorities may distrust officials in the UK, despite travelling to this country to seek refuge.

Where a claimant claims to have been tortured or suffered serious harm, you must consider all relevant information to inform your decision on their claim. This will involve carefully considering written and oral evidence provided by the claimant and any Medico-Legal Reports, mental health reports or other medical evidence provided by clinicians that are submitted as additional evidence to support the claim. For further information, please refer to the guidance on medical evidence in asylum claims.

## The impact of lies on credibility

Claimants are expected to tell the truth about the reasons why they need protection and their immigration history. Many claimants will provide truthful accounts of traumatic experiences which have forced them to flee persecution in their country. Some will have a genuine fear but may exaggerate or lie about certain aspects of their claim. This may include for example, fear or lack of trust in authority, fear the information will not be kept confidential, or because of advice they were given by agents.

Where past traumas form part of the core account, discrepancies may occur, for example poor recall could be due to the way that certain individuals process

memories of trauma. Please see the sections on [underlying factors](#) and the [effect of trauma on memory and disclosure](#) for information

On the other hand, some claimants may not fully appreciate the importance of explaining their account in full and with detail. For example, human rights violations that may seem extreme in the UK context, may be part of daily life in the claimant's country of nationality (or former habitual residence). A claimant may downplay the extent and range of the problems that they have experienced or fear because they do not understand the importance of them for their asylum claim, or out of feelings of pride or shame. Others may claim asylum on false grounds in the hope of being allowed to stay in the UK when they do not otherwise qualify under other provisions of the Immigration Rules.

You must therefore help claimants to understand the importance of giving a complete account, and that there is no need to exaggerate.

You must carefully consider whether any adverse credibility findings about the claimant are relevant to the other evidence. The claimant's own evidence has to be considered in the round with other evidence, and that can include reliable evidence from other sources, such as credible witnesses, expert reports, country guidance cases or other independent evidence sufficient to establish that the claimant would be at real risk on return.

The impact of lies will depend on their relevance in the context of the claim and you must avoid dismissing as unreliable everything the claimant has said solely because they have lied about one aspect of their claim. Instead, you must assess the relevance of lies in the context of the evidence in the round and you must give the claimant a chance to explain any inconsistencies in their account.

In [MA \(Somalia\) v Secretary of State for the Home Department \[2010\] UKSC 49 \(24 November 2010\)](#), the Supreme Court examined the impact of lies on the credibility of a person's account. Although describing the role of the Tribunal, its remarks apply equally to the first instance decision-maker:

'Where the appellant has given a totally incredible account of the relevant facts, the tribunal must decide what weight to give to the lie, as well as to all the other evidence in the case, including the general evidence. The AIT in the present case was rightly alive to the danger of falling into the trap of dismissing an appeal merely because the appellant had told lies. The significance of lies will vary from case to case. In some cases, the AIT may conclude that a lie is of no great consequence. In other cases, where the appellant tells lies on a central issue in the case, the AIT may conclude that they are of great significance.'

Materially fraudulent asylum claims made, for example, in a false identity or nationality will render the claimant liable to prosecution under Section 24A of the [Immigration Act 1971](#).

## Credibility indicators

### Sufficiency of detail and specificity

The level and nature of evidence provided by the claimant should demonstrate an appropriate depth of personal experience and knowledge related to the specific issues giving rise to their need for protection, allowing for any [underlying factors](#).

For example, the more senior the claimant's position in a political party, the longer they claim to have been an active member, or the more they were responsible for information about the party's activities and policies, the greater the expectation of information from them about its leadership, publications or support in the media, its meetings or demonstrations, policies.

Vague and limited statements about the party wanting freedom and democracy against the background, for example, of a country where political parties are active, and expressions of opposition views are routine (even if they can cause problems for the leadership and high-profile members) will not generally meet reasonable expectations of sufficient detail or personal experience if someone claims to have been an influential figure in the party.

Levels of detail and specificity are not just about requiring the claimant to provide objectively known facts and details. It is also about establishing, for example, what motivated them to pursue a political position, religion or other belief. This may include exploring why a claimant pursued actions if they knew it may give rise to a risk of persecution.

An absence of detail cannot be held against the claimant if they were given little or no opportunity during their asylum interview to provide such detail or to clarify any inconsistencies in information which go to the core of the claim. The guidance on Asylum Interviews must therefore be followed by all decision-makers who are conducting asylum interviews to ensure claimants are given appropriate opportunity to explain their claims. At the other end of the spectrum, an unexpectedly high level of detail and knowledge must not be considered to lack credibility solely on grounds that the information provided is available in the public domain and could therefore have been studied in preparation for the interview.

If you have any concerns relating to the quality of an asylum interview, you should speak to a Technical Specialist or SCW.

### Internal consistency

The claimant's oral testimony, written statements and any personal documents relating to the material facts of the claim should be coherent and consistent, allowing for any [underlying factors](#). Any differences between statements made at screening interview, in any written statements and at substantive interview should have been put to the claimant at interview, as should any conduct prior to the claim which may have a bearing on the claimant's general credibility (see [benefit of the doubt](#)). The



evidence should also be generally consistent with any statements made by family members or witnesses.

