



Home Office

Asylum screening and routing - request for asylum made during the removal process

Version 2.0

Contents

Contents.....	2
About this guidance.....	3
Contacts	4
Publication	4
Changes from last version of this guidance	4
Background.....	5
Application in respect of children	5
Assertion made during the removal process	6
Assertions made to Detention Engagement Team (DET), Contractor or Returns Logistics (RL).....	6
Assertions received in Customer Liaison Team (CLT), Detained Casework, or OSCU	7
Conducting particularisation interviews	9
Particularisation Consideration	10
When is a claim particularised?	10
Convention Reason.....	10
Process map for asylum request during enforced removal	12
Description of process map.....	13

About this guidance

This guidance informs officers within the Operational Support and Certification Unit (OSCU), and the teams that they work with, of the processes to follow when someone makes an initial request for asylum 'during the removal process'.

It provides additional operational process detail to complement and to be read with the section 'request for asylum made during the removal process', which is in the asylum screening and routing guidance.

For the purpose of this guidance, 'during the removal process' is defined as the period that OSCU become responsible for a representation before a removal takes place. This will vary depending on your Service Level Agreement with OSCU. They are as follows:

Criminal Casework (CC)	within 1 working day of removal
National Returns Command (NRC)	within 5 working days of removal
Family Returns Unit (FRU)	from the point of arrest up until 7 days thereafter

If you are an officer within Border Force you are to follow this guidance in all cases where removal has been arranged and then the individual makes a request for asylum or what may be a protection-based assertion.

This process only applies to a potential initial protection-based representation.

This process does not apply to a representation originating from a legal representative that is not particularised. This is because we would expect that lawyers will only request asylum on behalf of their client where they are aware of the nature of the claim and they expect it to meet the particularisation threshold, even if initial information from lawyers initially falls short.

This guidance does not cover cases which may fall for consideration under paragraph 353 of the Immigration Rules.

If the individual is not legal represented but wishes to seek legal representation or they want to change representation, you may need to consider deferring the removal. You must follow the guidance in Immigration Enforcement: General Guidance – Judicial Reviews and Injunctions.

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 OSCU and 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.

Publication

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

- version **2.0**
- published for Home Office staff on **08 April 2021**

Changes from last version of this guidance

Updated to include the Atlas referral process. Atlas is the immigration caseworking system that is replacing CID.

Related content

[Contents](#)

Background

An enforced removal can be impacted by a brief assertion that appears to be a claim for asylum by the need to cancel removal in order to complete the asylum screening process. In the majority of cases when the individual is asked why they are seeking asylum they are able to provide a protection-based reason as to why the removal should not take place and screening will be necessary. However, in other cases the individual has either withdrawn their claim or given reasons for remaining in the UK that do not meet a minimum standard that could be accepted as a claim for international protection.

It is existing policy that (whether a case involves an enforced removal or not) an asylum claim should not be accepted if the individual is applying to remain in the UK for reasons which are clearly not protection based or there is a mere assertion that cannot be particularised, which means that they cannot say why they fear return.

In order to confirm that there is an efficient and clear process to ensure those who can particularise an asylum claim are not removed and those who do not particularise a claim can still be removed (for example on their scheduled flight), this operational process guidance has been developed to complement the existing policy found in the Asylum screening and routing guidance.

Application in respect of children

[Section 55 of the Borders, Citizenship and Immigration Act 2009](#) requires the Secretary of State for the Home Department to make arrangements to ensure that immigration, asylum and nationality functions are discharged with regard to the need to safeguard and promote the welfare of children who are in the UK. See: [section 55](#) statutory guidance. It does not impose any new functions or override existing functions.

