



Home Office

Asylum Policy Instruction Withdrawing Asylum Claims

Version 5.0

Contents

Contents.....	2
About this guidance.....	4
Contacts	4
Clearance	4
Changes from last version of this guidance	4
Introduction	5
Purpose of instruction	5
Background to withdrawing asylum claims	5
Policy intention behind treating claims as withdrawn	5
Application of withdrawing asylum claims to children	6
Relevant Legislation.....	7
European Regulations	7
The Immigration Rules.....	7
Explicit Withdrawals	8
Valid explicit withdrawals	8
Valid explicit withdrawals from children.....	8
Withdrawal by dependants	8
Withdrawal at appeal	8
Recording the application as explicitly withdrawn	9
Outstanding non-protection based human rights claim.....	9
Immigration status following withdrawal.....	9
Implicit Withdrawals.....	10
Failure to complete an asylum questionnaire	10
Absconds before substantive interview.....	10
Failure to attend the substantive asylum interview	11
Failure to report to substantive interview letter	11
Implicitly withdrawing asylum claims from children	11
Responses to failure to attend substantive interview letter	11
Acceptable explanation	11
No acceptable explanation.....	12
Further Submissions interviews	12
Asylum claims made before 7 April 2008.....	12
No current contact details available	12

Absconder process	13
Recording the application as implicitly withdrawn	13
Immigration status following withdrawal.....	13
Miscellaneous casework processes	14
Incorrect withdrawals	14
Re-application following withdrawal	14
Appeal rights after withdrawal.....	14
Terminating asylum support	14
Travel abroad and requests for passports	14
Considering requests for permission to travel.....	15
Templates	16
Updating CID.....	17
Updating CID – Explicit Withdrawal	17
Updating CID – Implicit Withdrawals.....	17

About this guidance

This guidance tells you about the circumstances in which an asylum claim should be treated as withdrawn in accordance with paragraph 333C of the Immigration Rules.

Contacts

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

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email the Guidance Rules and Forms team.

Clearance

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

- version **5.0**
- published for Home Office staff on **21 June 2016**

Changes from last version of this guidance

- Updated in line with Immigration Act 2014 changes

Related content

[Contents](#)

Related external links

Introduction

Purpose of instruction

This instruction provides guidance on the implicit and explicit withdrawal of asylum claims. In particular, it covers:

- the circumstances in which asylum claims can be treated as withdrawn
- implicit and explicit withdrawal under [paragraph 333C](#) of the Immigration Rules
- withdrawal of non-protection based applications under the European Convention on Human Rights (ECHR) made as part of an asylum claim and
- incorrect withdrawals

This guidance does not cover cases where a recognised refugee wishes to renounce their refugee status, where a refugee no longer qualifies for refugee status or where consideration is being given to whether refugee status should be revoked. See separate guidance on revocation of refugee status.

Background to withdrawing asylum claims

Asylum claimants may notify the Home Office that they intend withdraw their asylum claim and either leave the UK, remain on the basis of leave they already have or pursue another application. Claimants may also fail to comply with the process and abscond before a decision is made on their asylum claim. All withdrawn claims must be properly recorded and enforcement action pursued where necessary so that decision makers can focus their attention on legitimate claims for protection. It is Home Office policy to treat an asylum claim as implicitly withdrawn where the relevant criteria are met.

Changes to paragraph 333C permit the implicit withdrawal of asylum claims decided on or after **26 February 2015** where the claimant leaves the UK without prior authorisation from the Home Office at any time before the conclusion of their claim, or if they fail to complete an asylum questionnaire as requested.

Policy intention behind treating claims as withdrawn

The underlying policy objective in treating an asylum claim as withdrawn is to:

- maintain the integrity of the asylum process by focusing efforts on those claimants whose behaviour demonstrates they are serious about pursuing their asylum claim
- treat claims as withdrawn where the claimant shows no real interest in pursuing their claim by failing to comply with the process, absconding or leaving the UK without permission before a decision
- demonstrate a commitment to make sure genuine refugees are given the protection they need quickly whilst robustly pursuing removal action against those who make unfounded claims and subsequently abscond

Application of withdrawing asylum claims to children

Section 55 of the Borders, Citizenship and Immigration Act 2009 requires the Home Office 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. The process of withdrawing an asylum claim operates alongside existing child safety procedures and considerations so it is unlikely that a decision to treat an asylum claim as withdrawn would adversely impact on the best interests of a child. However, caseworkers must be alert to any child protection issues that may arise in this context.

