



Home Office

# Withdrawing asylum claims

Version 10.0

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# About this guidance

This guidance explains the circumstances in which an asylum claim can be withdrawn in accordance with [paragraph 333C of the Immigration Rules](#). It also explains how a claim is considered for withdrawal under each withdrawal category, including adults, family claims as well as both accompanied and unaccompanied asylum-seeking children.

This guidance does not cover cases where a recognised refugee wishes to renounce their refugee status, where a refugee no longer qualifies for refugee status or where consideration is being given to whether refugee status should be revoked. See the separate guidance on revocation of protection status.

## Relevant legislation

Paragraph 333C of the Immigration Rules sets out the circumstances in which it is appropriate to treat an asylum claim as withdrawn. It only applies to requests for international protection as outlined in Paragraph 327 of the Immigration Rules (definition of asylum claimant). It does not apply to non-protection based human rights claims.

Paragraph 326B of the Immigration Rules states that where the Secretary of State is considering a protection claim, any Article 8 issues raised as part of that claim will be considered at the same time as that claim. Consideration must be in line with the provisions of Appendix FM (family life) and Appendix Private Life. This means that if the asylum claim is treated as withdrawn, any Article 8 claim as part of the asylum claim is also withdrawn in line.

Paragraph 358B of the Immigration Rules states that that an asylum claimant must notify the Secretary of State of their current address and of any change to their address or residential status. If not notified beforehand, any change must be notified without delay after it occurs.

## Contacts

If you have any questions about this guidance and your line manager or Senior Caseworker cannot help you or you think that the guidance has factual errors, then you can 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 the Guidance Rules and Forms team.

## Publication

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

- version **10.0**
- published for Home Office staff on **01 October 2024**

## Changes from last version of this guidance

- simplifying the structure and language used across the guidance
- clarifying the process around the requirement to provide and maintain up to date contact details with the Home Office
- providing further clarity around circumstances under which a withdrawal of a claim can be cancelled and ways for claimants to request a review of their asylum claim where they believe the claim was withdrawn incorrectly

### Related content

[Contents](#)

# Withdrawal of an asylum claim: overview

When a person lodges an asylum claim in the UK, they are responsible for complying with the asylum process until their claim is concluded. Their responsibilities include (but are not limited to), attending a screening interview, providing correct and up to date contact details and notifying the Home Office of any changes of these or personal circumstances generally, attending reporting events, completing questionnaires, attending asylum interviews, providing additional information when requested. These responsibilities are in place to ensure protection needs can be considered efficiently and enable the effective conclusion of the asylum claim. If claimants fail to comply with the asylum process or absconds from their accommodation their claim may be implicitly withdrawn. Claimants may also choose to withdraw their asylum claim. This is referred to as an explicit withdrawal.

If an application for asylum is withdrawn either explicitly or implicitly, it will not be considered. The claimant's asylum record (such as the caseworking systems Atlas and/or CID) will be updated to reflect that the application for asylum has been withdrawn. There will be no further substantive consideration of the merits of the claim, unless the claim is reinstated. Please see section [Cancelling withdrawals](#).

## Explicit withdrawal

A claimant may decide they no longer wish to pursue their asylum claim either because, for example, they wish to leave the UK or lodge an application for permission to stay on another immigration route. Under paragraph 333C(a) of the Immigration Rules, a claimant can withdraw their asylum claim. This is known as an explicit withdrawal of an asylum claim.

An asylum claim may be withdrawn explicitly when either:

- the claimant explicitly declares a desire to withdraw their asylum claim
- the claimant signs and submits the relevant form, explicitly withdrawing their claim

## Implicit withdrawal

Where a claimant does not comply with the requirements within the asylum process, their claim can be withdrawn by the Home Office under one of the conditions in paragraph 333C(b) of the Immigration Rules. This is known as an implicit withdrawal of an asylum claim.

An asylum claim may be withdrawn implicitly when one of the following applies:

- the claimant fails to maintain contact with the Home Office
- the claimant fails to provide up-to-date contact details

- the claimant leaves the United Kingdom (without authorisation) at any time before the conclusion of their application for protection
- the claimant fails to complete an asylum questionnaire
- the claimant fails to attend any reporting events
- the claimant fails to attend a personal interview without reasonable explanation

#### **Related content**

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# Explicit withdrawals

There are 2 ways in which a claimant (or an immigration adviser on their behalf) can explicitly withdraw their claim:

- by signing the relevant form provided by or on behalf of the Secretary of State
- by explicitly declaring a desire to withdraw their asylum claim, this includes contacting the Home Office and expressing this in writing

The relevant forms include but are not limited to:

- IS.101/ IS.101(PA) - Explicit Withdrawal Form
- ASL.4857 - Declaration of Withdrawal Template
- Completed Voluntary Return Service (VRS) application form

The claimant can send the relevant form or contact the Home Office to withdraw their asylum claim, either via email or post.

By email: [asylumcentralcommunicationshub@homeoffice.gov.uk](mailto:asylumcentralcommunicationshub@homeoffice.gov.uk) or,

By post:

UKVI PO Box 7782  
Village Way  
Bilston  
WV1 9QB

If by email, the claimant must use the email address they have provided to the Home Office and was used as part of their asylum claim. In correspondence, the claimant must include their full name, date of birth, nationality, Port/Home Office reference.

Individuals who apply for Assisted or Voluntary Departures from the UK are required to provide their informed consent to withdraw any outstanding applications or appeals. The required form (IS.101) can either be completed online – if support was requested in that way or sent by post if the claimant made contact by phone or letter. The Voluntary Returns Service (VRS) will discuss with the individual what level of support can be offered in accordance with the Voluntary and assisted departure guidance.

Where a claimant has provided their consent to withdraw an outstanding application or appeal on the IS.101 (online or paper version) to pursue a Voluntary Return and the application is approved by the VRS the caseworker should then await confirmation that the individual has departed from the UK before proceeding to withdraw the application or appeal to conclude the process.

If on the planned return date after (a) seeking support from the VRS, and (b) providing their consent to withdraw their outstanding asylum application, the claimant fails to depart, the Home Office will contact the claimant asking them to confirm

whether they still wish to withdraw their asylum claim or continue pursuing it. Claimants are generally provided 7 days to respond. This can be extended if required:

- if the claimant confirms they wish to continue to pursue their asylum claim, the claim will continue and must not be withdrawn, as they have chosen not to voluntarily return and confirmed explicitly, they no longer want to withdraw their claim
- if the claimant fails to respond, the asylum claim can be withdrawn 28 days after the planned return date
- if the claimant responds and confirms they still want to withdraw their asylum claim, despite not departing, the asylum claim will be withdrawn

## All explicit withdrawals

When considering any explicit withdrawal, you **must** consider the claimant's mental capacity and ensure they are able to make the decision to withdraw their asylum claim. Please see [Mental capacity](#) for further information.

