



Home Office

Inadmissibility: safe third country cases

Version 11.0

Contents

Contents.....	2
About this guidance.....	5
Contacts.....	5
Publication.....	5
Changes from last version of this guidance.....	5
Introduction.....	6
Audience.....	6
Purpose.....	6
Limits to the scope of this guidance.....	6
Key terms.....	6
Further reading.....	7
Background.....	8
Migration and Economic Development Partnership (MEDP) cases.....	8
Application of this guidance in respect of children and those with children.....	9
Disputed age.....	9
Relevant legislation.....	11
Application of the relevant legislation.....	11
Transitional arrangements relevant to the date of claim.....	11
Legislation.....	11
Inadmissibility decisions.....	11
Asylum claims made on or after 28 June 2022.....	11
Asylum claims made before 28 June 2022.....	13
Certificates.....	14
Listed safe countries.....	14
Case-by-case assessment of safe countries.....	15
Removal timescales after inadmissibility decisions.....	15
Support.....	15
Inadmissibility referrals.....	17
Register and screen all asylum claims.....	17
Immigration history.....	17
Other key information sources.....	17
General suitability for inadmissibility referrals.....	18
Refer potential inadmissibility cases.....	18
Initial referrals.....	18
Casework referrals.....	19

Casework inadmissibility decisions.....	19
Prioritisation	19
Third Country Unit (TCU) – initial case actions	21
Notice of intent	21
Representation timescales and extensions.....	21
Further enquiries.....	22
Asylum support for those with refugee status in an EEA state	22
Discretion to treat or declare a claim as inadmissible	22
Decisions: overview.....	24
Authority	24
Decisions – summary	24
Evidence.....	25
Credibility	25
Standard of proof.....	26
Material facts – connection to safe third country.....	26
Refugee Convention rights, ECHR protection rights and other ECHR claims under Article 3	26
General.....	26
Other claims	26
Appeal rights	27
Decisions: consideration and implementation	28
Access to legal advice	28
Review evidence.....	29
Decision consideration.....	29
Facts around the notice of intent and legal access.....	29
Safe third country connection	30
‘Reasonable to expect [the claimant] to make [such] a claim’	30
Two-stage test of reasonableness (or exceptional circumstances)	31
Stage 1	31
Stage 2	31
Safety in the country of connection	32
Safety in the removal country and certifications	33
Country of removal is listed in Part 2 of Schedule 3	34
Refugee Convention and ECHR certification.....	35
Country of removal is not listed in Part 2 of Schedule 3	35
Refugee Convention and ECHR certification.....	35
ECHR claims and certification.....	36

Decision service and onward action.....	37
Removal agreements and timescales.....	38
Removal agreements.....	38
Timescales	38
Post-decision timescales	39
Post-decision	40
Discretion to admit the asylum claim for consideration after it has been declared inadmissible	40
Further submissions	40
Further submissions on human rights refusals	41
Judicial review.....	41
Return to the UK and further asylum claim.....	42
Screening returnees	42
Notices of intent and representation window for returnees	43
Notice of intent not to be issued – no representation window	44
Notice of intent to be issued – short representation window	44
Inadmissibility decision-making for second claims	45

About this guidance

This guidance details the circumstances in which asylum and humanitarian protection claims may be treated as inadmissible on safe third country grounds, and the processes for taking such action.

This guidance does not apply to asylum claimants who are subject to the type of inadmissibility provided for by section 80A of the Nationality, Immigration and Asylum Act 2002 (or by paragraphs 326E-F of the Immigration Rules as were in force before 28 June 2022, applicable to asylum claims by EU nationals made before that time).

Contacts

If you have any questions about the guidance, and your line manager, technical specialist or senior caseworker cannot help you or you think that the guidance has factual errors then email the Asylum Policy Secretariat.

