

Handling Claims

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Introduction

This instruction gives a general overview of the way an asylum claim is handled within the UK Border Agency.

Detailed guidance on how to consider the claim in line with the UK's obligations under the 1951 United Nations Convention relating to the Status of Refugees can be found in the AI on [Considering the Asylum Claim](#).

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

Section 55 of the Borders, Citizenship and Immigration Act 2009 requires the UK Border Agency to carry out its existing functions in a way that takes into account the need to safeguard and promote the welfare of children in the UK. It does not impose any new functions, or override existing functions.

Officers must not apply the actions set out in this instruction either to children or to those with children without having due regard to Section 55. The UK Border Agency instruction 'Arrangements to Safeguard and Promote Children's Welfare in the United Kingdom Border Agency' sets out the key principles to take into account in all Agency activities.

Our statutory duty to children includes the need to demonstrate:

- Fair treatment which meets the same standard a British child would receive;
- The child's interests being made a primary, although not the only consideration;
- No discrimination of any kind;
- Asylum applications are dealt with in a timely fashion;
- Identification of those that might be at risk from harm.

This instruction includes requirements for the treatment of children in interviews which are intended to meet UKBA's statutory duty. For further guidance please see [Processing Asylum Applications from Children](#).

It also makes consideration of enforcement actions. Consideration must be made of the Code of Practices statement that there must always be a presumption in favour of not detaining a family and each family's case must be considered on its individual merits.

<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/consultations/closedconsultations/keepingchildrensafe/>

The key points

Applicants are expected to apply for asylum immediately upon arrival in the UK but may also apply after entry. Cases are classified as:

Port - where the claim is made at port, on entry.

In time, after entry - where the claim is made after entry and whilst the applicant has extant limited leave.

Out of time, after entry - where the claim is made after entry and after the applicant's limited leave has expired.

Illegal entry - where the claim is made following the applicant having entered the UK illegally.

Identifying asylum claims

Since 8 February 2003, initial asylum claims must be made in person. Postal asylum claims are no longer accepted by the UK Border Agency, unless the individual is attempting to make a fresh claim following the exhaustion of appeal rights (see the AI on [Further Representations & Fresh Claims](#)).

Many claims are made by individuals who specifically claim asylum but this is not always the case. Not all applicants know about the UN Convention so might not use the words “asylum” or “refugee”.

If a person expresses an unwillingness to return to their country of nationality or habitual residence because they believe they would be in danger, we should assume that they are attempting to make an asylum claim. If the reason is one clearly not covered by the Convention (see the AI on [Considering the Asylum Claim.](#)), this may be a reason for refusing the claim in due course but it must first be fully (or substantively) considered. The only exception to this is where the claim is being treated as a third country case (for further guidance see the AI on [Third Country Cases](#), or contact **Third Country Unit (TCU)** via a senior caseworker on operational issues and **European Asylum Policy Unit (EAPU)** via a senior caseworker on policy issues).

Consideration of a claim

The decision maker should consider the claim in the light of all the evidence provided and may:-

- grant asylum if the applicant fulfils the criteria set out in the 1951 Convention (see the AI on [Considering the Asylum Claim.](#));
- grant Humanitarian Protection (HP) where the applicant is not a refugee but there are substantial grounds for believing that they would face a real risk of suffering serious harm in the country of return, and they cannot obtain effective protection from the authorities of that country (or will not because of the risk of suffering serious harm) (see the **AI** on [Humanitarian Protection](#));
- grant Discretionary Leave (DL) where the applicant does not qualify for asylum or Humanitarian Protection but where removal would breach an article of the ECHR, for example Article 3 (medical cases) and Article 8 cases, or where the applicant is an unaccompanied asylum seeking child for whom there are inadequate reception arrangements available in their country of return, and where they are not excluded from this form of leave (see the **AI** on [Discretionary Leave](#));
- if it is decided to refuse the claim outright, consider whether it is appropriate to certify under sections 94 or 96 of the 2002 Act, and whether to set removal directions under section 10 of the 1999 Act which will invalidate any extant leave or to curtail any extant leave (see the **AIs** on [Certification under section 94 of the NIA Act 2002](#), [Further Representations & Fresh Claims](#) and [Curtailement of limited leave in cases where an asylum/Human Rights application is refused](#), and [Chapter 12 of the Immigration Directorates' Instructions on Appeals: the One Stop Procedure](#)).