Where you are satisfied that the claimant has requested the explicit withdrawal of their asylum claim, and they hold mental capacity, you should proceed with withdrawing the claim.

If you are satisfied that it is appropriate to withdraw the asylum claim, you must issue an ASL.5556 Withdrawal Notification Letter to claimant (and their immigration adviser if applicable) and update the caseworking system.

See [Recording a withdrawal outcome on the casework system](#) for the relevant casework category the case should be withdrawn under.

### Related content

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# Implicit withdrawals

This section outlines how a case is considered for implicit withdrawal under each category of the Immigration Rules.

## Failure to maintain or provide up to date contact with the Home Office

As part of the asylum process, claimants are required to provide and maintain their up-to-date contact details without delay. This is needed to enable the Home Office to send important information and ensure the claimant is aware of any requirements for example, an invitation to an asylum interview or a request to complete an asylum questionnaire. If there are no known, up to date contact details to pursue a claimant's asylum claim, then their claim may be implicitly withdrawn under Paragraph 333C(b)(i).

Where a claimant has registered their claim and attended an asylum screening interview, they are required to provide all of the following:

- a residential address (and correspondence address, if different)
- email address (if available)
- phone number (if available)
- where relevant, the contact details of their immigration adviser (if available)

On some occasions, the claimant may not be able to provide their contact details and/or contact details of their immigration adviser at the early stages of their claim.

Claimants should provide their contact details, at the earliest opportunity and **within 28 days** following their release on bail or their screening interview. If they are unable to do this, they should contact the Home Office on [asylumcentralcommunicationshub@homeoffice.gov.uk](mailto:asylumcentralcommunicationshub@homeoffice.gov.uk) and explain why not.

Claimants must also notify the Home Office **within 28 days** of any change in their contact details, for example a change in residence address, email, phone number, immigration adviser etc.

For change of address, claimants are required to provide proof of their address. The following documents can be submitted. One must contain the applicant's name and new address:

- Asylum Registration Card (ARC) card; Biometric Residence Permit (BRP) card; European Economic Area (EEA) Identity card; Travel document; Birth Certificate
- Utility Bill (Gas, electric, water or fixed telephone line/Internet); Council Tax bill
- Tenancy agreement; Bank statement; Mortgage statement
- GP letter; Letter from hotel reception; Asylum Support letter
- UK Valid Driving License or Provisional License (Card only)

- HMRC letter; Benefit letter (including housing benefit, tax credits, state pension, letter from DWP); Payslip (including P45 and P60)

If a claimant is living with friends or relatives and cannot provide proof of address evidence and they are not in a Home Office accommodation, they must provide **all** of the following evidence:

- the applicant's photographic ID (including ARC, BAIL 201 and ILL)
- the relative or friend's photographic ID
- the relative or friend's proof of address document (dated within the last 3 months)
- the relative or friend's proof of address document (dated within the last 3 months)
- a signed and dated (within the last 3 months) letter from the relative or friend stating that they are providing the claimant with accommodation at the given address

If a claimant has moved to a new address but is not able to provide the relevant documents, they can still notify the Home Office of the new address. However, they need to submit the required documents at the earliest opportunity.

Claimants can submit their contact details or a change of address or any other contact details either:

- online by visiting [www.visa-address-update.service.gov.uk](http://www.visa-address-update.service.gov.uk),
- via email contacting the Asylum Central Communication Hub on: [asylumcentralcommunicationshub@homeoffice.gov.uk](mailto:asylumcentralcommunicationshub@homeoffice.gov.uk)
- or via post:

Change of address team  
7th floor, Lunar House  
40 Wellesley Road  
Croydon  
CR9 2BY

Or

Asylum Central Correspondence Hub  
UKVI PO Box 7782  
Village Way  
Bilston  
WV1 9QB

Correspondence may be returned to the Home Office where the claimant has moved to another residency. If there is no further update from the claimant within 28 days, then their claim may be withdrawn.

Where the claimant is detained, you must not withdraw the claim even if they have not provided a valid address within 28 days after their screening interview as they are not considered to have no contact details.

Claimants who are receiving asylum support do not need to notify a change in address if they have moved from one Home Office accommodation property to another Home Office accommodation property, providing this move has been approved by the Home Office. However, **claimants must notify the Home Office immediately if they have left, or are planning to leave, their Home Office provided accommodation to move into private accommodation.** This can be done by submitting a change of circumstances request to **Migrant Help**.

Migrant Help can be contacted in the following ways:

Telephone: 0808 8010 503

Email: [CoC@migranhelpuk.org](mailto:CoC@migranhelpuk.org)

Webchat: <https://www.timeforstorm.com/CustomChat/MigrantHelp/1/>

Website: <https://www.migranhelpuk.org>

Claimants who are receiving asylum support still need to notify the Home Office of change in their other contact details, i.e. phone number of email address and change in immigration adviser's details.

Claimants are informed of the requirement to maintain up-to-date contact details with the Home Office in the following documents issued to the claimant usually as part of the screening process:

- Screening Interview Form
- 'Point of Claim' leaflet issued to all asylum claimants - online version available: [Information booklet for asylum applications - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/information-booklet-for-asylum-applications)
- BAIL201 or IS248 Form issued to the relevant claimants with the appropriate options selected

The above documents contain warnings to claimants, explaining their claim may be withdrawn if they fail to comply with the requirement to maintain contact with the Home Office. This warning must be recorded on the caseworking system.

If the claimant has an immigration adviser, you must contact them in order to obtain the claimant's contact details. If the immigration adviser confirms the claimant's contact details, you must update the case-working system, and proceed with progressing the asylum claim substantively. If the immigration adviser confirms they do not have the claimant's contact details or fails to respond in 14 days, you may consider withdrawing the claim.

If the claimant is currently residing in Home Office accommodation, you must check the most up to date address details provided by Asylum Support teams before looking to withdraw the claim.

If information is received that the claimant has left Home Office accommodation, or their provided address, and not provided their immigration adviser's details or any onward contact details within a 28-day period, then withdrawal must be considered. The person may also be considered an absconder. Please see absconder process.

If the claimant does not have an immigration adviser, you must attempt to contact the claimant on any known contact details held. This includes phone numbers or email addresses that are on record including ones which may have been obtained at the screening interview.

If a telephone number has been provided, you should make several attempts to contact the claimant, a minimum of 2 phone call attempts, over a minimum of 3 days and at different times of the day in order to try and contact the claimant to find out their up-to-date address and inform them of upcoming appointments such as reporting events and asylum interviews.

You must record details of your attempts to contact the claimant on the case-working system, outlining the result of the contact. If the claimant provides their contact details to enable progression of their case, such as their up-to-date address, you should continue to progress their asylum claim.

