



Home Office

Detained Asylum Casework (DAC) – asylum process

Version 5

Previous versions titled 'Detained interim instruction' and 'Asylum claims in detention'

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About this guidance

This guidance tells officers about the circumstances in which asylum claimants may be detained and their claims routed for consideration and decision by the Detained Asylum Casework (DAC) team. It sets out the indicative timetable applicable to the decision-making process for cases considered by DAC, and how flexibility must be applied where appropriate in the management of such cases.

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 Guidance – making changes.

Clearance

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

- version **5.0**
- published for Home Office staff on **18 March 2019**

Changes from last version of this guidance

- new guidance structure (replacing the 'Asylum claims in detention' instruction)
- amendments to reflect operational changes to DAC which will no longer be responsible for managing the detention of those whose asylum claims they process

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Introduction

Audience

This instruction is for the attention of all officers in the Detained Asylum Casework team (DAC) responsible for interviewing and deciding detained asylum cases.

It is also for the attention of all officers in areas which receive asylum claims, make detention decisions and manage detained cases, and those in the National Returns Command (NRC) and the Detention Gatekeeper team (DGK).

Purpose

This instruction sets out the policy and process applicable to the detention of those whose asylum claims are to be processed by the DAC team. It also sets out the broad indicative timetable for asylum interviews and decisions in those cases, and the circumstances in which that timetable may be extended.

Further reading

All detention considerations must comply with Home Office detention policy, as set out in Detention – general guidance, and in Adults at risk in immigration detention (hereafter referred to as ‘Adults at risk’ or ‘AaR’).

All asylum decisions and casework must comply with wider asylum policy and process instructions. These include (but are not limited to):

- Screening and routing
- [Asylum interviews](#)
- Assessing credibility and refugee status
- Medico-legal reports from the Helen Bamber Foundation and the Medical Foundation Medico-Legal Report Service
- Gender issues asylum claims
- Human trafficking – frontline staff guidance
- Sexual orientation asylum claims
- Certification of protection and human rights claims under section 94 of the Nationality, Immigration and Asylum Act 2002 (clearly unfounded claims)
- [Withdrawing asylum claims](#)
- [Non-compliance](#)

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

Section 55 of the Borders, Citizenship and Immigration Act 2009 requires the Home Office to carry out its functions in a way that considers the need to safeguard and promote the welfare of children in the UK. The statutory guidance, [Every child matters - change for children](#), sets out the key arrangements and principles to be applied for safeguarding and promoting the welfare of children.

Neither children nor families (with children under 18) will be detained whilst their asylum claims are considered by Detained Asylum Casework team (DAC).

Individuals who have children but who have been detained following the application of the Family separations policy, may – if they remain suitable for detention after an asylum claim – have their claim considered by DAC.

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Detention policy and suitability

Migrants, including asylum claimants, may be detained for immigration purposes only in accordance with Home Office detention policy, as set out in Detention – general guidance and Adults at risk in immigration detention. The detention decision must always be made on the basis of the individual’s particular circumstances and eligibility for detention.

If at any time it is concluded that a particular detainee’s ongoing detention would not be appropriate, the individual must be released, with bail conditions appropriate to their particular circumstances.

Detained Asylum Casework (DAC) officers are not responsible for the immigration detention decisions in asylum cases. All such decisions are made by Immigration Compliance and Enforcement teams (ICE), Border Force port officers, National Returns Command (NRC) and the Detention Gatekeeper team (DGK).

Detention considerations for DAC cases

In general, an asylum claim may be suitable for DAC if the claimant is suitable for detention under detention policy, **and** if one of the following circumstances applies:

- the individual claims asylum while already detained pending removal, or claims asylum while detained following an enforcement visit (must be authorised according to standard detention policy requirements)
- the individual claims asylum in other circumstances (for instance, at the Asylum Intake Unit, at a port, or immediately following apprehension as a clandestine illegal entrant) and:
 - the claimant is from a country listed under [section 94\(4\) of the Nationality, Immigration and Asylum Act 2002](#), and there is therefore a prospect of certifying the claim as clearly unfounded (detention must be authorised by an official of no less than grade 7 seniority)
 - the claimant is not from a country listed in section 94(4), but their initial basis of claim shows there to be a prospect of certifying the claim as clearly unfounded on a case-by-case basis under [section 94\(1\) of the 2002 Act](#) (detention must be authorised by an official of no less than grade 7 seniority)
 - the claimant is not from a country listed in section 94(4), but there exist exceptional circumstances (such as past criminality) justifying their detention (detention must be authorised by an official of no less than SCS seniority)

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Case allocation and detention actions

Referral of cases to the Detention Gatekeeper team (DGK)

If an asylum claim is made while an individual is detained pending removal, the National Returns Command (NRC) detained hub must refer the case to the DGK.

If the claim is made at the Asylum Intake Unit (AIU), a port, or elsewhere after the claimant's apprehension as a clandestine illegal entrant or overstayer, the unit responsible for the case must complete asylum screening and refer the case to the DGK if detention appears to be appropriate (see [Detention policy and suitability](#)).