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 **11.0**
- published for Home Office staff on **29 January 2026**

Changes from last version of this guidance

The changes made to this guidance are as follows:

- section added reinforcing the principle that individuals must have had adequate opportunity to obtain legal advice before inadmissibility declarations are made
- further detail added regarding those previously removed from the UK who subsequently return and make a new protection claim, including arrangements around screening, notices of intent and representations
- casework referral section clarified
- casework inadmissibility decision section added
- general housekeeping, including updating links and minor structural changes

Related content

[Contents](#)

Introduction

Audience

This guidance is primarily for officers working in the Third Country Unit (TCU), or officers in other teams specifically authorised by TCU to undertake inadmissibility decision-making. It is also for the attention of:

- officers in any Home Office area who may be partly or wholly responsible for registering asylum claims, conducting asylum screening, and any other related encounter and registration activities
- officers in Case Preparation and Interview Logistics (CPIL), Children and Secondary Case Progression Unit (CSCPU), and the Detention Gatekeeper (DGK), responsible for allocating cases to TCU and other processes
- asylum decision-makers and other officers involved in immigration functions who may encounter asylum claims which may be suitable for inadmissibility action, who may need to refer cases for consideration for inadmissibility action

Purpose

This guidance addresses processes for handling, considering and actioning safe third country inadmissibility decisions under [sections 80B-C of the Nationality, Immigration and Asylum Act 2002](#) (NIAA 2002) or under [paragraphs 345A-D of the Immigration Rules as in force before 28 June 2022](#) (for claims made before that date).

It also addresses certificates issued from 28 June 2022 under [Schedule 3 to the Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004](#) (2004 Act) in respect of decisions to treat safe third countries as safe and removing appeal rights in those decisions, including where human rights claims are assessed to be clearly unfounded. See [Application of the relevant legislation](#).

Limits to the scope of this guidance

This guidance must not be applied to claimants who are subject to inadmissibility processes under [section 80A of the NIAA 2002](#) (or, for any EU nationals whose claim was made before 28 June 2022, inadmissibility processes under [paragraphs 326E-F of the Immigration Rules in force at that time](#)).

For further information see EU and EEA asylum claims.

Key terms

References to ‘third country’ in this guidance should be read as references to a ‘third State’, in line with [sections 80B-C of the NIAA 2002](#) and [Schedule 3 to the 2004 Act](#).

‘Relevant decision framework’ refers to the provisions under which an inadmissibility decision must be made, according to the date of the asylum claim (see [Legislation](#)).

Further reading

This guidance must be read alongside the related lead guidance and resources, including but not limited to:

- Asylum screening and routing
- Assessing age
- Children's asylum claims
- Victims of modern slavery and [Report modern slavery](#)
- Clearly unfounded claims: certification under section 94
- Country information and guidance
- Assessing credibility and refugee status
- Considering human rights claims
- Medical evidence in asylum claims
- Medical claims under Articles 3 and 8 of the ECHR
- [Immigration Rules Appendix FM: family members](#)
- [Immigration Rules Appendix Private Life](#)
- Discretionary leave
- Asylum support
- EU nationals or refugee status abroad
- Family returns process
- Further submissions
- Judicial reviews, injunctions and applications to the ECtHR
- Disclosure and confidentiality of information in asylum claims
- Operating mandate: UK Visas and Immigration

Related content

[Contents](#)

Background

The UK is committed to providing protection to those who need it, in accordance with its international obligations. Irregular migration from those already in safe countries undermines efforts to help those most in need. Controlled resettlement via safe and legal routes is the best way to protect those in need of protection and disrupt the organised crime groups that exploit migrants and refugees.

The inadmissibility process is intended to support the safety of asylum seekers, the integrity of the border and the fairness of the asylum system, by encouraging asylum seekers to claim asylum in the first safe country they reach and deterring them from making unnecessary and dangerous onward journeys to the UK.

In broad terms, asylum claims may be declared inadmissible and not substantively considered in the UK, if the claimant was previously present in or has another connection to a safe third country, where they claimed asylum, or could reasonably be expected to have done so (or, for claims made before 28 June 2022, where exceptional circumstances didn't prevent such a claim), provided there is a reasonable prospect of removing them in a reasonable time to a safe third country.