If you are not able to contact the claimant to pursue their asylum claim, and if you are satisfied that is appropriate to withdraw the asylum claim, you should issue the ASL.5556 Withdrawal Notification Letter to file and update the case-working systems. If the claimant has an immigration adviser, who confirmed they do not have the claimant's contact details or have failed to respond to the request for this information in 14 days, you must send a copy of the ASL.5556 Withdrawal Notification Letter to them for their records.

See [Recording a withdrawal outcome on the casework system](#) for the relevant casework category the case should be withdrawn under.

If the claimant re-engages with the Home Office at a later date and provides their contact details, then you must send the ASL.5556 letter informing them that their claim has been withdrawn.

## Leaving the UK without permission prior to conclusion of the asylum claim

Claimants whose asylum claim has not been decided, in general, are not permitted to leave the UK without permission until their claim is concluded. If they decide to leave the UK without permission their claim may be implicitly withdrawn under paragraph 333C(b)(ii).

Asylum claims may also be considered for withdrawal in line with Paragraph 333C(b)(ii) of the Immigration Rules when the claimant either:

- requests that their passport is sent back to them for travel outside the Common Travel Area (CTA), unless permission to travel has been authorised
- embarks for any destination outside the UK, (including within the CTA), without permission

Where the claimant has not provided their passport or travel document, the Home Office will not issue a Home Office Travel Document in order to facilitate travel.

Where a claimant leaves the UK without permission, the Home Office does not facilitate their return to continue their claim for asylum and their claim will be treated as implicitly withdrawn.

Where there is an outstanding appeal against a decision, this is deemed to be abandoned upon embarkation for a destination outside the UK.

Where it has come to your attention that a claimant has left the UK, and you have evidence to support this, you must consider withdrawing their claim. This includes both legal and illegal exit from the UK and regardless of the length of time outside of the UK.

If the claimant is outside of the UK, you should issue the ASL.5556 Withdrawal Notification Letter to file and update the case-working systems.

If the claimant has an immigration adviser, you must send a copy of the ASL.5556 Withdrawal Notification Letter to them.

If the claimant has since returned to the UK after leaving without permission, you must still consider withdrawing their claim. If you have their contact details, you should issue the ASL.5556 Withdrawal Notification Letter to their last known contact details and update case-working systems.

Please see Further submissions guidance, for further information about individuals who have returned to the UK, who previously had an asylum claim and wish to seek protection.

See [Recording a withdrawal outcome on the casework system](#) for the relevant casework category the case should be withdrawn under.

## Travel abroad and requests for passports

All written requests for permission to travel must be sent:

By email: [asylumcentralcommunicationshub@homeoffice.gov.uk](mailto:asylumcentralcommunicationshub@homeoffice.gov.uk) or,

By post:

UKVI PO Box 7782  
Village Way  
Bilston  
WV1 9QB

The correspondence should include the purpose of the request and the duration of travel required outside of the United Kingdom. Any available supporting evidence should also be included in the correspondence.

When a written request is received before a decision is made on the asylum claim, for the return of a passport for the purpose of travel outside the Common Travel Area

(CTA), you must send either the IS.101 form, the IS.101 (PA) form, or another relevant form provided by the Secretary of State – such as ASL.4857 (Declaration of Withdrawal template), warning them that return of the passport will constitute withdrawal of their asylum claim, unless permission to travel has been authorised. The asylum claim is treated as withdrawn upon receipt of the signed withdrawal form – see [Explicit withdrawals](#).

If the claimant does not seek permission to travel before leaving the UK, or the request is not responded to by the Home Office, before the claimant has left the UK, all circumstances will be taken into account before proceeding to withdrawal action.

## Considering requests for permission to travel

Requests to leave the UK whilst continuing to pursue an asylum claim will only be accepted in the most exceptional circumstances such as the serious illness or death of a close family member or access to medical treatment abroad as it is unavailable in the UK. It should be noted that travel for the purpose of tourism is unlikely to be authorised. The CTA rules do not apply to asylum seekers, who are not British or EU citizens.

Where a written request for permission to travel is received, you must consider the individual circumstances of the request. The length of time that the claimant wants to spend away from the UK must be consistent with the purpose of the request. For example, a request for the return of a passport to visit friends would be rejected but a request to travel to a third country to visit a seriously ill close relative may be accepted.

Where a request is accepted, you must update all relevant Home Office systems/files to ensure that anyone who encounters the claimant is aware that they have been given permission to travel and their asylum claim has not been withdrawn. If the claimant exceeds the amount of time authorised to be outside of the UK, then re-entry may be refused. Consideration will be afforded to any explanations.

Extensions will only be requested in truly exceptional circumstances and the length of time must be consistent with the purpose of the request. If the delay is outside of the individual's control and for a relevant period of time, for example flight delays or cancellation, attendance at a funeral of a relative they visited for medical reasons, then discretion is more likely to be afforded.

## Failure to complete an asylum questionnaire

As part of the asylum process a claimant may be required by the Home Office to complete an asylum questionnaire. Failure to comply with the request to complete an asylum questionnaire may result in the implicit withdrawal of the asylum claim in line with Paragraph 333C(b)(iii).

All relevant information about the request to complete the questionnaire must be recorded on Home Office casework systems. There must be evidence that the questionnaire was sent to the correct address and the need to complete it and the timeframe was communicated to the claimant. You must provide a minimum of 28

days for a claimant to complete an asylum questionnaire. Before withdrawing an asylum claim on the basis of non-return of a questionnaire, you must attempt to contact them at least once on all possible contact methods available, for example via their immigration adviser or via phone / email. All attempts to contact the claimant must be recorded on Home Office casework systems. If there are no known contact details available, then you must investigate whether there are other ways to communicate with the claimant. For example, if the claimant is in supported accommodation provided by the Home Office, then you must check the most up to date address details provided by Asylum Support teams and attempt to contact the claimant prior to withdrawing the claim.

Where a claimant requests an extension of the deadline in order to respond to the questionnaire, you must consider the request for an extension on a case-by-case basis. It will normally be appropriate to accept such requests as long as the requested extension is proportionate for the task of completing the asylum questionnaire, for example, if the claimant requires support completing the questionnaire as they are illiterate or suffer from ill-health that requires additional time to complete the questionnaire due to medical treatment and appointments. If the request is reasonable and proportionate to the reasons for the request, you must confirm that an extension has been granted. If the request is not reasonable and proportionate, you must confirm that the claim may be withdrawn if it is not returned the timescale provided. Extension requests for durations of greater than 28 days are unlikely to be reasonable and proportionate, unless exceptional circumstances are presented.

If the claim is to be withdrawn, you must send the ASL.5556 Withdrawal Notification Letter to the claimant (and their immigration adviser if applicable) informing them that their claim has been withdrawn. If their contact details are not known, then you must serve the letter to file.

See [Recording a withdrawal outcome on the casework system](#) for the relevant casework category the case should be withdrawn under.