Where children are dependent on their parents as part of a family case it is expected that parents will be acting in the best interests of their children if they seek to explicitly withdraw the claim. However, caseworkers must still consider the impact on children and whether there is evidence to suggest that they may have a claim in their own right.

It is not expected that responsible parents would fail to comply with the asylum process if they have a genuine claim but where families do abscond caseworkers should refer to Chapter 45 of the Enforcement Instructions and Guidance (EIG) on dealing with family cases.

In cases where an unaccompanied child seeks to explicitly withdraw their asylum claim they must do so through a responsible adult or their representative because it is important to ensure they are aware of the consequences of withdrawal. If there are any cases where an asylum seeking child fails to comply with the process, decision makers must liaise with the legal representative and Social Services before consideration is given to implicit withdrawal. See the asylum instruction, 'Processing asylum applications from children' for further guidance.

Where a child has absconded decision makers must make sure the child is recorded as missing and the relevant agencies are informed. The Enforcement Instructions and Guidance provides specific advice on the steps to take.

For further information on the key principles to take into account, see: Section 55 Children's Duty Guidance.

Related content

[Contents](#)

Related external links

Relevant Legislation

European Regulations

[Council Directive 2005/85/EC](#) ('Procedures Directive') of 1 December 2005 lays down minimum standards on procedures in Member States for granting and withdrawing refugee status. The following articles are of particular relevance:

- **Article 19** allows for the explicit withdrawal of an asylum claim and for consideration of the claim to be discontinued without taking a decision
- **Article 20** provides that Member States may assume the claimant has implicitly withdrawn or abandoned their claim if:
 - they fail to attend a personal interview unless such failure was due to circumstances beyond their control
 - they abscond at any stage of the process and fail to comply with reporting conditions

The Immigration Rules

[Paragraph 333C](#) sets out the circumstances in which it is appropriate to treat an asylum claim as withdrawn. It only applies to requests for international protection as outlined in [Paragraph 327](#) of the Immigration Rules (definition of asylum claimant), not to non-protection based human rights claims. The Rule was introduced on 7 April 2008 and does not have retrospective effect, meaning that implicit withdrawal under this rule can only be applied to claims made on or after that date.

Implicit withdrawals of asylum claims lodged on or after 26 February 2015 can be applied if the claimant leaves the UK without authorisation at any time before the conclusion of their claim. It can also apply if the claimant fails to complete an asylum questionnaire as requested, for example a Statement of Evidence (SEF) or Preliminary Information Form (PIF).

[Paragraph 326B](#) of the Immigration Rules states that where the Secretary of State is considering a protection claim, any Article 8 issues raised as part of that claim will be considered at the same time as that claim. Consideration must be in line with the provisions of Appendix FM (family life) and paragraphs 276ADE(1) to 276DH (private life) of these Rules.

Related content

[Contents](#)

Related external links

Explicit Withdrawals

Valid explicit withdrawals

An asylum claim can only be treated as explicitly withdrawn under [paragraph 333C](#) when the claimant has signed and submitted a valid withdrawal form such as:

- IS.101
- IS.101(PA)
- ASL.4857
- another relevant form provided by the Secretary of State

An asylum claim cannot be treated as explicitly withdrawn unless a valid withdrawal is provided. Incorrect or incomplete forms must be returned to the claimant or legal representative explaining what is required. It must be made clear that the asylum claim will not be treated as withdrawn until a correctly completed withdrawal form is received.

Copies of all correspondence must be placed on the case file, Case Information Database (CID) notes must be updated to reflect the actions taken and the status of the claim. An asylum claim must continue to be processed until a valid withdrawal form has been received.

Valid explicit withdrawals from children

Withdrawal forms submitted by unaccompanied asylum seeking children aged between 12 and 17 years of age must be signed by the child and their legal representative. This is necessary to confirm the intention of the child to withdraw their asylum claim and that they understand the consequences of doing so.

If the claimant is under 12 years of age they will not be expected to sign the form, it must be signed on the child's behalf by their legal representative.

Withdrawal by dependants

A dependant may decide to withdraw their claim even though the main claimant has not. This must be treated as a withdrawal of the dependant's claim only – it does not affect the main claimant or any other dependants on that claim. Where a valid withdrawal form is received from a dependant, the caseworker must write to that dependant accepting their withdrawal and send a copy of the letter to the main claimant via their legal representative (if they have one). Home Office records must be updated to reflect the withdrawal of the dependant's claim, including a note that the main claimant has not withdrawn their claim.

