



Guidance for advisers: 3 March 2022

Ukrainians seeking to enter or remain in the UK

As you are all probably aware the situation in Ukraine has deteriorated recently, resulting in many Ukrainians fleeing the country and seeking refuge abroad.

In response to their plight, the Home Office has introduced immigration concessions aimed at protecting the family members of British citizens in Ukraine, Ukrainians already in the UK and those who wish to come to the UK.

As you may appreciate the situation is quite fluid and fresh government announcements may render the information in this note out-of-date. Therefore, this note should be read in conjunction with the information on the [Home Office website](#) pages on the immigration and asylum position for Ukrainians.

In brief, below are the concessions announced by the Home Office as of the 3 March 2022 in respect of those Ukrainians seeking leave to enter or remain in the UK:

Concessions for Ukrainians who want to enter the UK

- Family visa applications decided as quickly as possible for free.
- Some normal family visa rules waived.
- Document flexibility for family, work and study visas.
- Allowing extended family members of British nationals and people settled in the UK to come to the UK.
- Entering as a visitor for “compelling or compassionate reasons”.
- Plans for a new scheme for Ukrainians with no ties to the UK to come.

Concessions for Ukrainians who want to remain or extend their stay in the UK

- Switching visas.
- Visa extensions.

Many Ukrainians fleeing to the UK or those who are already here will require immigration advice and services and therefore this note provides advice and guidance to organisations that may be approached for assistance. We recommend that all advisers keep up to date and follow Government advice and the Home Office website on the immigration and asylum position for Ukrainians.

What work can Level 1 advisers do to assist clients who wish to rely on the Ukrainian situation concessions?

Under the OISC’s Guidance on Competence Level 1, advisers are only permitted to deal with straightforward applications to vary the conditions attached to leave already granted, including conditions attached to bail granted by the Secretary of State. It is

further stipulated in the guidance that such applications will not be discretionary or concessionary in nature and applicants will not have an immigration history which is likely to adversely affect the application in question.

Although Level 1 advisers are not normally permitted to undertake work of a discretionary or concessionary nature, they may undertake work on behalf of clients wishing to rely on concessions related to the Ukrainian situation. This is because the Home Office is taking a flexible approach under the concessions applying the rules flexibly to accommodate applications which would otherwise be refused if it wasn't for the concessions.

For example, people of any nationality who usually live in Ukraine with a British family member and who do not meet the normal eligibility requirements (for example the English language requirement or minimum income requirement) are not, as would normally be the case, going to be refused but instead UKVI will consider an alternative grant of leave to come to the UK.

There is also a Home Office concession relating to Ukrainians who are unable to provide the full range of documents required for the family route under which they are applying. According to the Home Office guidance, the decision maker does not require detailed evidence as to why a document is not available. They can instead be satisfied with a reasonable written explanation provided with the application as to why the document cannot be obtained. However, this is not normally the case as failing to provide specified evidence with an application will normally result in a refusal decision.

Although Level 1 advisers may undertake work related to the Ukrainian visa concessions announced by the Home Office, as per the Code of Standards, organisations and immigration advisers should always act in the best interest of their clients.

In order to undertake such work, the adviser must ensure:

- They have the knowledge and skills to help the client. For example, the adviser must ensure that they have knowledge of published UKVI practice in the consideration of cases including UKVI Operational Guidance. The adviser must also have a clear understanding of the limits of their knowledge and competence and an understanding and sensitivity as to when a client's case has to be referred.
- That the application involves the straightforward collection of facts to meet a stated criteria. Where the case involves detailed representations and follow-up correspondence, the adviser must refer on the case to an adviser who is authorised at a higher level.
- That they are able to identify that although the client may not have all necessary documents, based on UKVI guidance, the application will be sympathetically viewed.

- That they are able to identify mandatory and discretionary general grounds for refusal within the immigration rules.

If the answer to all these questions is 'yes', then a level 1 adviser may proceed with assistance of a Ukrainian related application. For further information please view the [Commissioner's guidance on competence](#).

Ukraine Advice Project UK

The OISC has received several queries from regulated advisers on whether they may provide pro-bono legal advice by volunteering through the Ukraine Advice Project UK. The Ukraine Advice Project UK matches those seeking advice with advisers who have volunteered to assist. Advice and services provided by the adviser are provided through the regulated organisation and as such the OISC has no concerns with our regulated advisers participating in this scheme.