A significant inconsistency or contradiction means an incompatibility between or within evidence relating to the same point. You must distinguish between significant inconsistencies and minor issues to focus on those that matter. For example, a significant inconsistency might be if the claimant claims to have supported an opposition political party, but the witness statement indicates that they supported the government. Conversely, if the claimant says that they left home at around 09:00 am, but his wife's witness statement states that he left home at 09:30 am, it would not be necessary, in most cases, to explore this discrepancy. Such minor discrepancies, particularly if not explored, should not be considered as being material to determining the overall credibility of the claim.

You must approach apparent inconsistencies with care when evidence has been obtained through an interpreter. The same name or word could be translated in different ways. For example, not all armed groups have formal ranks and the word for commander might be translated as 'sergeant', 'captain', or 'leader'. Similarly for claims involving LGBT+ issues, terminology may not exist in the claimant's first language to the same extent that it does in English which may cause difficulty for interpreters and lead to use of derogatory or imprecise descriptions. What matters is the level of responsibility exercised by the person. Interpreters may give slightly different spellings of a person's name or a place if there is no agreed way to translate words into the Latin alphabet, for example from Arabic or Mandarin. Apparent inconsistencies in dates may also occur and dates in countries like Afghanistan or Iran may not correspond with the Gregorian calendar. It is important to take such factors into account when considering apparent discrepancies.

## Modern slavery factors

Where an asylum claim is made by someone already accepted under the National Referral Mechanism (NRM) as a victim of modern slavery following a conclusive grounds decision, that finding, and the facts material to that decision, should be accepted for the purposes of the asylum claim, unless there is clear evidence to the contrary.

## External consistency

The claimant's testimony and other evidence should be consistent with available [Country of Origin information \(COI\)](#) about the country of claimed persecution. It should also be consistent with any other available information or expert evidence, for example medical, social and cultural information, language analysis or document verification reports. Claimants may also provide evidence from third parties, such as statements from members of a claimant's family, church, political party or community. The greater the correlation between aspects of the account and external evidence, the greater the weight you should attach to those aspects.

COI and other external evidence must be considered in the round with the claimant's evidence. One cannot properly be assessed without considering the other.

## Country information

[Paragraph 339J and 339JA](#) of the Immigration Rules require decision-makers to take into account all relevant country of origin information (COI) in making their decision. COI is often central to understanding a claimant's account and credibility findings that are made without considering the country context are likely to be inaccurate.

Relevant COI will help you to establish, to a reasonable degree of likelihood, the credibility of a claimant's account of past and present facts and events in their country of nationality (or former habitual residence).

COI can help you understand aspects of the claimant's culture and background and the context in which the events described took place relevant to deciding the case. Depending on the material facts of the claim, COI may help you understand issues ranging from the social, (for example whether families normally live in multi-generational homes), to the economic (for example, whether there is a functioning banking system in the claimant's home area), to the political (for example, background about opposition political parties). In some cases, it can also help establish whether certain events – such as a protest, an election, or a change in the law – took place.

There may be situations where there are significant contradictions between COI and the claimant's account, for example, where the published record of what occurred at a demonstration clearly does not tally with the claimant's evidence. In these situations, the material fact should normally be rejected, subject to consideration of any relevant underlying factors and an assessment of the evidence in the round, providing the claimant was given an opportunity at interview to explain any contradictions which were already apparent. The claimant must however be given an opportunity to explain any inconsistencies between their account and the relevant COI. If existing products do not provide the information needed which is material to deciding the claim, you should send an information request to CPIT. Where the contradiction becomes apparent after the interview, and it relates to a material fact upon which the claim could stand or fall, you may ask the claimant to address the point in a supplementary written statement or invite them for a further interview if necessary.

There may be circumstances where there is an absence of COI about a specific fact or event. A lack of COI does not necessarily mean that the fact or event did not take place. If, after having contacted CPIT, no further specific COI evidence can be found, you must assess in the light of all available evidence and assess whether to a reasonable degree of likelihood, the event took place.

Your consideration should take into account whether an incident is likely to have been reported in the context of the relevant country situation. This will often depend on the nature of the fact or event how many people were involved and the openness and development of the country of return. For example, claims involving domestic abuse are unlikely to have country information specific to the individual, or there may be a lack of specific information about a group in countries where freedom of speech is restricted or where there are low levels of literacy or access to communications to

document behaviours or incidents. In such situations, you must decide whether or not to accept that the fact or event occurred or exists based on an assessment of the credibility of the claimant's evidence in light of the general country situation. If, in the absence of specific country information to corroborate the claimant's account, the claim is otherwise internally consistent and externally consistent with what is generally known about the country, the material fact may be accepted.

In countries where freedom of speech is restricted and/or where there are low levels of literacy or access to communications, a lack of country information is unlikely to have significant weight.

