



Home Office

Operating instruction

Hague Convention cases

Version 1.0

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About this guidance

This guidance explains the procedure which you must follow when processing asylum claims involving children where there are concurrent Hague Convention proceedings in the UK High Court. It applies to all staff dealing with asylum casework and covers:

- notification of a case
- processing cases under the expedited process
- processing complex 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 AsylumPolicy.

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 **1.0**
- published for Home Office staff on **12 July 2021**

Changes from last version of this guidance

This is new guidance.

Related content

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Introduction

This guidance relates to asylum decisions involving children where there are concurrent Hague Convention proceedings in the UK High Court. Any disclosure or information sharing is likely to be sensitive and must be done in compliance with caselaw and guidance as set out in the Disclosure and confidentiality of information in asylum claims guidance.

Background

The Hague Convention

[The Hague Convention on the Civil Aspects of International Child Abduction, 25 October 1980](#) (the Hague Convention) seeks to combat parental child abduction. States which are party to the Hague Convention (which includes the UK) have agreed to return children who have been either wrongfully removed from, or wrongfully retained away from, the State where they were habitually resident immediately before the wrongful removal or retention. These cases are dealt with in the UK High Court.

G v G [2021] UKSC 9 (19 March 2021)

This case concerned the inter-relationship between the UK's obligations under the Hague Convention and the principle of non-refoulement in asylum law. The Home Office intervened in the Court of Appeal (CoA) and the subsequent Supreme Court (UKSC) case to provide information about the operation of the asylum system.

The UKSC handed down its decision on 19 March 2021 (see the judgment [G v G](#)). Although the UKSC did not set standard directions specifying how the Home Office must determine a claim, the Home Office agreed to the creation of a specialist team within Asylum Operations to process and expedite asylum claims where there are concurrent Hague Convention proceedings.

Policy intention

The intention of this guidance is to:

- outline a clear procedure to expedite the processing of straightforward asylum claims within 30 days of the Home Office being notified of the relevant case
- be proactive in progressing claims
- where cases are more complex, maintain clear lines of communication with the Family Division of the High Court

Application in respect of children

[Section 55 of the Borders, Citizenship and Immigration Act 2009](#) requires the Secretary of State to make arrangements for ensuring that immigration, asylum and nationality functions are discharged having regard to the need to safeguard and

promote the welfare of children in the UK. The section 55 duty applies whether the child applies in their own right or as the dependant of a parent or guardian.

The statutory guidance, [Every Child Matters – Change for Children](#), sets out the key principles to take into account in all actions concerning children. All decisions must demonstrate that the child's best interests have been a primary (albeit not necessarily the only) consideration. Disclosure and confidentiality is one of the factors to take in account when processing a child's asylum claim where there are concurrent Hague Convention proceedings.

You must carefully and sensitively consider cases involving children and whether and when it is appropriate to share information, for example in the interests of safeguarding. You must also be aware that there may be individual protection needs or safeguarding concerns for children who are part of a family seeking asylum. Therefore, depending on the individual circumstances, it may be appropriate to share information with third parties in the best interests of the child.

For further information, see also the Processing children's asylum claims instruction.

Safeguarding

You must be vigilant that a claimant may be at risk of harm and be prepared to refer cases immediately to the Asylum Safeguarding Hub. If you become concerned that a claimant may be in danger, you need to take immediate action to ensure their safety. In an emergency the case must be referred to the police without delay. The Safeguarding Advice and Children's Champion (SACC) can also offer specialist safeguarding and welfare advice on issues relating to children, including family court proceedings and complex child protection cases.

Related content

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Procedure

Notification of Hague Convention proceedings

In cases where there is an asylum claim involving a child (where a child is either making an application in their own right or as a dependant) the Home Office will be made aware of related Hague Convention proceedings by either:

- the High Court
- one of the parties as directed / ordered by the High Court

The agreed [Protocol](#) with the Family Division is that they will send notification to the Home Office's Status Verification, Enquiries and Checking (SVEC) team. SVEC at the earliest opportunity will;

- notify the Asylum Chief Casework Team (ACCWT) within 24 hours via the Asylum Operations CCWT mailbox and copy in Appeals, Litigation and Admin Review (ALAR) Litigation Operations
- include details of the case and instructions

In some instances, where there is an urgent court order, the Government Legal Department (GLD) may also receive notification from the Family Division of Hague Convention cases. In these circumstances GLD will also notify the ACCWT and ALAR as above.

Processing the asylum case: the Asylum Chief Casework Team

Day 1-3 the ACCWT will receive notification of the case from SVEC / GLD and will:

- allocate to the Expedited Team (this will initially be within the ACCWT itself until an assessment of the volume of relevant cases is made)
- notify safeguarding hub

The ACCWT will also act as the point of contact between the Expedited Team and SVEC (in most cases) and the Appeals, Litigation and Admin Review (ALAR) (for cases with GLD involvement). They will be responsible for:

- communicating any delay identified by the Expedited Team in processing the claim to SVEC / ALAR
- communicating any feedback or concerns from the Family Division (received through SVEC/ ALAR) to the Expedited Team
- notifying SVEC / ALAR of the asylum decision (in straightforward cases, day 31)

Once the ACCWT have been notified a case has been decided, the Decision-Making Unit (DMU) will be responsible for high-profile notifications or ministerial submissions.