The main ways in which the Home Office gives effect to this are:

- staff must be alert to potential indicators of abuse or neglect, alert to risks which abusers may pose to children, and be ready and able to share relevant information with other public bodies with a responsibility towards children to meet our safeguarding responsibilities
- staff who have face to face contact with children must be able to conduct business in a child sensitive manner, and staff with roles involving regular contact with children, such as interviewing, must receive appropriate training

This process guidance does not apply to children claiming asylum in their own right. You must follow the policy as set out in the asylum guidance children's asylum claims and assessing age as the primary source of policy and process when the asylum seeker is a child or claims to be a child but age is disputed.

Related content

[Contents](#)

Assertion made during the removal process

If you are undertaking an enforced return and the individual makes a request for asylum or what may be a protection-based assertion, the Operational Support and Certification Unit (OSCU) will be responsible for deciding if a claim for asylum has been particularised. The process to follow will in part depend on which unit you work for.

Where the individual is already a failed asylum seeker (or they have had an asylum claim withdrawn under 333C of the Immigration Rules), then the further submissions process is to be followed. See the further submissions guidance, rather than the process set out in this guidance.

Assertions made to Detention Engagement Team (DET), Contractor or Returns Logistics (RL)

Following the request, a brief interview using the particularisation questionnaire should be conducted (ASL.5272). A claim must **not** be raised on CID at this time.

In cases where return is imminent, a referral for advice can be made to OSCU without a completed questionnaire (ASL.5272). Requests made to contractors or escorting staff should be referred to OSCU using the dedicated contractor telephone line below. If required, OSCU will telephone RL Schedule Returns staff at port to establish whether a questionnaire can be completed prior to departure. **If it is not possible for an interview to be conducted the scheduled removal cannot take place.** If an interview is completed the process can continue as set out below.

Interview responses should be recorded on the particularisation questionnaire (ASL.5272) and uploaded to Atlas via Manage Documents. Once uploaded the matter should be referred to the OSCU Duty Officer via Atlas.

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The Atlas referral should contain details of the officer making the referral and where they wish the response to be sent.

For any urgent queries regarding the process OSCU can be contacted

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The OSCU Duty SEO will consider whether the individual has both:

- particularised a claim
- and
- whether it includes protection elements

The OSCU Duty SEO will review the referral, notify the referring officer of the decision immediately, and record their decision on Atlas.

Where it is determined that a claim for protection has been made then removal must be cancelled, a claim should be raised on Atlas (and whilst required on CID) and the case owner in the National Returns Command will need to make sure that arrangements are made for the individual to be screened. This process must also be followed where the OSCU Duty SEO is unable to provide a decision in the time available before removal is due to take place.

Where it is determined that the reasons given in the questionnaire (ASL.5272) are not particularised or the request for asylum is clearly not based on any protection grounds, then removal can proceed. The OSCU Duty SEO will record the reasons why the claim is not accepted and authorise the referring officer to serve a letter setting out this decision, **which must be provided to the individual and legal representatives prior to return.**

Assertions received in Customer Liaison Team (CLT), Detained Casework, or OSCU

A referral should be made to the Duty OSCU Duty Officer via Atlas. Copies of any representations received must be uploaded to Atlas.

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The Atlas referral should contain details of the officer making the referral and where they wish the response to be sent.

For any urgent queries regarding the process OSCU can also be contacted. For contact details see the section, [Assertions made to Detention Engagement Team \(DET\), Contractor or Returns Logistics \(RL\)](#). Where verbal representations are received, the case owner (notified by CLT if applicable) should arrange for an interview to be completed by the local Detention Engagement Team. The DET will then follow the process set out above for referrals received to a [DET, Contractor or RL](#).

If not already completed the OSCU Duty SEO will decide whether an interview is required and refer the case accordingly. Once completed the process set out above for referrals received to a DET, Contractor or RL should be followed.

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Official – sensitive: end of section

Related content

[Contents](#)

Conducting particularisation interviews

Particularisation interviews give an individual the opportunity to briefly state the reasons why they do not wish to return to their country of origin after making what may be a brief assertion (without any detail that they want asylum) while assisting in the identification of assertions made solely to frustrate return.