## Considering medical evidence

Medical evidence in asylum decisions can:

- alert decision-makers to reasonable adjustments that need to be made to the interviewing and decision-making process
- substantiate the account of harm suffered in the claimant's country of nationality (or former habitual residence)
- inform the decision-maker about medical/psychological reasons for difficulties the claimant may have in providing a clear, coherent and chronological account of their experiences
- inform the decision-maker about current health concerns and future risks to the health of the claimant

There is no specific requirement for claimants to provide medical evidence in support of an asylum claim. You must not draw adverse inferences about the credibility of an account of torture or serious harm solely because medical evidence is not available. A claimant's account of torture or serious harm can be accepted where it is otherwise credible, allowing for underlying personal factors.

For consideration of medical evidence, you must follow the Medical evidence in asylum claims guidance.

## Plausibility

The plausibility of an account is assessed on the basis of its apparent likelihood or truthfulness in the context of the general country information and/or the claimant's own evidence about what happened to them.

You must not base implausibility findings solely on your own assumptions, conjecture, or speculative ideas of what ought to have happened, what you might think someone genuinely fleeing for their life should have done, how you think a person would have behaved, or how you think a third party would have acted in the circumstances. In addition, you must not conclude that a claim is implausible solely because the claimant was aware of the potentially serious adverse consequences of their actions if they had come to the attention of the authorities. For example, if a person has engaged in same sex relations despite this being criminalised.

While one element of the claimant's account may be found to be not plausible, this does not necessarily mean that the other material facts are not credible. Each material fact should be assessed separately for plausibility and then considered in the round for credibility.

In [Y v Secretary of State \[2006\] EWCA Civ 1223](#), the Court of Appeal made clear that you must take care not to regard an account as incredible merely because it would not be plausible if it had happened in the UK. Underlying factors may well lead to behaviour and responses on the part of the claimant which run counter to what would ordinarily be expected in western countries. As to the actions of others, it is not inconceivable, for example, that a guard might allow a detainee to escape, or a sympathiser provide assistance, even at the risk of punishment. It is therefore important to explore the details and context of any escape or release at interview.

You must always have an open mind but must not accept the wildly improbable, and some assertions will be so implausible that no reasonably well-informed person could be expected to give them any credence.

A key judgment is [MM \(DRC – plausibility\) Democratic Republic of Congo \[2005\] UKIAT 00019](#) held that the more improbable a story, the more cogent the evidence necessary to support it. In that case, the judge remarked that:

'It was the sheer improbability of one individual wresting himself from a guard, leaving his clothes in the guard's hand, then evading another five of them, vaulting a two-metre wall, with no one shooting at him, even to wound him, or shouting for others to come, which caused the Adjudicator to reject the story. She was fully entitled to do so, and to reach in consequence the overall credibility conclusion which she did'.

## Benefit of the doubt

The principle of the benefit of the doubt reflects recognition of the difficulties some claimants face gathering evidence to support their claim, and the grave and potentially irreversible consequences if international protection is wrongfully refused.

You must consider whether to apply the benefit of the doubt to any material facts which remain in doubt, after you have reviewed all the evidence in the round. The concept of the benefit of the doubt in the context of the Immigration Rules is designed to provide a framework for deciding whether to accept or reject a material fact, or the facts as a whole, where the evidence in one or more areas is not sufficient to enable a clear finding to be made.

[Paragraph 339L](#) of the Immigration Rules sets out that where a claimant's account is not supported by documentary or other objective evidence, there will be no need for further confirmation when the following conditions are met:

- the claimant has made a genuine effort to substantiate their claim
- all material factors at their disposal have been submitted, and a satisfactory explanation regarding any lack of other relevant material has been given

- their statements are coherent and plausible and do not run counter to available specific and general information relevant to their case
- they have lodged an asylum or human rights claim at the earliest opportunity, unless they can demonstrate [good reason](#) for failing to do so
- their general credibility has been established

If a claimant's account satisfies all five criteria, you must give them the benefit of the doubt – as there would be no reason not to do so. If the claimant only meets one or more criteria, you must still consider whether, on the facts of the case, it is appropriate to give them the benefit of the doubt, bearing in mind the relatively low threshold of 'reasonable degree of likelihood' applicable. All of the credibility indicators must be considered in the round.

General credibility findings must not be the starting point of your credibility assessment process (see [SM \(section 8: Judge's process\) Iran\[2005\] UKAIT](#)). However, for the purposes of paragraph 339L(v), a person's general credibility is potentially damaged by behaviour that falls within the scope of [section 8 of the Asylum and Immigration \(Treatment of Claimants, etc\) Act 2004](#), as specified in [Paragraph 339N](#) of the Immigration Rules.

## Behaviour that is damaging to credibility

There is a general requirement under section 8(1) of the [Asylum and Immigration \(Treatment of Claimants, etc\) Act 2004](#) to take into account as potentially damaging to a claimant's general credibility, any behaviour that appears to have been designed or likely to conceal information, mislead, or obstruct the resolution of their claim. You must therefore consider whether section 8 applies to the claimant and take this into account when deciding whether their general credibility has been established. As set out above, this is one of the factors to be taken into account in deciding whether to give a claimant the benefit of the doubt.