DGK case acceptance and allocation

After being referred a detained asylum case, the DGK must:

- consider the suitability of the individual for detention according to detention policy and the factors outlined in [Detention policy and suitability](#)
- where appropriate and subject to practical considerations such as IRC space priorities or Detained Asylum Casework (DAC) casework capacity, authorise detention/ongoing detention at the required authorisation level (see [Detention policy and suitability](#))
- allocate the case to NRC London Asylum to manage the claimant's detention
- request the referring unit to send the file to the DAC team managing the asylum claim

NRC London Asylum actions

After being allocated a case by the DGK, NRC London Asylum must:

- notify DAC of the asylum claim and its responsibility for completing asylum actions
- confirm removal documentation needs and take steps to obtain documentation if required
- allocate the detained case to an NRC case owner to progress detention action
- commission the Detention Engagement Team (DET) at the relevant Immigration Removal Centre to conduct asylum screening (if it has not already been completed) and the DAC induction, to impart key information about detention and asylum, rights and responsibilities, and to obtain information about legal and health needs
- ensure all Operating Mandate checks are undertaken
- continue to manage the detained case according to detention policy, until the individual is removed or it is decided that detention is no longer appropriate

DET actions

After being commissioned by NRC London Asylum, the DET must:

- complete an asylum screening interview (if it has not already been done)
- complete a DAC induction interview
- inform asylum claimants with private legal representation that they must promptly contact their representative to inform them of their detention and the allocation of their asylum claim to DAC
- for claimants without private legal representation, contact the relevant duty legal representative to notify them of their allocation to the claimant under the duty representative scheme
- notify DAC of the legal representative's details within two working days of the case being allocated to DAC
- send copies of the asylum screening interview and any other relevant documents to the legal representative

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Detained Asylum Casework (DAC) asylum actions

DAC responsibilities

DAC is not responsible for managing the detention of its cases. However, DAC officers are expected to understand detention policy and to provide relevant feedback to National Returns Command (NRC) colleagues. At a minimum, DAC officers must inform NRC officers of the key detention suitability issues after every asylum interview, and at any other time they become aware of a change in circumstances relevant to the claimant's suitability for detention. The issues must be clearly documented for NRC in a CID note, and if urgent, escalated via an email or telephone call.

DAC is responsible for considering the cases passed to it by NRC London Asylum for asylum casework action. However, it is not responsible for all detained asylum cases. For instance, the detention of those with a history of criminality where a deportation order is in place or likely to be made will usually be managed by Criminal Casework (CC), supported by asylum caseworkers. These cases are not addressed in this instruction.

There may be occasions when DAC officers undertake specific actions on behalf of CC or other units, outside the framework of this instruction. This will not signify that DAC has responsibility for the case.

DAC Asylum timetable and flexibility

Key principles

The DAC team operates to an indicative timetable for interviewing the claimant and deciding their asylum claim. This timetable exists to support case progression, to help minimise the time an individual is detained. However, this timetable is not rigid. Flexibility must be exercised in the asylum process wherever fairness demands it, with claimants being given additional time whenever it is appropriate.

Asylum interviews and decisions: indicative timetable

Asylum interview

DAC must contact the relevant legal representative (whether private or from the duty representative list), to arrange the asylum interview.

A claimant must always have at least 5 full working days between the time their legal representative is confirmed and the time of their asylum interview. The purpose of this time is to enable the claimant to instruct their legal representative, and to

prepare for the asylum interview. The only exception to the 5-day timescale is if a claimant requests an earlier interview, and a time suitable for all parties can be arranged.

The interview must be conducted according to the requirements set out in the Asylum interviews instruction.

Further representations (post-interview)

Claimants must have at least 5 full working days after their asylum interview to submit further representations, before an asylum decision is made by DAC (unless it is clear the decision will be to grant protection). The only exception to this is if a claimant requests an earlier decision. The claimant or representative can request additional time for further representations, at the interview or subsequently.

Flexibility requests in the asylum process

Requests for flexibility may be made orally or in writing by the claimant or their legal representative, at any time during the asylum decision process. Where requests are unclear, officers must take reasonable steps to obtain clarification. The issues raised must be properly considered, and flexibility given where appropriate.

In general, a written response should be given for both written and detailed oral requests for flexibility. For requests made during an asylum interview, officers may set out in the interview record the conditions of flexibility or any reasons for declining the request. Oral responses will usually be appropriate only where the request is frivolous, of the simplest character, or an immediate written response is not possible.

All decisions to agree or reject a flexibility request must be authorised by an officer of HEO level or above in DAC. In some circumstances, there may be little choice other than to extend timescales, but authorisation will help to deliver consistency and ensure that all reasonable options to proceed are considered.

CID notes, files and local team logs must record the details of every flexibility request, including the basis for the request, the terms of any flexibility given or the reasons for rejection, the method of response, and the authorising officer's name.

If flexibility will impact another event, it must be addressed (for instance, rescheduling an interview, DAC officers must rebook the interview room and interpreters, and inform the legal representative and claimant of the details). If case progression will be delayed, this must be clearly set out in CID notes, so that NRC can consider detention suitability implications.

Release on bail during the asylum decision process

If the NRC decides that detention is no longer appropriate and releases the claimant on bail, any asylum case awaiting a decision must be referred to the National Asylum Allocation Unit (NAAU), to allocate to a non-detained casework team and arrange dispersal, accommodation and support for the claimant where appropriate.

Appeals

The timescales applicable to appeals are determined by [The Tribunal Procedure \(First-tier Tribunal\) \(Immigration and Asylum Chamber\) Rules 2014](#).

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Process improvement

Official – sensitive: Start of section

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

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