United Kingdom Residence Permits (UKRPs)

UKRPs and the European Council Qualification Directive

Article 24 of the European Council Qualification Directive outlines the circumstances in which Member States, including the UK, must issue a residence permit to those who qualify for refugee status or humanitarian protection (see the *AI* on [Humanitarian Protection](#)).

Those who are successful in their asylum claim, or those who are refused asylum but granted Humanitarian Protection, will normally be issued with a United Kingdom Residence Permit (UKRP) unless compelling reasons of national security or public order otherwise require, in accordance with paragraph 339Q of the Immigration Rules.

The UK Border Agency will normally also issue a UKRP to those granted Discretionary Leave, unless compelling reasons of national security or public order otherwise require.

Recipient cooperation regarding UKRPs

The UK Border Agency is required by paragraph 339Q of the Immigration Rules to issue those granted asylum or humanitarian protection a UKRP “as soon as possible after the grant”. It will not be possible to issue a UKRP without the cooperation of the recipient, particularly with regard to photographs.

The UK Border Agency considers recipient cooperation a necessary part of the UKRP issuing process. The production of photographs by the applicant is part of the application process by which a UKRP will be issued. Those individuals who do not provide the required photographs which form a vital part of their UKRP will not be issued a permit. As soon as the photographs are received, UK Border Agency will issue the UKRP.

Recipients who are reluctant to cooperate should be made aware that it is in their interest to do so, as not being in possession of a UKRP could affect access to benefits and other areas of integration.

For further information on the issuing process for UKRPs, see the *Asylum Process Notice (AI)* on [Guidance for issuing status documentation for grants of leave including further guidance for cases where no photographs have been provided](#).

After Entry Cases

Claims that are submitted "in country".

Claims can be made in person after entry to the UK at either of the Asylum Screening Units (ASU) located in Croydon and Liverpool. In addition, some claims are recorded by Local Enforcement Offices (LEOs), for example those they encounter as the result of an LEO operation or attending a clandestine event.

Where vulnerable individuals are concerned, in other words those for whom travelling to an ASU will involve exceptional hardship, it is possible for the claim to be accepted and screening carried out at a LEO. Local immigration managers should make decisions as to what constitutes 'vulnerable' on a case by case basis, but this is likely to include, for example, visibly pregnant women, unaccompanied minors, and those with severe medical problems.

Port Cases

Claims made at port

Individuals who claim at port will be screened there by an immigration officer. The single case file will then be forwarded on to the decision maker for substantive interview and consideration of the claim.

Temporary Admission/Temporary Release

Temporary admission (TA) may be given by immigration officers at ports so that applicants do not have to leave the UK or remain in detention whilst their claims are considered. Immigration officers at LEOs may grant Temporary Release (TR). TA/TR does not constitute leave. Applicants are normally given TA/TR to a specific address, and as such must not change address without obtaining permission from the UK Border Agency. They are also required to report to an immigration officer or to a police officer at specified intervals. If they fail to report they will be treated as an absconder.

Substantive Interviews

Applicants are normally interviewed substantively before a decision is taken on their claim (exceptions to this general rule include where the claim is refused on non-compliance grounds, and where there is already enough information on file to warrant a grant of refugee status).

For further guidance, see the **AI** on [Conducting the Asylum Interview](#).

For information on interviewing children, see the **AI** on [Children](#).

Detention

Use of detention

Information and advice on detention can be found in [Chapter 55 of the *Enforcement Instructions and Guidance*](#).

Enquiries: further enquiries should normally be made in writing via a Senior Caseworker to asylumenquiries@homeoffice.gsi.gov.uk inbox.

Document Control

Change Record

Version	Authors	Date	Change Reference
1.0	Sarah Parry	22/01/07	New web style implemented
2.0	Debra Daniel	10/11/08	Re-branding exercise only
3.0	JL	27/10/09	Children's duty paragraph added

Review

Reviewed By Name	Date	Position

Issue Control

Approved for Publication by Name	Date	Role
Iain Walsh	09/09/06	AAPD
Bob Eagle	12/09/06	ACD
Freda Chaloner	02/10/06	NAM
James Leonard	27/10/09	