Migration and Economic Development Partnership (MEDP) cases

In July 2024, the Home Office discontinued the policy of the former government to remove certain asylum seekers to Rwanda under the MEDP. A [public statement](#) issued in April 2025 confirmed how the remaining cases from this cohort were being processed, with an expectation that all workable claims from this cohort would be substantively decided before the end of the year.

Related content

[Contents](#)

Application of this guidance in respect of children and those with children

[Section 55 of the Borders, Citizenship and Immigration Act 2009](#) places a duty on the Secretary of State to make arrangements for ensuring that immigration, asylum, nationality and customs functions are discharged having regard to the need to safeguard and promote the welfare of children in the UK. It does not impose any new functions or override existing functions.

Officers must not apply the actions set out in this guidance to those with children without having due regard to the statutory guidance on section 55, [Every child matters: change for children](#), which sets out the key principles to take into account in all Home Office activities involving children.

Our statutory duty to children includes the need to demonstrate:

- fair treatment which meets the same standard a British child would receive
- the child's interests being made a primary, although not the only, consideration
- no discrimination of any kind
- timely processing of asylum applications
- identification of those that might be at risk from harm

Unaccompanied asylum-seeking children are not suitable for the inadmissibility processes set out in this guidance. However, a child may be invited to withdraw their asylum claim, if **all** the following conditions are met:

- a close family member of the child has been identified in a third country, and they are willing to take care of the child
- UK social services are content that the family member has the capacity to care for the child and is suitable to do so
- the child agrees to be reunited
- it is in the child's best interests to be reunited
- the country has agreed to admitting the child to join their family member

In all cases, any question of withdrawal must be fully in line with *Withdrawing asylum claims* (see in particular the section 'Application of withdrawing asylum claims to children') and the relevant guidance in the guidance *Children's asylum claims*.

Inadmissibility may be applied, where appropriate, in the cases of families with children under 18. Any removal in such cases must be in line with the Family returns process.

Disputed age

The *Assessing age* guidance sets out all of the relevant considerations in respect of age dispute cases.

If a person's claim to be a child is disputed by the Home Office, but they are treated as a child whilst further consideration is given to the issue of their age by their local authority, they must not be entered into the inadmissibility process. This further consideration of age may include an age assessment under section 50 or 51 of the Nationality and Borders Act 2022 (2022 Act) conducted by either the local authority or National Age Assessment Board. However, if the person is later assessed to be an adult and the Home Office accepts the decision for immigration purposes, they may at that time be considered for inadmissibility action. See [General suitability](#) and [Casework referrals](#).

If a person's physical appearance and demeanour very strongly suggest they are significantly over 18 years of age and there is little or no supporting evidence for their claimed age, they must be treated as an adult in accordance with the Assessing Age guidance, and they may therefore be considered for inadmissibility action. Even where a person is treated as an adult on this basis, it does not prevent them from asking their local authority for an age assessment.

If a person treated as an adult under the significantly over 18 policy maintains they are a child and is subsequently taken into local authority care pending an age assessment under section 50 or 51 (or the local authority has confirmed in writing to the Home Office that it intends to do so), inadmissibility action must be paused until the age assessment has been concluded and the Home Office has reviewed its decision on age for immigration purposes, taking into account the outcome of that assessment. That means that during the pause, an inadmissibility declaration must not be made, or if it has already been made, the person must not be removed. Inadmissibility action may proceed only if the person is confirmed to be an adult.

Related content

[Contents](#)

Relevant legislation

Application of the relevant legislation

The legislative framework applicable to the decisions and certificates in a claim is determined by the date of the asylum claim, the date of a person's connection to a safe third country, and the date any certificate is issued (see [Inadmissibility decisions](#), below).

Transitional arrangements relevant to the date of claim

Under transitional arrangements, for the purpose of determining which inadmissibility decision framework applies, individuals who sought to register an asylum claim before 28 June 2022 but were provided with an appointment to attend a designated place to register their asylum application on or after 28 June 2022 will be considered to have 'made an asylum claim' before that date, but only if they attend their scheduled appointment (or, in the event that it is cancelled or rescheduled by the Home Office, the rescheduled appointment).

