



# UK Visas & Immigration

## **Informal consultation on introducing a proforma template for an asylum, nationality and immigration Pre Action Protocol letter**

Friday, 15<sup>th</sup> August 2014

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# 1.

## 1. Background

- 1.1 In order to try and resolve a dispute before court proceedings are started a claimant should normally write a Pre-Action Protocol letter (PAP) to the Home Office prior to submitting a request for Judicial Review in asylum, nationality and immigration matters. The purpose is to avoid taking up court time and the costs of raising a claim for Judicial Review. PAPs will normally be from people who wish to challenge a decision the Home Office has made, but they can also be about the Home Office's failure to make a decision.
- 1.2 The process of sending and responding to PAPs is set out in the Courts' Civil Procedure Rules Pre-Action Protocol for Judicial Review (hereafter referred to as "the Protocol"). A Pre-Action Protocol letter may also be called a "letter before claim" or a "letter before action". All of these terms refer to the same thing. For sake of consistency they are referred to as "PAPs" in this consultation document.
- 1.3 The Civil Procedure Rules Committee is currently undertaking a consultation on the Protocol. This consultation document relates to a separate consultation by the Home Office on its proposal to introduce a standard proforma for PAPs in asylum, nationality and immigration cases. The Protocol applies in England and Wales. Our proposal is that the proforma would similarly apply to England and Wales.
- 1.4 The proposed proforma will set out clearly the information requested by the Home Office, allowing the department to process and answer the PAP quickly. The intention of the proforma is to reduce the time spent by Home Office staff in identifying and processing PAPs that currently are submitted in non standardised letters. Setting out specific information in a standard format will help people understand the information they need to provide in order for the matter to be dealt with more effectively by the Home Office.
- 1.5 Please note this is an informal consultation on this proposal. The consultation questions are noted throughout in bold.

## 2. The Proposed Proforma

- 2.1 The proposed proforma is attached at Annex A. In summary the proforma requests the following information:
  - Claimant's personal details;
  - The matter under challenge;
  - The outcome the person is seeking; and

- Where a representative is instructed, a letter of authority, if this is not already held by the Home Office.

**Q1. Is there any additional information which should be requested on the proforma?**

**Q2. Does the proforma explain clearly what is required from the person? If there are areas of ambiguity, please suggest revised wording.**

### **3. Use of the form**

3.1 Our proposal is to strongly encourage the use of the proforma for asylum, nationality and immigration PAPs, and for the form to be referenced in the Protocol. It is not intended for the form to be mandatory or for there to be any penalties if it is not used or if it is completed incorrectly. It will still be possible for the PAP to be sent in letter form. However, we will process PAPs submitted on the form more quickly and this is likely to result in a prompter response.

**Q3. Do you think the proforma should be a mandatory requirement?**

**Q4. How could we encourage people to use this form rather than write a letter?**

### **4. Availability and accessibility**

4.1 Our proposal is that the form will be made available on the Government website ([www.gov.uk](http://www.gov.uk)), as a word or PDF document with expandable text boxes.

4.2 The current standard format of the PAP, set out in the Protocol, is presently available in English. We intend to provide this standard proforma in English only, which is consistent with the availability of the JR form.

**Q5. Will the proforma be sufficiently available and accessible?**

**Q6. Should the proforma be available to claimants in any other way?**

### **5. Method of submitting PAP proforma**

5.1 Our proposal is that the PAP proforma should be submitted by email to the standard UKVI email address which will be set out on the proforma.

**Q7. Should it be possible to submit the proforma in any other way? If so, why?**

## **6. Other comments**

**Q8. Do you have any other comments in relation to the proposal to introduce a PAP proforma?**

## **7. How to respond**

This consultation is being launched on Friday, 15<sup>th</sup> August.

**Responses should be sent by 12 noon on 11<sup>th</sup> September to:**  
[PAPproformaconsultation@homeoffice.gsi.gov.uk](mailto:PAPproformaconsultation@homeoffice.gsi.gov.uk).

In your response, please refer to the number of the question you are answering.

## Annex A – Draft Proforma

### Pre-Action Protocol for Judicial Review

#### Letter before Claim for asylum, nationality and immigration cases

This proforma will not be appropriate in urgent cases, for example, when a person is about to be removed from the UK. This form is also not appropriate for use as a letter before claim in Private Law Claims.