## Failure to attend a reporting event

Reporting events are scheduled to maintain contact with asylum claimants and ensure the Home Office has up to date details. Claimants are expected to engage with reporting events to ensure their compliance with the immigration system. As part of the asylum process, a claimant may be required by the Home Office to attend a one-off reporting event or series of scheduled reporting events. Failure to attend a reporting event, may lead to a claim being withdrawn in line with Paragraph 333C(b)(iv) of the Immigration Rules.

Claimants are warned that failure to attend any reporting event(s) may lead to the withdrawal of their asylum claim. This is in the BAIL201 and/or IS248 Form and Screening Interview Form, copies of which are recorded in the caseworking system when a claimant has been issued them. You must ensure the relevant warning has been given before withdrawing the claim. If you identify that the warnings were not given correctly, you should not withdraw the asylum claim. Instead, you should ensure the warning is given and arrange for another reporting event to be scheduled.

Where a claimant fails to attend a scheduled **one-off reporting event**, they are given 7 days to provide their reasons for failing to attend. Where there is a reasonable explanation for the inability to attend, normally due to circumstances beyond the claimant's control (this may include but is not limited to, unavoidable medical or maternity appointment that could not be rearranged, ill-health or severe travel disruption, non-attendance due to issues relating to domestic abuse etc.), the claim would not be suitable for withdrawal.

You must ensure the claimant was aware of the details of the reporting event. You should not proceed with the withdrawal of the claim if the letter was not sent to the most up to date address, or if the claimant provides sufficient evidence that they did not receive the letter. Instead, you should organise the re-sending of the invitation to attend a reporting event letter, to the correct address.

Where claimant's **reporting event or events were set up at bail / asylum screening interview**, you should ensure all relevant failure to report actions have taken place, as outlined in the Reporting and offender management guidance, before withdrawing the claim.

If you are satisfied that the claimant failed to attend a reporting event, without reasonable explanation, you should proceed with withdrawing the claim, you should check that an asylum interview is not already booked. See [Reporting events and asylum interviews](#) section in this guidance.

If you are satisfied that the claimant failed to attend a reporting event, without reasonable explanation, and an asylum interview is not already booked, you should proceed with withdrawing the claim.

You should issue the ASL.5556 Withdrawal Notification Letter to the claimant (and their immigration adviser if applicable) selecting the appropriate option and update the caseworking system. If necessary, you must explain why any reason for failure to attend the reporting event provided was not accepted.

See [Recording a withdrawal outcome on the caseworking system](#) for the relevant casework category the case should be withdrawn under.

## Failure to attend an asylum interview

As part of the asylum process, claimants may be invited to attend an asylum interview. The asylum interview is an important part of the asylum process. It gives the claimant the opportunity to present their claim to the Asylum Interviewing Officer. Failure to attend an asylum interview, may lead to a claim being withdrawn in line with Paragraph 333C(b)(v) of the Immigration Rules.

Claimants are sent an Invitation to Asylum Interview letter (ASL0062), either via email (if available) to both claimant and immigration adviser (if applicable) or by post where an email address is not available, prior to the interview. This letter explains that failure to attend the interview may lead to the withdrawal of their claim. On the day of the interview, if the claimant does not attend at the scheduled time, you must

attempt to contact the claimant (and their immigration adviser, if applicable) to find out if they are due to attend their interview and if there are any reasons for the delay. You must note all communications on case-working systems.

## Failure to attend the first scheduled interview

Where the claimant fails to attend their first scheduled interview, as soon as possible after the interview, you must send a failure to respond to an asylum interview letter (ASL.3724) to the claimant, and where relevant, their immigration adviser to establish the reason for non-attendance. The claimant is provided 7 days from the date on the letter to respond, or 24 hours in all detained cases.

This policy applies to any rebooked (cancelled) interviews, as well as supplementary interviews that may be required.

When considering withdrawal of a claim on the basis of failure to attend an asylum interview, there are several steps you need to follow.

Where a claimant has been sent a letter inviting them to attend an asylum interview, you should check whether the letter was sent to their most up-to-date address. You can do so by checking records on the caseworking system and ensuring the address of the invitation letter matches the most up-to-date address. You should also check whether any correspondence details change requests have been actioned correctly and the caseworking system is updated accordingly. For example, if the claimant is in supported accommodation provided by the Home Office, then you must check the most up to date address details provided by Asylum Support teams and attempt to contact the claimant prior to withdrawing the claim.

Where you find that the most up-to-date correspondence address does not match the address the invitation to attend an asylum interview was sent to, you should not proceed with the withdrawal of the claim. Instead, you should organise the re-sending of invitation to attend an asylum interview letter to the correct address.

Where you are satisfied that the invitation to attend an asylum interview is sent to the claimant correctly, and where applicable their immigration adviser, you should proceed with the next step.

You should check whether, following failure to attend their first asylum interview letter (ASL.3724), the claimant has provided an explanation for this.

If an explanation is received within the deadline, you must consider whether there is sufficient evidence to show that failure to attend was due to circumstances beyond the claimant's control and decide whether to rebook the interview or treat the claim as implicitly withdrawn. The onus is on the claimant to provide an acceptable explanation for non-attendance, this may include but is not limited to, unavoidable medical or maternity appointment that could not be rearranged, ill-health, severe travel disruption, reliable evidence of confirmation of their current address to explain why they did not receive the letter or issues relating to domestic abuse.

If you are satisfied that the claimant failed to attend the interview for reasons beyond their control, you must reschedule their interview, taking account of their personal circumstances, for example any known medical appointments and do not withdraw the claim. For failure to attend an asylum interview for medical reasons, you should aim to organise the re-scheduling of the asylum interview that takes into account the medical illness of the claimant, or example, allowing reasonable time for recovery. If you require further evidence, you should send 'Request for Further Information' letter, outlining the types of evidence / information you require to make a decision and the timeframe the information should be submitted by, for example, hospital / GP letter.

Where no explanation is received by the deadline or the explanation is insufficient and does not demonstrate that they failed to attend for reasons beyond their control, the asylum claim may be treated as implicitly withdrawn.

You should issue the ASL.5556 Withdrawal Notification Letter to claimant (and their immigration adviser if applicable), selecting the appropriate option and update the caseworking system. If necessary, you must explain why any reason provided for failure to attend the asylum interview was not accepted.

See [Recording a withdrawal outcome on the caseworking system](#) for the relevant casework category the case should be withdrawn under.

## Second and subsequent failures to attend an asylum interview

There may be occasions where a claimant fails to attend multiple scheduled appointments to undertake their asylum interview.

Whilst we understand there may be genuine reasons why an individual is unable to attend an interview, it is considered vital that all claimants inform us ahead of time if they are unable to attend. It is not considered reasonable for claimants to continually delay or avoid attending their asylum interview. The interview is an important opportunity to provide information about the reasons someone is seeking protection.