However, if the individual did not attend their appointment, but on or after 28 June 2022 wishes to register a claim, they will not be considered to have 'made an asylum claim' before that date, unless (a) there were circumstances beyond their control that made it impossible for them to attend the appointment scheduled for them, (b) they contacted the Home Office as soon as reasonably practicable to warn or explain of the said circumstances and apply for a new appointment and (c) they provided the Home Office, as soon as reasonably practicable, evidence to demonstrate their inability to attend the scheduled appointment.

Legislation

Inadmissibility decisions

Asylum claims made on or after 28 June 2022

Asylum claims made on or after 28 June 2022 may be liable to inadmissibility decisions under the decision framework set out in [section 80B](#) and [section 80C of the NIAA 2002](#) and [paragraph 327F of the Immigration Rules](#).

Sections 80B and 80C of the NIAA 2002 provide for a person's asylum claim to be declared inadmissible if they have a specified connection (under section 80C) to a third country which is assessed as safe according to specified criteria (section 80B(4)). The consequence of such a declaration is that the Home Office is not required to consider the asylum claim in respect of the person's country of origin.

Section 80B(4) defines a third country as being safe for a claimant if:

- (a) the claimant's life and liberty are not threatened in that State by reason of their race, religion, nationality, membership of a particular social group or political opinion,
- (b) the State is one from which a person will not be sent to another State—
 - (i) otherwise than in accordance with the Refugee Convention, or
 - (ii) in contravention of their rights under Article 3 of the Human Rights Convention (freedom from torture or inhuman or degrading treatment), and
- (c) a person may apply to be recognised as a refugee and (if so recognised) receive protection in accordance with the Refugee Convention, in that State.

Section 80C defines connections a claimant must have with a safe country before inadmissibility can apply (a claimant must have one of these connections):

- (1) Condition 1 is that the claimant—
 - (a) has been recognised as a refugee in the safe third State, and
 - (b) remains able to access protection in accordance with the Refugee Convention in that State.
- (2) Condition 2 is that the claimant—
 - (a) has otherwise been granted protection in a safe third State as a result of which the claimant would not be sent from the safe third State to another State—
 - (i) otherwise than in accordance with the Refugee Convention, or
 - (ii) in contravention of their rights under Article 3 of the Human Rights Convention, and
 - (b) remains able to access that protection in that State.
- (3) Condition 3 is that the claimant has made a relevant claim to the safe third State and the claim—
 - (a) has not yet been determined, or
 - (b) has been refused.
- (4) Condition 4 is that—
 - (a) the claimant was previously present in, and eligible to make a relevant claim to, the safe third State,
 - (b) it would have been reasonable to expect them to make such a claim, and
 - (c) they failed to do so.
- (5) Condition 5 is that, in the claimant's particular circumstances, it would have been reasonable to expect them to have made a relevant claim to the safe third State (instead of making a claim in the United Kingdom).

Where an inadmissibility declaration is made on an asylum claim under sections 80B and 80C, paragraph 327F of the Immigration Rules treats as inadmissible any humanitarian protection claim made on the same facts ([paragraphs 327EA and 327EB of the Immigration Rules](#) define humanitarian protection claims and how they must be made in order to be recorded as valid).

Inadmissibility declarations under section 80B-C of the NIAA 2002 (and the treatment of any associated humanitarian protection claim as inadmissible under paragraph 327F), are not decisions to refuse protection or human rights claims, and so these declarations confer no rights of appeal under section 82 of the NIAA 2002.

Inadmissibility declarations under section 80B-C of the NIAA 2002 do not apply to human rights claims. However, human rights claims made in respect of removal to a safe third country must always be properly considered, and where appropriate, certified (see [Safety in the removal country and certifications](#)).