Behaviour that is perceived to be damaging to credibility may be identified at the screening interview, in which case the screening interview record should contain a credibility warning that you must consider together with any explanation provided at the substantive interview, and other evidence and underlying factors that come to your attention. For more information please see screening and routing guidance and the conducting asylum interview guidance.

The behaviours specified in section 8 are not exhaustive or determinative. Looking at the evidence as a whole, points in the claimant's favour may outweigh the points against. Section 8 prescribes types of behaviour that may potentially damage credibility but not the extent of the damage, nor the weight to be given to an adverse credibility finding. These are for you to carefully consider in the context of the individual case.

Where you refuse a claim and section 8 factors are relevant, you must explain why the claimant's behaviour is considered damaging to their credibility. If you accept their account, you must make clear in the file minute that you have considered relevant section 8 behaviours in reaching your decision.

## Specified types of behaviour

As well as the general requirement, certain types of behaviour are also listed in section 8 as behaviour which you must regard as potentially damaging to the claimant's general credibility. These are:

- failure without reasonable explanation to produce a passport on request to an immigration officer or the Secretary of the State.
- producing a document that is not a valid passport as if it were, noting that there is no reasonable explanation defence in this instance
- destruction, alteration or disposal of a passport, ticket or other travel document without reasonable explanation
- failure without reasonable explanation to answer a question asked by a deciding authority
- failure to take advantage of a reasonable opportunity to make an asylum or human rights claim while in a safe country
- failure to make an asylum or human rights claim until notified of an immigration decision, unless the claim relies wholly on matters arising after the notification – see section on [refugees sur place](#)
- failure to make an asylum or human rights claim before being arrested under immigration provisions, unless there was no reasonable opportunity to claim before the arrest or the claim relies wholly on matters arising after arrest

## What is a reasonable explanation?

You must provide the claimant with an opportunity to explain any behaviour that may undermine their credibility, including behaviour falling within the scope of section 8, and you should consider their response in light of any [underlying factors](#). This will normally be through asking relevant questions in their asylum interview.

A reasonable explanation for a delay in claiming asylum is a matter for you to determine, but, depending on the individual facts of the case, may include:

- a lack of knowledge or misinformation about the asylum system
- fear of detention
- other fears which may be held by the claimant (even if not objectively warranted)
- having another form of leave that you consider relevant for example under the Syrian visa concession
- being under the control (whether physical or coercive) of a trafficker

On the other hand, a claimant who has been in the UK for several years, perhaps with a form of immigration status in an unrelated immigration category will find it difficult to plausibly argue that their failure to claim asylum was due to a lack of knowledge of the immigration system.

In [JT \(Cameroon\) v Secretary of State for the Home Department \[2008\] EWCA Civ 878 \(28 July 2008\)](#) the Court of Appeal stressed that the weight to be given to section 8 findings was entirely a matter for the fact finder. The Court made further

comments that whilst it may be appropriate in some cases to give no weight to section 8 findings, this would be unusual. It went on to note that such factors must be considered when assessing credibility and are capable of damaging it, but section 8 does not dictate that relevant damage to credibility inevitably results.

What is reasonable in one case may not be reasonable in another. The following may be reasonable explanations, please note this list is not exhaustive:

- situations where the claimant could not easily have disobeyed the instructions of an agent who facilitated their entry into the UK, which may be more relevant in cases involving unaccompanied children, those with mental health issues or victims of modern slavery
- where a claimant is severely traumatised or where cultural norms, shame or difficulties in disclosing intimate information may make it difficult for them to disobey instructions or disclose key information earlier, for example in claims from LGBT+ persons –for more information see the asylum instructions on; asylum interviews, sexual orientation, gender issues and the modern slavery guidance
- situations where a person can show that a document was destroyed or disposed of as a direct result of force, threats or intimidation
- where a document has been lost or stolen and the individual can substantiate such a claim (usually with a police report of the loss/theft)

## Failure to claim asylum in a safe third country

Those who are in genuine need of international protection should claim asylum in the first safe country they reach, in which they have a reasonable opportunity to do so, by approaching the relevant national authorities or the local office of the UNHCR. Claiming in a first safe country means that asylum-seekers can receive assistance there, rather than risk their lives on dangerous journeys or fall victim to criminal gangs. A ‘safe country’ may not be the same for all refugees. Some refugees may still be at risk for ECHR purposes in countries that may be safe for others who have been recognised as refugees from the same country of nationality (or former habitual residence).

You must consider whether the claim should be referred for inadmissibility consideration under safe third country processes if it appears that the claimant could be safely removed to another country. If the claim is accepted by TCU for inadmissibility action and is subsequently treated as inadmissible, we will not need to substantively consider it.