Once an interview is rebooked after a previous incidence of non-attendance, the subsequent invite to interview letter will explain to the claimant that if they fail to attend their next scheduled interview appointment, their claim will be withdrawn if they fail to inform the Home Office ahead of their asylum interview, or on the day of.

If a claimant cannot attend their interview for circumstances beyond their control, they (or their immigration adviser) must contact the relevant team using the contact details on the interview invite letter **before or on the day of the interview**.

If a notification is not received prior to or is only received on the day of the scheduled interview, the caseworker should contact the claimant and / or their immigration adviser and enquire about the reason for not attending the scheduled asylum interview.

If the claimant (or their immigration adviser) provides any information (including documentary evidence, where relevant, regarding non-attendance before or on the

day of the interview), a caseworker will review the communication and assess whether the reasons for non-attendance are a reasonable explanation and beyond the claimant's control.

Where the caseworker is satisfied that the explanation and / or evidence shows that there is a reasonable explanation for inability to attend an asylum interview, as outlined in the failure to attend the first scheduled interview section above, the claim should not be withdrawn. Instead, the claimant should be rescheduled for another appointment.

You must ensure that you review all communication with the claimant (and their immigration adviser). If the claimant fails to attend the appointment, then you must attempt to contact the claimant (or their immigration adviser) on the day of the interview via telephone or email (if details are known) to obtain reasons for non-attendance. You must record all communication on case-working systems.

All correspondence and contact with the claimant, and where relevant immigration adviser, should be recorded on the caseworking system.

You should avoid scheduling interviews, where there are known reasons why the claimant would not be able to attend an asylum interview (for example, if the claimant is currently an in-patient receiving medical treatment in hospital or is detained in prison and alternative arrangements need to be made). If there are long-term reasons why a claimant is unable to attend an interview, you must discuss the next steps on how to progress their asylum claim with a Senior Caseworker (SCW).

If there is no contact at all, you must withdraw the claim, no sooner than 2 working days after the scheduled appointment. You must send the ASL.5556 Withdrawal Notification Letter to the claimant (and their immigration adviser if applicable) informing them that their claim has been withdrawn.

See [Recording a withdrawal outcome on the caseworking system](#) for the relevant casework category the case should be withdrawn under.

## Reporting events and asylum interviews

There may be occasions where a claimant has a reporting event scheduled as well as an asylum interview booked in. Where an individual does not attend a reporting event, but an asylum interview is scheduled, the claim must not be withdrawn until it is known whether the claimant has attended the asylum interview. If they attend their asylum interview, then the claim must not be withdrawn based on the previous non-attendance at a reporting event.

Where an individual does not attend their asylum interview, then their asylum claim can be withdrawn in line with [paragraph 333C\(b\)\(v\)](#). No further reporting events are required in order to evidence non-compliance.

Where you are satisfied that the failure to report is as a result of the claimant exiting the UK, you should proceed with withdrawing the claim under paragraph 333C(b)(ii).

You should issue an ASL.5556 Withdrawal Notification Letter, selecting the applicable option and serve it the claimant or to file (if contact details not held) and update the caseworking system. If the claimant has an active immigration adviser, you should send a copy of this letter to them.

See [Recording a withdrawal outcome on the caseworking system](#) for the relevant casework category the case should be withdrawn under.

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# Children's asylum claims

[Section 55 of the Borders, Citizenship and Immigration Act 2009](#) requires the Home Office to carry out its existing functions in a way that takes into account the need to safeguard and promote the welfare of children in the UK.

The process of withdrawing an asylum claim operates alongside existing child safety procedures and considerations so it is unlikely that a decision to treat an asylum claim as withdrawn would adversely impact on the best interests of a child. However, you must be alert to any child protection issues that may arise in this context.

## Unaccompanied asylum- seeking children

The circumstances where an asylum claim can be withdrawn, as outlined in Section 333C of the Immigration Rules apply to unaccompanied asylum-seeking children (UASC).

It is important that you exercise discretion when handling non-attendance at asylum interviews or any incidences of possible non-compliance or absconding from children.

You must use greater sensitivity and if an acceptable explanation for non-attendance is not received then you must take steps to establish all relevant facts. This may include (but is not limited to) contacting the child's responsible adult, immigration adviser, social services, local authority, or accommodation provider for information on the reasons for non-attendance.

If there are any safeguarding issues or any concerns that a child may be missing, and this is the possible reason for lack of contact, non-attendance, or failure to engage with the asylum process then you must take the appropriate safeguarding action and refer to the Safeguarding Hub, who will contact the relevant agencies and make the necessary enquiries. The claim must not be withdrawn whilst these actions are being undertaken.

See: Processing children's asylum claims guidance.

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Where an unaccompanied asylum-seeking child, who is aged between 12 and 17-years old, expresses a written desire or has submitted the relevant withdrawal form stating they wish to withdraw their claim you must ensure they are signed by the child and their immigration advisers.

If the claimant is under 12 years of age, they will not be expected to sign the form; it must be signed on the child's behalf by their immigration adviser.

Where the relevant forms are not signed by the immigration adviser you must contact the immigration adviser and request the relevant form or the written desire to withdraw the claim is resubmitted with the inclusion of immigration adviser's signature.

Once you are satisfied that relevant forms/written expression to withdraw the claim are completed correctly, you can proceed with withdrawing the claim.

## **Accompanied asylum seeking children / child dependants**

Where children are accompanied asylum seeking children or named as a dependant on their parent's claim it is expected that parents or their guardians will be acting in the best interests of their children if they seek to explicitly withdraw the claim. However, you must be alert to the possibility that there may be reasons that the parents or guardians may not be acting in the child's best interests. In which case, you must follow the safeguarding procedures.

You must still consider the impact on children and whether there is evidence to suggest that they may have a claim in their own right. If the parent or guardian explicitly or implicitly withdraws their claim which is being considered as part of a Family Asylum Claim, then the child's claim will be considered as an independent claim in its own right following the Children's asylum claims guidance unless or until the child also withdraws their claim. Explicit withdrawals for children who are dependent on an asylum claim must be done through a responsible adult or immigration adviser.

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# Family Asylum Claims

## Withdrawal consideration of claims where a lead applicant has adult dependants as part of a family unit

Where an asylum claim is lodged by a family unit which comprises of a lead claimant with adult only dependants, the claim **will not be considered** under the Family Asylum Claim process, defined in the Family asylum claims guidance. Their claim will be considered under the Dependants and former dependants policy.

This means that when the lead applicant's claim is considered for withdrawal, either explicit or implicit, the claim will be considered in line with the existing explicit or implicit rules outlined in this guidance. The withdrawal of the lead applicant's claim will apply to all adult dependants included in that claim. Dependent adults are allowed to lodge an asylum claim independently in their own right. If the dependant has a claim in their own right, their asylum claim will continue, unless there are grounds for their claim to be withdrawn where they are the lead claimant.