Asylum claims made before 28 June 2022

Asylum claims made before 28 June 2022 may be liable to inadmissibility action under [paragraphs 345A-B of the archived Immigration Rules](#). These provisions may in principle be applied to older claims, made before the amended paragraphs 345A-B of the Immigration Rules came into effect (23.00 on 31 December 2020). Such a decision is unlikely to be appropriate if the person would not have been eligible to receive a similar decision under the previous Immigration Rules, or if the progress of their claim through the asylum system has already been substantially delayed compared to average decision timescales. (See also [Timescales](#).)

345A. An asylum application may be treated as inadmissible and not substantively considered if the Secretary of State determines that:

- (i) the applicant has been recognised as a refugee in a safe third country and they can still avail themselves of that protection; or
- (ii) the applicant otherwise enjoys sufficient protection in a safe third country, including benefiting from the principle of non-refoulement; or
- (iii) the applicant could enjoy sufficient protection in a safe third country, including benefiting from the principle of non-refoulement because:
 - (a) they have already made an application for protection to that country; or
 - (b) they could have made an application for protection to that country but did not do so and there were no exceptional circumstances preventing such an application being made, or
 - (c) they have a connection to that country, such that it would be reasonable for them to go there to obtain protection.

345B. A country is a safe third country for a particular applicant, if:

- (i) the applicant's life and liberty will not be threatened on account of race, religion, nationality, membership of a particular social group or political opinion in that country;
- (ii) the principle of non-refoulement will be respected in that country in accordance with the Refugee Convention;
- (iii) the prohibition of removal, in violation of the right to freedom from torture and cruel, inhuman or degrading treatment as laid down in international law, is respected in that country; and

(iv) the possibility exists to request refugee status and, if found to be a refugee, to receive protection in accordance with the Refugee Convention in that country.

As with the NIAA 2002 framework, inadmissibility decisions under the Immigration Rules do not confer appeal rights. They also do not apply to any human rights claims. Human rights claims made in respect of removal from the UK to a safe third country must always be properly considered, and where appropriate, certified.

Certificates

If an asylum claim is declared inadmissible, certification under the relevant part of [Schedule 3 to 2004 Act](#) must be considered.

Schedule 3 was amended by the [Nationality and Borders Act 2022](#) (NABA 2022), and any certificate issued on or after 28 June 2022 must be in line with those amendments. Certificates issued before 28 June 2022, according to [the version of Schedule 3 applicable at that time](#), will continue to be valid after that date.

Schedule 3 to the 2004 Act concerns decisions involving removals to safe third countries, statutory presumptions in respect of those countries (see below), and the removal of appeal rights in relation to asylum and human rights claims made in such cases (or the removal of an in-country appeal right for certified human rights claims for pre-28 June 2022 claims).

Where a Schedule 3 provision requires consideration of whether claims are clearly unfounded, that term must be understood and applied as set out in the guidance *Clearly unfounded claims: certification under section 94* (although the wider guidance regarding section 94 does not apply to Schedule 3 considerations).

Listed safe countries

As of 28 June 2022, Part 2 of Schedule 3 to the 2004 Act lists 31 European countries (all 27 European Union countries, as well as Iceland, Norway, Switzerland and Liechtenstein), to which some statutory presumptions apply in respect of people who are not nationals of those countries.

An **irrebuttable statutory presumption** requires that these countries must be treated as places where a person's life and liberty would not be threatened for one of the reasons in the [1951 Refugee Convention](#) (race, religion, nationality, membership of a particular social group or political opinion), and as places from which a person would not be removed in contravention of the 1951 Refugee Convention. **Because this presumption is irrebuttable, it applies without the particular facts needing to be considered on a case-by-case basis.**

If an inadmissibility decision is certified to state both that a person will be removed to one of the listed countries and that they are not a national of that country, the certificate (under paragraph 5(1) of Schedule 3 to the 2004 Act) will remove appeal

rights based on any claim that removal to that country would breach the UK's obligations under the Refugee Convention.