If the individual cannot be removed to a safe third country under the [inadmissibility rules](#) or it has been decided to admit the asylum claim into the UK asylum system in any event, and you have to consider it, [Section 8\(4\)](#) of the Asylum and Immigration (treatment of Claimants) Act 2004 might still apply. This requires you to consider any failure to take advantage of a reasonable opportunity to claim asylum while in a safe third country as damaging to the claimant’s credibility. This is based on the premise that asylum seekers are expected to claim asylum at the first reasonable opportunity – that is when they reach a safe country in which they do not have a well-founded

fear of persecution. A reasonable opportunity means that, having regard to all the circumstances including their vulnerabilities, they could reasonably have been expected to approach the relevant national authorities at the border or in country, and there is no reason to believe that their claim would not have been received and considered.

Failure to claim asylum or comply with the asylum process in the first safe country may be damaging to a claimant's credibility because it can indicate that the claimant's journey to the UK was not motivated by their need for protection; it is reasonable to assume that, if protection was their goal, an asylum seeker would have sought it at the first reasonable opportunity. Deciding to make an onward secondary movement to the UK from a first safe country either without claiming asylum or without waiting for their claim to be decided, may indicate that the claimant is motivated by other factors rather than protection, such as the desire for better economic prospects or to unify with extended family.

However, each case will need to be considered on its own merits as the reason for an individual's journey to the UK may comprise a number of complex factors and an asylum seeker may still be entitled to protection under international refugee and human rights law-even if they have not claimed asylum in the first safe country or waited for their claim to be processed.

The UK is not considered a 'safe country' for the purposes of section 8. Section 8(7) defines 'safe country' as 'a country to which Part 2 of Schedule 3 applies' and the UK is not listed in Schedule 3. This is because reference to 'safe country' in the context of this section refers to countries other than the state in which the person has claimed asylum. As such, any delay in making an asylum claim in the UK should be considered under [paragraph 339L](#) of the Immigration Rules.

## Claims triggered by immigration decisions

If the claim is made after the claimant has been notified of an immigration decision ([see section 8\(5\)](#)), you must regard the timing of the claim as damaging to their credibility unless the claim relies wholly on matters arising after the notification. This is on the basis that those who need protection are expected to claim at the earliest opportunity and not wait until they are told they need to leave the UK because it is reasonable to expect that someone who was genuinely in fear of persecution would seek some form of long-term protection, rather than choosing to remain in a precarious status. However, you must give the claimant an opportunity to explain why they did not claim sooner and carefully consider any explanation provided to decide whether it is [reasonable](#). An immigration decision in this case means any of the following ([see section 8\(7\)](#)).

- refusal of leave to enter the UK
- refusal to vary leave to enter or remain in the UK
- a removal decision
- a decision to make a deportation order
- a decision to extradite a person from the UK
- a grant of leave to enter or remain in the UK



## Notification

As noted above, if an asylum claim is made after the claimant has been notified of an immigration decision, section 8 may apply. What matters is how and when the person was notified. Under Regulation 3 of the Immigration (Claimant's Credibility) Regulations 2004, notice may be given:

- orally (including orally by phone)
- in writing by hand, by fax, by email or by post – for section 8 purposes, there are no requirements as to the form in which a notice has to be written
- notice served upon a representative is to be taken to have been served on the claimant

In the case of a minor who does not have a representative, notice to the parent, guardian or another adult who for the time being takes responsibility for the minor is taken to have been given to the minor. Please see guidance on children's asylum claims and guidance on drafting, implementing and serving asylum decisions for more information.

## Claims prompted by the claimant's arrest

A claimant's credibility may be treated as potentially damaged if the claim is made after the claimant's arrest under an immigration provision unless there was no reasonable opportunity to make the claim beforehand, or the claim relies wholly on matters arising after the arrest. The arrest must relate to immigration (or extradition) issues. The relevant statutory provisions are:

- sections 28A, 28AA, 28B, 28C and 28CA of the [Immigration Act 1971](#)
- paragraph 17 of [Schedule 2 to the 1971 Act](#)
- section 14 of the [2004 Act](#)
- the [Extradition Acts 1989](#) and [2003](#)

A claimant has had a reasonable opportunity to claim asylum before arrest if they could have approached the authorities at any time after their arrival. For example, someone who is apprehended after getting out of the back of a lorry is less likely to have been able to make a claim than someone who passed through immigration control. For more information see [what is a reasonable explanation?](#)

## Well-founded and future fear

To qualify as a refugee (or Humanitarian Protection) a claimant must demonstrate a well-founded fear of persecution (or real risk of serious harm). In assessing whether a fear is well-founded, decision-makers must be satisfied that both of the following apply:

- the claimant has a fear of persecution or an apprehension of some future harm
- objectively, there is a reasonable degree of likelihood (or a real risk) of the claimant's fear being well-founded on return to the country of origin

The low threshold for the reality of the risk on return was decided in *Sivakumuran, R (on the application of) v Secretary of State for the Home Department* [1987] UKHL 1 (16 December 1987). The House of Lords accepted that even ‘a 10 percent chance of being shot, tortured or otherwise persecuted’ could be enough of a risk for a fear to be considered well-founded.