## Withdrawal consideration of a Family Asylum Claim

The Family Asylum Claims process applies where a main claimant and any children dependent on their claim share common grounds for claiming asylum and can be considered together as part of a single consideration. To understand what is considered a Family Asylum claim, see Family Asylum claims guidance.

## Establishing a child's protection needs

Where the Family Claim includes a dependent child or children, the claims of the child or children will not be withdrawn automatically. On 19 March 2021 the UK Supreme Court in **G (Appellant) v G (Respondent) [2021] UKSC 9** found that a child who is named as a dependant on an asylum claim can and should (generally) be understood to have made a claim for asylum in their own right.

As a child is generally considered to be an asylum claimant in their own right, they must be given the opportunity to particularise their claim and set out what risks they may face on return to their country of origin.

Screening interviews, preliminary interview questionnaires and substantive asylum interviews should include questions for the main claimant about whether a child or children linked to the claim has separate protection needs.

If these questions have not already been asked, decision-makers should issue a G v G questionnaire to confirm whether a dependent child has the same protection needs, separate protection needs or no protection needs from the main claimant. Claimants have 20 working days to respond to this questionnaire. For claimants who have failed to comply with the asylum process, for example attend an asylum

interview or provide or maintain up-to-date contact details with the Home Office, the G v G questionnaire will not be issued.

If the protection needs of the child **are the same** as that of the main claimant, the claim must be considered as a Family Asylum Claim. This should be noted on caseworking systems, and you can proceed with the withdrawal of all family members.

If the protection needs of the child **are separate or different** to the protection needs of the main claimant (their parent), the claim of any child with separate protection needs will be considered as an accompanied asylum-seeking child (AASC) and their claim considered separately. Once the child or children have been removed from the family claim, you should then proceed with the withdrawal of the other family members. If no response is received within 28 days, it is considered that the child or children have no separate protection needs and you should proceed with withdrawing the claim of all adult family members. The child or children's asylum claim will continue to proceed separately and will only be withdrawn if there are specific reasons as outlined in the guidance, to withdraw the child's claim.

To understand and establish a child's protection needs, see Family asylum claims guidance.

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# Recording a withdrawal outcome on the caseworking system

The table outlines the reasons for withdrawing an asylum claim and the corresponding outcome category recorded in the caseworking systems (CID and Atlas).

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# After an asylum claim is withdrawn

## Outstanding non-protection based human rights claim

When an asylum claim is withdrawn all other issues relating to that claim are also considered to be withdrawn and are not considered.

Claimants who wish to make an application for permission to stay on the basis of their family or private life in the UK or for any other non-protection based reason, including an European Convention of Human Rights (ECHR) Article 3 (medical) claim, must make an appropriate application on the correct form available on the [GOV.UK](https://www.gov.uk) website.

## Immigration status

Following the withdrawal of an asylum claim, the claimant will be liable for removal as they would not have permission to stay in the UK. This would not apply if a claimant has permission to stay on another immigration route or is awaiting a decision on a separate application they have already submitted. A person whose claim is withdrawn is not considered a failed asylum seeker because no substantive consideration of their claim has taken place.

For further guidance see Enforcement instructions and guidance.

## Appeal rights

The decision to implicitly withdraw an asylum claim is a non-appealable decision under section 82 of the [Nationality, Immigration and Asylum Act 2002](#) (as amended).

A claimant can challenge the withdrawal decision by requesting the Home Office to review it. For details see [Cancelling withdrawals](#).

## Discontinuing asylum support

Where an asylum claim is withdrawn, both explicitly and implicitly, the claimant, where supported, will no longer be eligible for asylum support. If an applicant no longer has an undetermined asylum claim, an undetermined Article 3 claim under the European Convention of Human Rights (ECHR) or a pending appeal, they cease to be eligible for Section 95 support under the provisions of the Immigration and Asylum Act 1999 and support must be discontinued, unless their household or claim includes a dependent child under the age of 18.

In light of the First-Tier Tribunal's decision in MAH & Ors -v- Secretary of State for the Home Department, the decision to cease support where the asylum claim has been withdrawn attracts a right of appeal under Section 103 of the 1999 Act to the First-tier Tribunal (Asylum Support). The right of appeal is against the decision to

cease support only; it is not a right of appeal against the decision to withdraw the asylum claim.

For further information, see Ceasing Section 95 Support guidance.

If an asylum claim is withdrawn, as no formal substantive decision has been made on the claim, the claimant will not be a failed asylum seeker and as a result will not be eligible for section 4(2) support. This is also the case if the claimant's human rights claim has been considered and then refused, as they will have no claim outstanding – see separate guidance on Asylum Support Section 4(2): policy and process.

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# Cancelling withdrawals

Where you identify an asylum claim has been incorrectly withdrawn, the withdrawal must be cancelled, and the asylum claim will be reinstated and considered substantively. You must refer all cases to the Asylum Outcome Review Team, by emailing Asylum Outcome Review to review and action any casework relating to reviewing withdrawals.

A claimant can also contact the Home Office requesting the Home Office to review a withdrawal if there are reasons to suggest the asylum claim should not have been withdrawn.

A caseworker will review the case and where appropriate will cancel the withdrawal decision and reinstate the claim. The original date of the asylum claim will remain after a claim is reinstated following a decision that the withdrawal was incorrect. The claim will then be considered substantively.

If the asylum claim is reinstated, and the asylum claimant was previously residing in Home Office accommodation and/or in receipt of asylum support, the asylum support may be reinstated by the Home Office where appropriate. Any entitlement calculations for back payments will be carried out and awarded to the claimant if appropriate.

In each case, a letter must be sent to the claimant and their immigration adviser (if applicable) confirming that the withdrawal has been cancelled and the claim will be considered substantively. Home Office records must be updated accordingly.

Copies of all correspondence must be placed on case-working systems (CID or Atlas) or other relevant Home Office IT system and notes must be updated to reflect the actions taken and the status of the claim. An asylum claim must continue to be processed when the claim has been reinstated.

Individuals whose claims are withdrawn (either implicitly or explicitly) by the Home Office can request a review of the withdrawal decision, if they believe that the claim was withdrawn incorrectly. They must do so **within 60 days of the date of the Notice to Withdraw letter**. If requests are received after this time, unless there are very exceptional circumstances, it is unlikely to be appropriate to review.

There is no time limitation for challenges of a withdrawal decision for individuals who are victims of domestic abuse or modern slavery.

Individuals can request a review by contacting the Asylum Outcome Review team on the following email address: [asylumoutcomereview@homeoffice.gov.uk](mailto:asylumoutcomereview@homeoffice.gov.uk).

The individual must provide their name, address, contact details (telephone and email) and Home Office reference number. They should also provide a brief explanation as to why they believe their claim was withdrawn incorrectly and attach all relevant documentary evidence.