Withdrawal at appeal

[Paragraph 333C](#) does not apply to cases at the appeal stage as a decision on the claim has already been made. The appeal against refusal would need to be withdrawn and the claimant would become appeal rights exhausted (ARE) and liable to removal if they do not have leave or a pending application for leave.

Recording the application as explicitly withdrawn

Decision makers must correctly record that the claim has been explicitly withdrawn. Copies of all correspondence must be placed on the Home Office file and file minutes and Home Office databases must be updated with the correct outcome. See [Updating CID](#).

Outstanding non-protection based human rights claim

When an asylum claim is withdrawn all other issues relating to that claim are also considered to be withdrawn and should not be considered.

Claimants who wish to make an application for leave to remain on the basis of their family or private life in the UK or for any other non-protection based reason, including an Article 3 (medical) claim, must make an appropriate application on the correct form available on the [GOV.UK](#) website.

The type of form required will depend on the leave and circumstances. All enquiries must be directed to the [GOV.UK](#) website as this will contain the most up to date version and guidance on completing the form. Decision makers must update the case outcome on CID to reflect the withdrawal of the asylum claim.

Immigration status following withdrawal

Following explicit withdrawal of the asylum claim, if the claimant does not otherwise have the legal right to remain in the UK, for example leave to remain on other grounds following a separate application or they have submitted an application and are waiting for a decision, they will be liable for removal as they require, but do not have leave to remain. See Enforcement Instructions and Guidance for further information.

Related content

[Contents](#)

Related external links

Implicit Withdrawals

An asylum claim may be treated as implicitly withdrawn under [paragraph 333C](#) of the Immigration Rules if the claimant:

- fails to complete an asylum questionnaire when requested to do so
- fails to attend their substantive asylum interview and is unable to demonstrate within a reasonable time that failure to do so was due to circumstances beyond their control, or
- leaves the UK before a decision is made

This process allows cases to be concluded without further consideration where the claimant has absconded or is refusing to cooperate by attending a substantive interview. In such cases the claim should normally be treated as withdrawn and any asylum support terminated. Claims that can be treated as withdrawn should not normally be refused on non-compliance grounds (which will generate a right of appeal). Any decision to refuse a claim on non-compliance grounds which could and should have been treated as withdrawn must be agreed by a senior manager (SEO or above).

Failure to complete an asylum questionnaire

Claimants who fail to complete an asylum questionnaire, such as a Preliminary Information Form (PIF) or Statement of Evidence Form (SEF), without a reasonable explanation, when requested to do so, may have their asylum claim treated as implicitly withdrawn under paragraph 333C.

Absconds before substantive interview

Claimants who fail to maintain contact before they are invited to an asylum interview may have their claim treated as implicitly withdrawn if they have been advised in writing that they will be required to attend an interview as part of the asylum process and, that failure to attend will result in the withdrawal of the claim.

This warning is provided in the following documents issued to the claimant as part of the screening or routing process:

- the Screening Interview Form
- routing letters (ICD 3070 (RT1), ICD 3072 (RT2), ICD 3391), and
- the 'Point of Claim' leaflet issued to all asylum claimants

Decision makers must confirm that there is evidence on the Home Office file that the warning has been recorded as having been issued before treating the claim as implicitly withdrawn. If there is no evidence of notification, the implicit withdrawal procedure cannot be applied until they are notified. In this situation an invite to asylum interview letter may be issued and if they fail to attend that interview the claim treated as withdrawn.

Failure to attend the substantive asylum interview

An asylum claim should normally be treated as implicitly withdrawn under paragraph 333C if the claimant fails to attend their substantive asylum interview without providing evidence that their absence was due to circumstances beyond their control. The invitation to interview letter states that they will be required to attend a substantive interview as part of the asylum process and that failure to do so may result in their claim being treated as withdrawn.

Failure to report to substantive interview letter

To determine whether failure to attend the substantive asylum interview should be treated as an implicit withdrawal, or if the interview should be rebooked, a failure to report to substantive interview letter (ASL.3724) must be sent immediately to the claimant and an ASL.4826 covering letter with a copy of the ASL.3724 sent to their representative (if applicable) to establish why the claimant did not attend. The deadlines for a response to this letter are 5 working days in non-detained cases or 24 hours in all detained cases.

Where no explanation is received by the deadline, the asylum claim must be treated as implicitly withdrawn. If an explanation is received within the deadline, consider whether there is sufficient evidence to show that failure to attend was due to circumstances beyond the claimant's control and decide whether to rebook the interview or treat the claim as implicitly withdrawn. The onus is on the claimant to provide an acceptable explanation for non-attendance, for example reliable evidence of illness or travel disruption.