All information provided at interview must be referred to OSCU for consideration as to whether the assertion amounts to a particularised claim or not.

As part of the return preparation the individual's fitness to travel including any physical, medical or mental health issues will have already been considered and recorded. You should be mindful that a health or disability condition either known to the Home Office or any new conditions which arises during the removal process may impact on the ability of a person to articulate their claim. Where there are problems with communication due to a known impairment or a new impairment it must be communicated to OSCU. Should you observe anything else that may have had an impact on the interview it needs to be included with the referral. If OSCU are in doubt about the individual's ability to communicate due to a medical condition or disability, then the asylum claim must be accepted.

Where possible the particularisation interview will be in the person's first or preferred language. If the preferred language is not available, the interview may take place in a language the individual understands. In practice, it is very rare that someone who is in the removal process cannot be matched to an interpreter in a language they understand. The low threshold for particularisation and the very short nature of the interview will normally mean that they can particularise a claim. If, however, the person's level of understanding of a language means they cannot sufficiently communicate during the particularisation interview then the removal should be cancelled. You should check the case history and CID for information recorded on what languages they can communicate in.

Interviews should be conducted using the particularisation questionnaire (ASL.5272).

Every effort should be made to complete interviews at the Immigration Removal Centre (IRC) prior to departure. Where claims are made too late for interview prior to leaving the IRC notification should be made to OSCU Duty Officer who will liaise with RL Port staff to establish whether an interview can be arranged at port, or whether the removal should be cancelled.

Where removal has been arranged via Charter, Criminal Casework Port staff attend the departure port, and will, following referral from OSCU, conduct interviews where this has not been possible prior to collection, or where the request for asylum is raised post departure from the IRC.

Particularisation Consideration

Consideration as to whether an assertion has been particularised as a claim for international protection or asylum must only be completed by the OSCU Duty SEO (or equivalent).

When is a claim particularised?

An asylum claim should not be accepted if the individual is asking to remain in the UK for reasons which are clearly not protection based or there is an assertion that cannot be particularised, which means that they cannot say why they fear return.

The expectation is that if someone says they want to claim asylum (including humanitarian protection) they should, at the very least, be able to say directly in brief terms why they fear persecution or serious harm on return.

However, if you are in doubt about the individual's ability to communicate due to a medical condition or disability, then the asylum claim must be accepted.

Convention Reason

We refer to all protection claims as asylum claims. It is not necessary for the individual to base their claim on a Refugee Convention reason. If they express a fear of harm, even for a non-Convention Reason, this must be taken as a claim for international protection. The issue of whether the claim engages the Refugee Convention will be later explored by a substantive decision-maker.

Convention Reasons may however be relevant in establishing the existence of a claim for protection. Someone fearing return to their home country because they won't be able to find a job wouldn't generally constitute an asylum claim. However, someone claiming that work opportunities would be denied to them because they are part of a minority group may warrant further investigation and as such, should be deemed to be a claim for protection.