In [WA \(Pakistan\)](#), the Court of Appeal set out the guidance to be followed when applying the principles set out in [HJ \(Iran\) and HT \(Cameroon\)](#) and [RT \(Zimbabwe\)](#). It states that, if you decide that a claimant is a genuine Ahmadi, you will need to consider whether the claimant will actually behave in such a way as to attract persecution. If so, they are a refugee. Where appropriate this will involve considering whether their claimed behaviour is genuinely an expression of their religious belief and an authentic account of the way they will behave if returned.

Where the claimant would, on return to Pakistan, avoid behaviour which would attract persecution then you must ask why that would be so. If a material reason (and not necessarily the only reason) for avoiding such behaviour would be the fear of persecution, it is likely that they would qualify for refugee status. If they would avoid that behaviour for reasons other than a fear of persecution – for example because of established cultural norms or social pressures – it is unlikely they will qualify for refugee status. There is no requirement for them to show that the public expression of Ahmadi religious faith, of a kind likely to attract persecution, is of “particular importance” to them.

These principles apply to consideration of all asylum applications; they are not specific to the Ahmadi religious faith.

## Sufficiency of protection

To qualify for asylum (or humanitarian protection), an individual not only needs to have a well-founded fear of persecution, they must also demonstrate that they are unable, or unwilling because of their fear, to avail themselves of the protection of their home country. But the concept of ‘sufficiency of protection’ does not apply if the actor of persecution is the state itself or an organisation controlling the state. Regulation 4(2) states that:

“Protection shall be regarded as generally provided when the actors mentioned [above] take reasonable steps to prevent the persecution or suffering of serious harm by operating an effective legal system for the detection, prosecution and punishment of acts constituting persecution or serious harm and [the claimant] has access to such protection.”

The standard of protection to be applied is not one that eliminates all risk to citizens of the state. It is sufficient that a country has a system of criminal law which makes attacks by non-state actors (or ‘rogue’ state officials) punishable and that there is a reasonable willingness and ability to enforce the law.

You must consider whether protection provided by the authorities, organisations controlling all or a substantial part of the state, is available to an individual regardless

of their race, ethnicity, disability, religion, class, age, occupation, gender, gender identity, sexual orientation, variations in an individual's sex characteristics, or any other aspect of their identity. A claimant is not required to have sought protection from the authorities in their country of nationality, although their account of their experiences of seeking protection or their reasons for not doing so may provide relevant evidence.

The House of Lords case of [Horvath](#) is important to understand what protection means practically. It held that standard to be applied is not to eliminate all risk but a practical standard, which takes proper account of the duty which the state owes to its citizens. Certain ill-treatment may still occur even if a government acts to prevent it. However, serious discrimination or other offensive acts committed by the local populace may constitute persecution and if they are knowingly tolerated by the authorities, or if the authorities refuse, or prove unable, to offer effective protection the claimant may qualify for asylum.

## Internal relocation

Under [paragraph 339O](#) of the Immigration Rules you must consider whether the claimant would face a well-founded fear of persecution in the place of relocation, and, if not, whether it is reasonable to expect them to travel to, and stay, there. You must carefully consider the situation in their country, means of travel, and proposed area of relocation in relation to the individual's personal circumstances.

Therefore, internal relocation may be reasonable where:

- there is part of the country where the claimant will not face persecution
- this part of the country is accessible and safe to relocate to, that is the claimant would not face serious risks to their life or person in travelling to the place of relocation
- it would be reasonable or not unduly harsh to expect the claimant to settle in the place of relocation

Put another way, in the safe haven the claimant can lead a relatively normal life without facing undue hardship in the context of the country concerned.

While the [burden of substantiating an asylum claim](#) lies with the claimant, decision-makers must demonstrate that internal relocation is reasonable/not unduly harsh, having regard to the individual circumstances of the claimant and the country of origin information.

Considering internal relocation means taking account of the means and safety of travel, and communication, cultural traditions, religious beliefs and customs, ethnic or linguistic differences, health facilities, employment opportunities, supporting family or other ties (including childcare responsibilities and the effect of relocation on any dependent children), and the presence and ability of civil society, for example, non-governmental organisations) to provide practical support to the claimant. You must also consider any information about the physical and mental health of the claimant which may affect their ability to relocate and to access services required, and

whether the individual could avail themselves of support from family members in securing a livelihood, including receipt of remittances from abroad. CPINs generally have a sub-section that provides guidance and information on internal relocation, and some countries have a dedicated CPIN on it. See CPINs.

In some countries, financial, logistical, social, cultural and other factors may mean that women face particular difficulties moving around or relocating. This may be the case for divorced women, unmarried women, widows or single/lone parents, especially in countries where women are expected to have male protection. If women face discrimination in a possible place of relocation and are unable to work or obtain assistance from the authorities, it may be unreasonable to expect her to relocate.