Processing the asylum case: the Expedited Team

Day 1-3 – on receipt of the notification of allocation from the ACCWT / completing screening of asylum claim (whichever is later) the Expedited Team will:

- carry out an initial review to ensure that the claim is suitable for the Expedited Process
- ensure CID / Atlas are updated with the date of Day 1 (date of notification to the Home Office from the High Court or one of the parties as directed / ordered by the High Court)
- ensure the Safeguarding hub are aware of the case

Where the case is established to be straightforward and able to be dealt with under the Expedited Process and within 30 days, the indicative timetable to be followed by the Expedited Team is:

- day 4-5 - arrange a date for interview and issue an invitation to interview to the claimant
- day 12-18 - the substantive asylum interview takes place
- day 17-25 (5 working days after the asylum interview) - any further representations from the applicant / legal representative received
- day 26-30 - the asylum case is decided
- day 31 - the asylum decision is served

These indicative timescales may be varied as necessary, as long as the asylum decision is served by day 31.

The Expedited Team is also responsible for:

- actively monitoring the case and identifying any issues
- ensuring the ACCWT is informed of any delays in progressing the decision
- notifying the ACCWT when the decision is served

Processing the asylum case: Status Verification, Enquiries and Checking (SVEC) team

SVEC is responsible for:

- communicating information received from ACCWT to the Family Division about any delay to deciding the claim
- communicating any feedback to ACCWT from the Family Division about the progress of a case, including agreed extended timescales
- once notification is received from ACCWT, notifying the Family Division that the decision has been served (no later than day 33 in straightforward cases)

Processing the asylum case: Appeals, Litigation and Admin Review (ALAR) team

In cases with GLD involvement, ALAR is responsible for:

- communicating information received from ACCWT to the Family Division via GLD about any delay to deciding the claim
- communicating any feedback to ACCWT from the Family Division about the progress of a case, including agreed extended timescales
- once notification is received from ACCWT, notifying the Family Division via GLD that the decision has been served (no later than day 33 in straightforward cases).

Delay in progressing the case

In some cases, factors will become apparent during the consideration of the claim which mean the case cannot be determined in accordance with the Expedited Process. During the Expedited Process, claims will be actively monitored by the Expedited Team to identify any such issues.

Factors which may complicate the determination of a claim in accordance with the Expedited Process may include:

- difficulties authenticating documents
- cases where referrals in respect of modern slavery have to be made to the National Referral Mechanism (NRM)
- difficulties obtaining appropriate interpreters for less common languages
- claimant being unable to attend an interview (for example, for health reasons) or non-compliant with reasonable requests (for example, failure to attend substantive interview)
- requirement for medical reports or other third-party material

Any barriers must be signed off by a Senior Caseworker (SCW), clearly noted on CID / Atlas and ACCWT notified as soon as the barrier is identified.

Where such factors are identified the timetable for these cases is:

- day 4 - 20: the Expedited Team will identify any difficulties in resolving the claim, assess the likely timeframe for resolving them, and produce an estimate as to how long it may take to determine the claim - the Expedited Team will look at the whole process, rather than simply identifying the most immediate obstacle, to permit concurrent activity
- the Home Office will notify the Family Division (via the ACCWT and ALAR / GLD or SVEC as outlined in the sections [Processing the asylum case: the Asylum Chief Casework Team](#) and [Processing the asylum case: Status Verification, Enquiries and Checking \(SVEC\) team](#)) of the obstacle to

progression, provide an overview of the reasons why the Expedited Process is not suitable and propose a revised timetable for determining the claim

Working with the Family Division

As outlined in this section on [Procedure](#), it is important that the Family Division is kept informed of the progress of the case and that effective lines of communication are established. It may be that the court can assist us in progressing the case where we encounter difficulties. For example, where third party material is awaited, an order for disclosure from the High Court may well produce faster results than a request by the asylum claimant. Similarly, where documents need to be verified, if the High Court is in possession of material (or has made findings) which help to resolve their status, external verification may not be required.

Any requests of this nature should be directed to the Family Division through the communication channels outlined in this guidance.

Enforcing compliance

Where claimants do not engage with or comply with what is required to advance their claim, existing policy should continue to be followed, see [Withdrawing asylum claims and Asylum interviews guidance](#).

Cases which cannot be determined within 30 days

There will be claims where the timetable prescribed in the Expedited Process is not suitable from the outset, for example where the case is particularly complex. Some examples of reasons for delay are outlined in the section [Delay in progressing the case](#). For cases that are not been able to decided in 30 days, the case will be reviewed no later than 30 days before the scheduled hearing in order to provide an update to the court via the channels outlined in this guidance.

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