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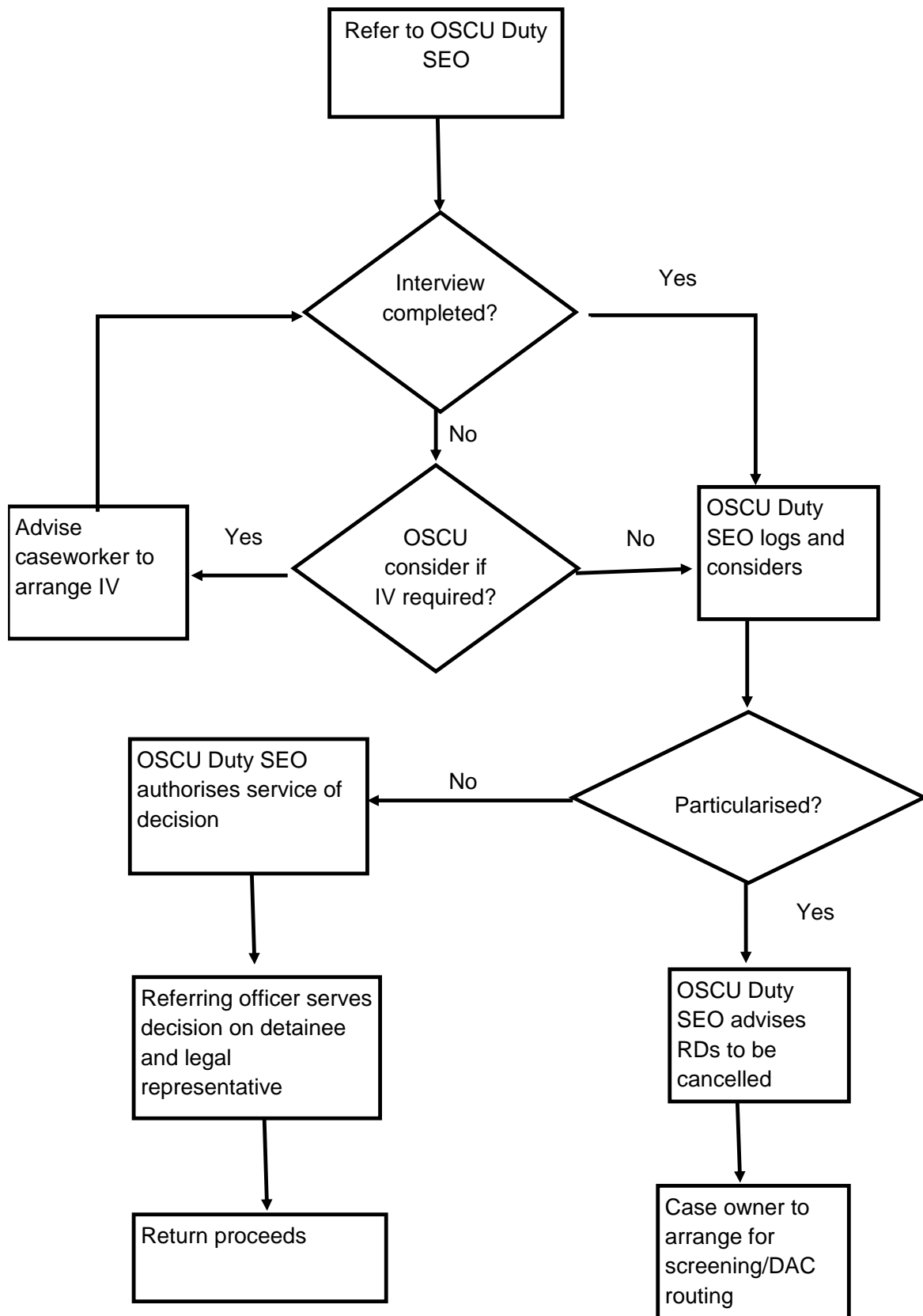
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[Contents](#)

Process map for asylum request during enforced removal



Description of process map

The process map provides an overview of the referral process and decisions to be taken by the Operational Support and Certification Unit (OSCU).

Process map for asylum request during enforced removal: refer to OSCU Duty Senior Executive Officer (SEO)

If an interview has been completed, OSCU Duty SEO logs and considers. If an interview has not been completed, OSCU will consider if an interview is required. If an interview is required, OSCU will advise caseworker to arrange interview.

If the OSCU Duty SEO considers the claim to be particularised, they will advise the removal directions to be cancelled and the case owner to arrange for screening/ (Detained Asylum Casework) DAC routing.

If OSCU Duty SEO considers the claim not to be particularised, they will authorise service of decision. Then, referring officer serves decision on detainee and legal representative. Then, return proceeds.

Related content

[Contents](#)