Please fill in the form below and email it to [UKVIPAP@homeoffice.gsi.gov.uk](mailto:UKVIPAP@homeoffice.gsi.gov.uk).

***[Consultation note: Please do not provide consultation responses to this email address. Please use [PAPproformaconsultation@homeoffice.gsi.gov.uk](mailto:PAPproformaconsultation@homeoffice.gsi.gov.uk) ]***

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**To** Home Office

**From** (drop down includes – authorised legal representative (as listed in the 1999 Act) – claimant in person)

**Full Name of claimant(s)**  
**Date of birth of claimant(s)**  
**Nationality of claimant(s)**  
**Address of claimant(s)**

**If applicable:**  
**Full Name of claimant's Spouse/Partner**  
**Date of birth**  
**Nationality**  
**Address (if different to claimant)**

**If applicable:**  
**Full Name(s) of claimant's Child(ren)**  
**Date(s) of birth**  
**Nationality**  
**Address (if different to claimant)**

**Any previous judicial review reference numbers**

**The details of the representative, if any, dealing with this claim**  
**Name**  
**Address**  
**Your reference number for the claimant**

**Please only complete this section if you are a representative and have not already provided a letter of authority from the claimant.**

Please provide details of your qualification to provide immigration advice/services or details of exemption under the terms of the 1999 Act

OISC Regulated Yes ☐ No ☐ Number

Regulated by a professional body Yes ☐ No ☐ Solicitor's Number

Other

**Signed letter of authority attached**

Given our duty of confidentiality we are unable to enter into any correspondence on this matter unless you provide a signed letter of authority from the Claimant, unless previously provided.

**If known:**

**The Home Office or Port reference No.**

**The Visa application Form reference No.**

**The Immigration Asylum Chamber reference No.**

**The Asylum Support reference No.**

**Any other Home Office reference No.**

**Type of claim made by the claimant (please tick the most relevant) –**

Asylum ☐ Permanent Migration ☐ Temporary Migration ☐ ☐ EEA  
(European Economic Area) ☐ ECAA (European Community Association  
Agreement with Turkey) ☐ Deportation ☐ Entry Clearance ☐  
Enforcement ☐ Detention ☐ Older Live Cases Unit (commonly known  
as "legacy") ☐ PBS Sponsorship (Points Based System) ☐ Nationality  
☐ Section 95 (Asylum Support) ☐ Section 4 (Asylum Support/  
Accommodation) ☐ Refusal of Leave to Enter at port ☐ Other ☐

**The details of the matter being challenged**

Set out clearly the matter being challenged, particularly if there has been more than one decision.

**Date of action/decision being challenged or if challenging failure to make a decision, date of application or further submissions outstanding:**

**Is this Pre action protocol proforma being submitted within 3 months of date of action/decision complained of: YES ☐ NO ☐**

**The issue**

Set out the date and details of the decision, or act or omission being challenged, a brief summary of the facts and why it is contended to be wrong.

**The details of the action that you want the Home Office to take**

Set out the details of the remedy sought, including whether a review or any interim remedy are being requested.

**The details of any interested parties**

Set out the details of any interested parties and confirm that they have been sent a copy of this proforma.

**The details of any information sought**

Set out the details of any information that is sought. This may include a request for a fuller explanation of the reasons for the decision that is being challenged.

**The details of any documents that are considered relevant and necessary**

Set out the details of any documentation or policy in respect of which the disclosure is sought and explain why these are relevant. If you rely on a statutory duty to disclose, this should be specified.

**The address for reply and service of court documents**

Insert the address for the reply.

**Additional documents attached**



If applicable – please give details of any additional documents attached.

**Date**

*The Courts' Civil Procedure Rules Pre-Action Protocol for Judicial Review sets out the information required as part of a Letter before Claim. It is not a requirement to provide the information on this form, although you are encouraged to do so. Where the use of the protocol is appropriate, the court will normally expect all parties to have complied with it and will take into account compliance or non-compliance when giving directions for case management of proceedings or when making orders for costs.*

## **Annex B – List of consultees**

Upper Tribunal  
Immigration Law Practitioners Association  
Law Society  
Bar Council  
Office of the Immigration Services Commissioner  
Citizens Advice  
Joint Council for the Welfare of Immigrants  
Law Centres Federation

Farani Javid Taylor  
Duncan Lewis  
Maalik & Co  
Malik Law Chambers  
Malik & Malik