Where the fear is of members of a woman's family, relocation is clearly not appropriate if the situation she would be placed in is likely to leave her with no alternative but to seek her family's assistance and thus re-expose her to persecution or a real risk of serious harm. You must consider whether the claimant, if unaccompanied, would be able to safely access the proposed relocation area, obtain accommodation, and avail herself of the support that may be available there from civil society. Gender specific risks include the risk of being subjected to sexual violence.

Internal relocation is reasonable if all of the following apply:

- there is a place a person can relocate to where they will not be persecuted
- they can travel there safely
- they can live in the place of relocation without experiencing undue hardship

However, if the claimant has a well-founded fear of persecution or real risk of serious harm in one part of the country and it is not reasonable to expect them to live in another part of that country, they should be granted asylum.

### **Related content**

[Contents](#)

# General requirements

Once you have established that a claimant does have a well-founded fear of persecution, you must then ensure that the claimant meets the general requirements for a person to qualify for refugee status as set out in [paragraph 334](#) of the Immigration Rules.

## Requirement to be present in the UK

A person must be present in the UK to claim asylum here. We are under no obligation to consider claims lodged outside UK territory and it is not appropriate to do so. This is reflected in [paragraph 334\(i\)](#), which makes clear that to benefit from refugee status the claimant must be in the UK or at a port of entry to the UK.

Where a person claims asylum and then subsequently leaves the UK before a decision is made, there is no obligation to continue to consider the claim. See guidance on withdrawing asylum claims.

## Exclusion from the Refugee Convention

Paragraph 334(ii) of the Immigration Rules requires the claimant to be “a refugee as defined in regulation 2 of the [Refugee or Person in need of International Protection \(Qualification\) Regulations 2006](#)”. Regulation 2 defines a “refugee” as a person who falls within 1(A) of the Convention and to whom regulation 7 does not apply. We have set out above the test for determining whether a person is a refugee in accordance with the definition set out in [Article 1\(A\)](#) of the Refugee Convention. However, there are certain circumstances where a claimant may have a well-founded fear of persecution for a Convention reason but are excluded from the protections afforded by the Convention.

Regulation 7 provides that a person is not a refugee if they fall within the scope of one of the three exclusion clauses - Articles 1D, 1E or 1F - of the Refugee Convention:

- Article 1D excludes those already receiving UN protection – in practice this means Palestinian refugees assisted by the United Nations Relief and Works Agency (UNRWA); for more information see Article 1D of the Refugee Convention: Palestinian refugees and the country policy note on [Occupied Palestinian Territories](#).
- [Article 1E](#) excludes those who do not need protection because they already enjoy status corresponding to that of nationals of the country in which they are resident; you must consult Asylum Policy before excluding a claimant on this basis
- Article 1F excludes those who are believed to have committed serious crimes, including war crimes, crimes against humanity and/or serious non-political crimes or have been guilty of acts contrary to the purposes and principles of the United Nations – you must refer to guidance on Exclusion under Article 1F and Article 33(2) of the Refugee Convention before excluding under this provision.

## Danger to the security and community of the UK

Paragraph 334(iii) and (iv) of the [Immigration Rules](#) allow you to refuse asylum, irrespective of whether the claimant meets the refugee definition, where they are considered to represent a threat to the national security of the UK or, having been convicted of a serious crime, they are considered to be a danger to the community. These are not [exclusion clauses](#), which have the effect of excluding a person from recognition as a refugee, but rather provisions to refuse refugee status in the UK under the Immigration Rules (where they may otherwise be recognised as a refugee under the Refugee Convention). The provisions mirror Article 33(2) of the Refugee Convention. See guidance on Exclusion Article 1F and Article 33(2) of the Refugee Convention.

## Dual nationality

Paragraph 334(v), taken with paragraph 339J(v) of the [Immigration Rules](#) (if a person can reasonably be expected to avail himself of the protection of another country where he could assert citizenship), means that, even though a claimant may have a well-founded fear of persecution in one country of nationality, they will not qualify for refugee status if they are also nationals of another country and they do not have a well-founded fear of persecution in that country. This paragraph does not apply to claimants who have leave, but not citizenship, in another country as claimants in that situation are not considered to be dual nationals.

You should first consider whether the claim is inadmissible on the grounds of dual nationality. For more information refer to the inadmissibility guidance.

If the claimant has a well-founded fear of persecution in both countries of which they are a national, then they may qualify for asylum. For guidance on how to address such claims, see nationality: disputed, unknown and other cases.

## Stateless persons

The definition in Article 1(A) of the Refugee Convention specifically caters for those who do not have a nationality but face persecution in their country of former habitual residence. As such, stateless persons are entitled to claim asylum and may establish a well-founded fear of persecution in their countries of habitual residence in the same way as nationals of those countries.

There is separate provision for granting leave where an individual is accepted as stateless and is not re-admissible to another country for the purposes of permanent residence. All the requirements for statelessness leave can be found in [Part 14 of the Immigration Rules](#). Applications must be made by completing the relevant [application form](#) on gov.uk. See guidance on applications for leave to remain as a stateless person.