If the claimant is not represented and no valid address has been provided, the ASL.3724 letter must be served to file and handed to the claimant when they are next encountered – see deciding, implementing and serving substantive decisions.

Implicitly withdrawing asylum claims from children

It is important to exercise discretion when handling non-attendance at asylum interviews or failure to return a SEF or PIF by children. Greater sensitivity must be used and if an acceptable explanation for non-attendance is not received the decision maker must take steps to establish all relevant facts. This may include (but is not limited to) contacting the child's responsible adult, legal representative, social services or accommodation provider for information on the reasons for non-attendance. See application of withdrawing asylum claims to children.

Responses to failure to attend substantive interview letter

Acceptable explanation

If an acceptable explanation is received, another interview must be arranged and the claim must not be treated as implicitly withdrawn. The claimant (and legal representative if applicable) must be informed that the explanation provided has been accepted using template letter ASL.3725. If it is possible to rebook the interview immediately this should be done as part of a new invitation to interview letter, incorporating wording as appropriate into the ASL.0062.

No acceptable explanation

If the explanation is not acceptable, or no response is received, the asylum claim should normally be treated as implicitly withdrawn. The claimant must be informed that the claim is being treated as implicitly withdrawn using template letter ASL.3725. If necessary, explain why any reason provided was not accepted. If the claimant is represented, covering letter ASL.4826 must be sent to the legal representative along with a copy of the ASL.3725.

Although it will normally be appropriate to treat asylum claims as implicitly withdrawn where the claimant has either failed to provide a reasonable explanation, or has replied after the deadline without a reasonable explanation for the delay, there may be circumstances where discretion should be exercised, and further investigation may be required. Template letter ASL.3725 must be issued to obtain specific further information from the claimant and/or legal representative before a decision is taken in such cases.

Further Submissions interviews

Implicit withdrawal cannot be applied to interviews in relation to further submissions. An asylum claim cannot be treated as withdrawn once a decision has been made and in all cases where further submissions are lodged the initial claim will already have been decided. If a claimant wants to withdraw further submissions, the case must be updated with the 'Withdrawn by Applicant' outcome and removal action pursued.

Asylum claims made before 7 April 2008

Implicit withdrawal under [paragraph 333C](#) can only be applied to asylum claims made on or after **7 April 2008**. For claims made before 7 April 2008 refusal under [Paragraph 339M](#) on the grounds of non-compliance should be considered.

No current contact details available

Where there is confirmation on either the Home Office file or databases that the claimant no longer resides at the address specified as their place of residence, their whereabouts are unknown or it is known that they have left the UK without explicitly withdrawing their claim, template letters ASL.3724 and ASL4826 must be issued to the claimant and legal representative (if applicable). The implicit withdrawal process as set out in the section on failure to report to substantive interview letter should be followed.

If the claimant has no fixed address and no legal representative, template letter ASL.3724 letter must be served to the file. The deadline for submitting an explanation for failure to attend an interview will be set from the date the letter was served to file. When the claimant is located they must be handed the original letter along with an explanation of what has occurred – see deciding, implementing and serving substantive decisions for guidance on serving decisions to file.

Absconder process

If implicit withdrawal action is taken in respect of a claimant whose current whereabouts is unknown, decision makers must refer to Chapter 19 of the Enforcement Guidance for information on assessing whether the claimant is an absconder and, if so, the absconder process which must be followed.

Recording the application as implicitly withdrawn

Copies of all correspondence must be placed on the Home Office file and file minutes and Home Office databases must be updated to show that the asylum claim has been implicitly withdrawn – see [Updating CID](#) for correct case outcomes.

Immigration status following withdrawal

Following implicit withdrawal of the asylum claim, if the claimant does not have legal status to remain in the UK, for example leave to remain on other grounds following a separate application or an outstanding application, they will be liable for removal as they require, but do not have leave to remain. See Enforcement Instructions and Guidance for further information.

Related content

[Contents](#)

Related external links

Miscellaneous casework processes

Incorrect withdrawals

In cases where it is clear that an asylum claim has been withdrawn incorrectly, the withdrawal decision must be cancelled. A letter must be sent to the claimant and representative (if applicable) confirming that the decision to treat the claim as withdrawn has been cancelled and the claim will be considered substantively. Home Office records must be updated accordingly.

Where an appeal has been lodged challenging the withdrawal decision, in addition to issuing a letter to the claimant, the decision maker or presenting officer must also notify the First-Tier Tribunal that the decision to which the appeal relates has been withdrawn by the Home Office and a new decision on the asylum claim will be made.