It will normally be appropriate to cancel a withdrawal and reinstate the asylum claim in the following non-exhaustive list of circumstances, where a claimant:

- was being cared for in hospital and correspondence was sent to their home address
- has not been issued the warning or served the relevant paperwork that confirms their claim will be withdrawn if they fail to maintain contact with the Home Office
- has been bailed to no fixed abode and never been informed during their screening interview, or in correspondence or paperwork that they must update the Home Office with their residential and correspondence address in order for the Home Office to progress their claim
- did not receive the relevant paperwork as it was sent to the incorrect address by the Home Office due to an administrative or IT error - this would not include a situation where someone failed to receive paperwork or correspondence because they moved address and failed to inform the Home Office within a reasonable period of time (usually 28 days)
- has provided reasons and mitigating circumstances for why they did not receive the correspondence, but these were not taken into account - this could include circumstances relating to fleeing domestic violence (see [Cancelling withdrawals in instances of domestic violence](#)) or having to move addresses frequently and not had chance to update the Home Office of their most up to date address and contact details
- new evidence comes to light that the claimant did not have the mental capacity to explicitly withdraw their claim

The above list is not exhaustive, and there may be other circumstances which would warrant the withdrawal to be cancelled, and the initial asylum claim to be reinstated. If you need any further advice, contact an Asylum Senior Caseworker.

## Medical reasons

A claimant may be unable to comply with the asylum process, for example, attend an interview, attend their reporting event, etc. for medical reasons through no fault of their own.

When a withdrawal is challenged on medical grounds, you should carefully review representations and evidence provided. If the evidence shows the claimant was admitted to hospital at the time of events, such as asylum interview or a reporting event, you should consider reinstating their claim.

You need to ensure that the hospital admission and / or the effect of their treatment had a prolonged timeframe that also covered the time between the service of Asylum Request Information for Failure to Attend Asylum Interview or Reporting Event letter (ASL.3274) and the final Notice of Withdrawal letter (ASL.3275 or ASL5556). For example, a medical letter showing a day long admission to hospital around the asylum interview, for a relatively minor medical intervention, would not be sufficient. This is because the claimant had the opportunity to respond to the Asylum Request

Information for Failure to Attend Asylum Interview or Reporting Event letter, outlining their reason for non-compliance and have their asylum interview rescheduled.

If you are unsure whether the medical evidence shows that a claimant could not comply with the asylum process for medical reasons, you should consult with your Senior Caseworker.

Where the medical evidence shows that a claimant was in a prolonged hospital admission, you should **reinstate their claim**.

In some cases, a claimant may suffer from a serious and debilitating condition. Medical evidence related to the conditions should be considered carefully. If you are satisfied that the claimant's condition is more likely than not to have prevented them from complying with the asylum process, you should **reinstate the claim**.

If you are unsure whether the medical evidence shows that more likely than not, the claimant could not comply with the asylum process for medical reasons, you should consult with your Senior Caseworker.

If an asylum claim has been explicitly withdrawn and the claimant did not have the mental capacity to make this decision at the time of withdrawal, you should **reinstate their claim**.

## Victim of Modern Slavery

A claimant may be unable to comply with the asylum process, for example, attend an interview, attend their reporting event, because they were victims of modern slavery, which prevents them from complying with the asylum process through no fault of their own.

There are several reasons as to why victims of modern slavery may not be able to comply with the asylum process. They may:

- have not been able to access their correspondence from the Home Office whilst / if cohabiting with the perpetrator, as the perpetrator has omitted such access as part of coercion
- be being held captive and / or away from the last known address or with restricted ability to move freely

You should review the case working system. Normally there would be a record of a National Referral Mechanism (NRM) on the system, either triggered in the past or recently.

If the NRM was triggered in the past you need to check whether there are any conclusive grounds decisions on claimant's case, and where positive (claimant found to be a victim of modern slavery in the UK), you should **reinstate the claim**.

If the NRM had been triggered recently, and there is no reasonable grounds decision, you should await an outcome relating to circumstances alleging exploitation in the UK, during the time they have been progressing their asylum claim, before

deciding whether the claim should be reinstated. You should notify the claimant (and their immigration adviser, if applicable) of this, outlining that the decision on the withdrawal review is pending the outcome of the NRM. You should note this on the caseworking system. Once the outcome is updated, you should then inform the claimant (and their immigration adviser, if applicable).

## Victim of domestic abuse

A claimant may be unable to comply with the asylum process, for example, attend an interview, attend their reporting event, because of domestic abuse, restricting their ability to comply with the asylum process through no fault of their own.

There are several reasons as to why victims of domestic abuse may not be able to comply with the asylum process. They may have:

- not been able to access their correspondence from the Home Office whilst cohabiting with the abuser, as the abuser may have omitted such access as part of the abuse
- relocated to a shelter, thus unable to receive correspondence
- had their movement restricted by the abuser

You should carefully consider the representation and all available evidence provided. Evidence showing relocation into a shelter on the basis of domestic abuse would normally be sufficient to demonstrate that claimant suffered domestic abuse.

Evidence from supporting organisations or medical professionals, for example letter from a charity supporting victims of domestic abuse, are also considered as strong and conclusive evidence. There may also be evidence enclosed of police reports which are also strong and conclusive evidence of abuse.

You should also review the caseworking system, including safeguarding related notes, to check whether there are any past or recent records of abuse.

Where based on the evidence received, it is more likely than not that the claimant did not comply with the asylum process because of domestic abuse, the withdrawal should be cancelled, **and the claim reinstated**.

There may however be cases where the claimant may not be able to provide physical evidence that they were subjected to domestic abuse and there is no record on the caseworking system related to any abuse. However, this does not essentially mean the claimant did not suffer domestic abuse. In some instances, the victim of domestic abuse may not have reported abuse to the authorities or sought help from charities. It could be the claimant is in the process of seeking out help but requires additional time to provide evidence.

It is important to carefully consider any written representations and where relevant allow time for a submission of any evidence. Such cases should be discussed with a Senior Caseworker before deciding to maintain the withdrawal.

For further information, see the Asylum Support domestic abuse guidance.

## Child with separate protection needs

In some circumstances a family claim that involves children may be implicitly withdrawn on the basis that the lead applicant has not complied with the asylum process. Normally, prior to the withdrawal of such claim, the lead applicant will be asked, either at screening or substantial asylum interview, or in a preliminary information questionnaire, whether their child has any separate protection needs.

In rare circumstances, protection needs of the child questions may not have been asked, for example when the non-compliance occurred before attendance of an asylum interview, or the specific Family Asylum Claim questionnaire was not filled and returned prior to the withdrawal of the claim.

Where the protection needs of a child at the point of withdrawal of the claim were not assessed and are different from those of the lead applicant, the child can challenge the withdrawal of their own claim.

When a challenge is received from a child who was part of an implicitly withdrawn claim family claim, but has separate protection needs, the caseworker should assess the protection needs of the child by following the Family Asylum Claims guidance.