It will not normally be appropriate to consider a stateless leave application until the asylum claim has been finally determined (including appeals rights exhausted) or

withdrawn, unless a decision can be made without disclosing information to the national authorities of the country of former habitual residence from which the claimant has expressed a fear of return. For further guidance, please refer to the 'outstanding asylum claims' or 'further submissions' sections of the guidance on applications for leave to remain as a stateless person.

**Related content**

[Contents](#)

# Certification

This section provides information about certifying protection and/ or human rights claims that fall to be refused.

## **Certification under Section 94 of the Nationality, Immigration and Asylum Act (NIA) Act 2002**

Section 94(1) of the Nationality, Immigration and Asylum Act 2002 states that the Secretary of State may certify that a protection or human rights claim as clearly unfounded. In all cases where a protection and/ or human rights claim falls to be refused decision-makers must consider whether section 94 certification is appropriate and claims that are clearly unfounded should be certified unless an exception applies. The Nationality and Borders Act 2022 removed the out of country right of appeal for any claims certified under section 94 on or after 28 June 2022 which means that these cases no longer have a right of appeal against the decision. This applies irrespective of the date that the asylum and any human rights claim was made, so even if the claim was made on or before 27 June 2022, there will be no right of appeal if the claim is certified under section 94.

Decision-makers who are not section 94 trained but consider that they may have a case suitable for certification must refer the case to their SCW. If the case is suitable for certification, the file should be reallocated to a decision-maker who has received both interview and decision-making training for section 94 decision considerations. If you are considering whether to certify a claim under section 94, please consult the guidance: Clearly unfounded claims - certification under section 94.

## **Certification under Section 96 of the Nationality, Immigration and Asylum Act (NIA) Act 2002**

Section 96 of the Nationality, Immigration and Asylum Act 2002 is intended to prevent claimants raising matters at the last minute to frustrate removal. Section 96 certification can be applied to a claim when certain conditions are met in relation to a previous right of appeal or the service of a section 120 notice. In all cases where a claimant has been afforded a previous right of appeal or has been served with a section 120 notice and the protection and/ or human rights claim falls to be refused decision-makers should consider whether section 96 certification is appropriate, giving regard to the conditions outlined in Section 96 of the Nationality, Immigration and Asylum Act 2002. The effect of certification under section 96 is to remove the right of appeal against refusal.

Decision-makers who are not section 96 trained but consider that they may have a case suitable for certification must refer the case to their SCW. If the case is suitable for certification the file should be reallocated to a decision-maker who has received both interview and decision-making training for section 96 decisions considerations. If you are considering whether to certify under section 96, please consult the guidance: Late claims - certification under section 96.



**Related content**  
[Contents](#)

# Asylum decision outcomes

You must refer to the instruction drafting, implementing and serving asylum decisions for details of the various outcomes of an asylum claim and the instructions which must be followed. The table below provides an overview and links to the guidance that will help you.

Decision type	Further information and guidance
Grant refugee status and leave to remain	Refugees who claimed asylum before the 2022 Act came into force are granted refugee status and leave to remain. Leave is normally granted for 5 years. Please see the instruction on: refugee leave for more information.
Refuse asylum, no other type of leave granted	You must draft a Reasons For Refusal Letter (RFRL) explaining your decision and setting out details of any appeal. In some cases, it will be necessary to treat the claim as withdrawn or refuse it on non-compliance grounds. Please see instructions on; drafting, implementing and serving asylum decisions guidance, withdrawing asylum claims and non-compliance.
Refuse asylum, grant Humanitarian Protection (HP)	You must draft a hybrid grant/refusal letter which explains the decision to refuse refugee status but grant HP. Please see guidance on humanitarian protection.
Refuse asylum and HP, grant Restricted Leave	You must draft a hybrid grant/refusal letter which explains the decision to refuse refugee status but grant Restricted Leave. Please see the instructions on exclusion and restricted leave.
Refuse asylum and HP, grant under the Article 8 Family/Private Life Rules	You must draft a hybrid grant/refusal letter which explains the decision to refuse refugee status but grant permission to stay under the Family/Private Life Rules. Please see the instruction on family life.
Refuse asylum, HP, and Article 8; grant Discretionary Leave (DL)	You must draft a hybrid grant/refusal letter which explains the decision to refuse refugee status but grant DL. Please see the instruction on discretionary leave.
Children's asylum claims	Children who make an asylum claim in their own right must be granted the status and leave that they are entitled to in accordance with the relevant <a href="#">Immigration Rules</a> . Where UASC leave is being granted, you must draft a hybrid grant/refusal letter which explains the decision to refuse refugee status but grant UASC leave. Please see processing children's asylum claims, family asylum claims and dependants and former dependants guidance.
Refuse asylum and certify under Section 94 or 96 of the NIA Act 2002	Please see <a href="#">certification</a> and clearly unfounded claims: certification under section 94. Please see <a href="#">certification</a> and late claims: certification under section 96.