Re-application following withdrawal

If a claimant attempts to claim asylum again following the withdrawal of their claim under paragraph 333C, it must be treated as a further submission in line with the asylum policy instruction Further Submissions. This can also be applied to cases withdrawn before paragraph 333C was introduced on 7 April 2008 if the withdrawal was within the terms of paragraph 333C (as was).

Appeal rights after withdrawal

A decision to treat an asylum claim as explicitly or implicitly withdrawn does not attract a right of appeal because it is not an appealable decision under **Section 82** of the Nationality, Immigration and Asylum Act 2002 (as amended).

Terminating asylum support

If an asylum claim is treated as withdrawn under [paragraph 333C](#), the claimant will not be eligible for section 95 support unless they have an outstanding European Convention on Human Rights (ECHR) Article 3 (medical) claim - see the Asylum Instruction on Ceasing Asylum Support for further information.

If an asylum claim is withdrawn under [paragraph 333C](#), as no formal decision has been made on the claim, the claimant will not be a failed asylum seeker and as a result will not be eligible for section 4(2) support. This is also the case if the claimant's human rights claim has been considered and then refused, as they will have no claim outstanding – see separate guidance on Section 4 Asylum Support.

Travel abroad and requests for passports

Asylum claims will automatically be considered as withdrawn in line with Paragraph 333C of the Immigration Rules when the claimant:

- requests that their passport is sent back to them for travel outside the Common Travel Area (CTA), unless permission to travel has been authorised
- embarks for any destination outside the UK, (including within the CTA), without permission

Where there is an outstanding appeal against a decision, this is deemed to be abandoned upon embarkation for a destination outside the UK.

When a written request is received before a decision is made on the asylum claim, for the return of a passport for the purpose of travel outside the CTA, the decision maker must send either the IS.101 form, the IS.101 (PA) form, or another relevant form provided by the Secretary of State – such as ASL.4857 (see [Templates](#)) 'Declaration of Withdrawal template', warning them that return of the passport will constitute withdrawal of their asylum claim unless permission to travel has been authorised. The asylum claim is treated as withdrawn on the date the passport is returned in response to the request – see Explicit Withdrawals.

Considering requests for permission to travel

Requests to leave the UK whilst continuing to pursue an asylum claim will only be accepted in the most exceptional circumstances.

Where a written request for permission to travel is received, decision makers must consider the individual circumstances of the request. The length of time that the claimant wants to spend away from the UK must be consistent with the purpose of the request. For example, a request for the return of a passport to visit friends would be rejected but a request to travel to a third country to visit a seriously ill close relative may be accepted.

Where a request is accepted, decision makers must update all relevant Home Office data bases to ensure that anyone who encounters the claimant is aware that they have been given permission to travel.

Where the claimant has not provided their passport or travel document, the Home Office will not issue a Home Office Travel Document in order to facilitate travel.

Where a claimant leaves the UK without permission, the Home Office will not facilitate their return to continue their claim for asylum and their claim will be treated as implicitly withdrawn under paragraph 333C.

Related content

[Contents](#)

Related external links

Templates

The template letters from the Document Generator must be used.

- ASL.3724 - failure to report to substantive interview letter sent to claimant
- ASL.3725 - failure to report to substantive interview - further information received letter
- ASL.4826 – covering letter to legal representative if claimant is represented.
- ICD.0137 – for OLCU use only
- IS.101 / IS.101(PA)
- ASL.4857 – Declaration of Withdrawal Template

Related content

[Contents](#)

Related external links

Updating CID

Decision makers must ensure that CID is updated with the correct outcome before the file is sent to another location.

Updating CID – Explicit Withdrawal

The case outcome field must be updated with the appropriate outcome, either:

- Withdrawn by Applicant
- Withdrawn by Applicant (now claiming as a dependant)

If the reason for withdrawal is not known 'Withdrawn by Applicant' should be used. Where the reason is known, record this in the CID notes.

Updating CID – Implicit Withdrawals

The case outcome field must be updated with the appropriate outcome, either:

- Withdrawn Implicit – Absconder (for confirmed absconders)
- Withdrawn Implicit – Non Compliance (for those cases where the claimant is still in contact with the Home Office but where the explanation for not complying with the interview process has not been accepted)

These outcomes must not be used where a decision has been made to refuse under Paragraphs 339M and 336 of the Immigration Rules. See Assessing credibility and Refugee status and Deciding, Implementing and Serving Substantive asylum decisions Asylum Policy Instructions for further details.

Related content

[Contents](#)

Related external links