Where it is assessed that the child has separate protection needs, their claim should be reinstated, and the case must be referred to the Children and Secondary Case Progression Unit (CSCPU) for substantive consideration.

The withdrawal decision should be maintained for the rest of the claimants involved in the family claim.

Further example scenarios of when it is appropriate to reinstate an asylum claim.

**Example Scenario 1:** A claimant has arrived via small boat. The asylum claim was registered, and their photograph and fingerprints were taken. A screening interview was not undertaken on the day the claim was registered. The claimant was bailed to no fixed abode. Since being released on bail, the claimant has not been in contact with the Home Office to update their address. As the claimant's whereabouts are unknown and the Home Office has no contact details for them, the claimant cannot be invited to an asylum interview. The asylum claim is withdrawn under paragraph 333C for absconding before his asylum interview. Three weeks later the claimant contacts the Home Office asking for an update on the asylum claim. Once the up-to-date contact details are obtained, the withdrawal is cancelled, and the asylum claim is reinstated so that it can be progressed. The withdrawal is not maintained as the claimant was not issued with the relevant paperwork informing him that he would be invited to a substantive interview and the implications of not attending.

**Example Scenario 2:** An individual claimed asylum with their spouse as a dependant. The relationship has broken down and she has had to move out of the address where she was residing. She currently stays in accommodation provided by a Non-Government Organisation for victims of domestic abuse. The claimant is invited to an asylum interview which she fails to attend. An Intention to Withdraw

letter (ASL.3274) was sent asking the claimant to provide reasons for non-attendance, but this is not responded to. Subsequently, the asylum claim is withdrawn under Paragraph 333C for failure to attend the asylum interview. The claimant later updates the Home Office to inform the decision-making team of the marital breakdown, her change of address and change of immigration adviser, when it comes to light, she never received the previous letters. The withdrawal of the asylum claim should be cancelled, and the initial claim reinstated with invite letters sent to the updated correct postal address.

## Maintaining a withdrawal

When it is considered that an asylum claim has been withdrawn correctly, then the claim must not be reinstated. If someone wishes to remain in the UK on protection grounds, whose initial asylum claim has been correctly withdrawn then they may lodge Further Submissions. For further information and guidance see Further submissions. You must not accept a second asylum claim from an individual who has had their asylum claim correctly withdrawn.

**Example Scenario 3:** An individual arrived in the UK on a student visa. Upon expiry of his leave to remain, he made no further applications to regularise his stay in the UK and overstayed the visa. The individual was encountered by Immigration Enforcement and subsequently detained. The individual was subject to removal papers and then decided to claim asylum. The claimant was released from detention and bailed to a family member's address. An invite to interview letter was sent but the claimant failed to attend. An Intention to Withdraw letter (ASL.3274) was sent to the last known address asking for an explanation for non-attendance. The claimant responded confirming that they did not have enough time to prepare for the interview and could not attend. The Home Office considered the explanation and the evidence provided, but there were no mitigating circumstances and the letter provided sufficient notice. The claim was withdrawn under [Paragraph 333C](#) in this scenario the claim was correctly withdrawn, and so the initial asylum claim should not be reinstated.

Requests to reconsider the withdrawal decision can be forwarded to Asylum Outcome Review directly by the claimant and / or their immigration adviser.

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A letter must be sent to the claimant confirming whether their original asylum claim will be reinstated or whether the withdrawal is to be maintained (ASL.5560 Reinstatement Asylum Claim Letter).

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# Mental capacity

Possessing mental capacity means that the individual can make decisions for themselves. This includes the ability to make a decision that affects daily life as well as significant decisions, including those that may have legal consequences, such as the withdrawal of a protection claim.

Individuals who lack mental capacity may have mental health conditions or are considered disabled under the [Equality Act 2010](#) definition by reason of a mental impairment.

The principles of the UK Mental Capacity legislation apply to all persons, including asylum seekers. These include the principle that individuals should be assumed to possess capacity unless it is established otherwise on the balance of probabilities. Simply because an individual makes a decision (or decisions) that appear unwise, this does not necessarily mean they lack the capacity to make that decision.

An individual may lack capacity to make a decision for a broad range of reasons. The following are examples of potential causes of mental incapacity:

- a stroke, head or brain injury
- a mental health condition or symptom such as delusional belief
- dementia or other neurological conditions
- a learning disability
- confusion, drowsiness or unconsciousness because of an illness or because of treatment for that illness
- substance or alcohol misuse

Evidence of a mental health condition does not necessarily mean that an individual has a mental impairment or lacks decision-making capacity. A lack of capacity is not a medical condition. An individual's mental capacity relates to their ability to make a particular decision or take a particular action at the time at which the decision or action needs to be taken. This means that a person can lack capacity to make a particular decision but retain capacity to make other decisions. Equally, a person can lack capacity for a time but subsequently regain capacity.

## Assessing whether a claimant holds mental capacity

When considering explicit withdrawals, you should assess whether the claimant holds the mental capacity to make an informed decision to withdraw their claim. You should follow the steps below:

You must check all available caseworking systems to gather information about a claimant's health. You should review for any safeguarding referrals and evidence of any physical and mental conditions; alongside any past or current treatment the claimant has received.

You must also check any available documentary evidence to determine whether there is evidence to suggest the claimant may lack mental capacity.

If you do not find any evidence that suggests the claimant, more likely than not, possess mental capacity, you should proceed with the steps outlined in the [Explicit Withdrawal section](#).

If you find evidence that suggest the claimant may lack mental capacity, before accepting the withdrawal, you must advise the claimant to seek legal advice to assist them and direct the claimant to any other relevant support services depending on the circumstances.

You must send the claimant the Form ASL.4857, accompanied with a cover letter stating 'we acknowledge that you wish to withdraw your asylum claim however, we advise you to seek legal representation. This is to ensure that you fully understand the implications of your decision to withdraw your asylum claim'.

If the claimant has an immigration adviser, you must also send the above letter to them.

If you receive the completed ASL.4857 form, signed by the claimant and their immigration adviser you can proceed with withdrawing the claim. You must refer the case to your Senior Caseworker and raise a safeguarding referral. You must update case notes to ensure there are clear concerns with regards to the withdrawal and note the actions you have taken.

If you receive the completed ASL.4857 form, but the form is only signed by the claimant, you must discuss the case with your senior manager (HEO or above). You should agree as to whether you should proceed with the withdrawal of the claim where a mental capacity issue has been identified.

Depending on the nature of the safeguarding concerns, your senior manager may request you contact the claimant again, making reasonable adjustment to enable the claimant to understand, communicate and make their decision. This may include paraphrasing, using simple language to explain the documents, options and the consequences of decisions. If required, you should use interpretation services if the person is not fluent in English.

Following all possible relevant steps, you can proceed with the next steps in the withdrawal consideration.

You must record all actions you have taken in the withdrawal process clearly in the caseworking system.

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