A **rebuttable statutory presumption** also applies to these countries, which must, unless a claimant can demonstrate otherwise, be treated as places where a person's rights under Article 3 of the [European Convention on Human Rights](#) (ECHR) would not be breached and from where they would not be removed in contravention of the ECHR. **Because this presumption is rebuttable, any factual challenge to the presumption must be considered on a case-by-case basis.**

Where removal is to one of the listed safe countries, and a certificate has been issued under paragraph 5(1) of Schedule 3 to the 2004 Act, paragraph 5(4) requires that any human rights claim in respect of removal from the UK to the country of removal **must** be certified as clearly unfounded, unless the decision-maker is satisfied the claim is not clearly unfounded. As of 28 June 2022, a clearly unfounded certification has the effect of removing appeal rights in respect of the decision.

Case-by-case assessment of safe countries

Part 5 of Schedule 3 to the 2004 Act also contains provisions relating to removal to safe third countries (applicable only to countries not listed in part 2 of Schedule 3). **These provisions do not establish statutory presumptions and may be applied only on a case-by-case basis, following a detailed consideration of the facts.**

If an inadmissibility decision is certified under paragraph 17 of Schedule 3 to the 2004 Act to state that a person will be removed to a named safe country where they are neither a national or citizen, where in the opinion of the decision maker, their life or liberty would not be threatened for one of the reasons in the 1951 Refugee Convention and from where they would not be removed in contravention of the Refugee Convention, the certificate will remove appeal rights reliant on any claim that removal would breach the UK's obligations under the Refugee Convention.

If the decision-maker considers that a human rights claim in respect of removal from the UK to the third country is clearly unfounded, they **may** certify the claim as clearly unfounded under paragraph 19(c) of Schedule 3, with the effect of removing appeal rights in respect of the decision.

Removal timescales after inadmissibility decisions

[Paragraph 345D of the Immigration Rules](#) states:

When an application has been treated as inadmissible and the Secretary of State believes removal to a safe third country within a reasonable period of time is unlikely, the applicant will be admitted for consideration of the claim in the UK.

Support

Schedule 3 to the NIAA 2002 provides that a person who has been granted refugee status by an European Economic Area (EEA) state is generally ineligible to receive

support under sections 95, 98 or 4 of the Immigration and Asylum Act 1999. See the guidance EU nationals or refugee status abroad.

Related content

[Contents](#)

Inadmissibility referrals

Register and screen all asylum claims

All particularised asylum claims must be registered, even where the facts suggest that inadmissibility action may be appropriate.

Officers involved in first encounter and asylum registration must be alert to verbal, documentary or biometric evidence of a claimant's earlier presence in or connection to a safe third country and record it in the asylum screening questionnaire and Atlas.

Immigration history

A claimant's immigration history must always be taken as part of the screening process, to record the full detail of when and how the person came to the UK, including the circumstances of their departure from their country of origin, their reasons for leaving apparently safe countries and, where relevant, the opportunity they had to claim asylum there and any reasons given for not doing so. **Appropriate follow-up questions must be asked where necessary to address any gaps or ambiguities in the account** – without this, an otherwise appropriate inadmissibility decision may be put in doubt or may be made more vulnerable to challenge.

Other key information sources

Other sources of information which may be available at the point of first contact and which may be valuable in considering inadmissibility may include:

- observations by a person in an official capacity, relating to the person's method and place of entry to the UK and their known or probable place of embarkation
- heavy goods vehicle (HGV) or vehicle tracking data
- documents or other physical or verbal evidence collected or recorded at the time of the claimant's first encounter (for instance, passports, legal papers, employment letters, bank statements, invoices, receipts and similar documents)
- documents or other physical evidence submitted by the claimant
- fingerprint evidence from Home Office systems, which may identify previous encounters with a claimant in the UK or overseas, for instance, a visa match, an earlier removal, or being apprehended in juxtaposed control areas in France
- fingerprint evidence showing the claimant to have spent time in a safe third country (for instance, evidence from Biometric data-sharing process matches with the USA, Australia, Canada and New Zealand, fingerprint sharing with the Republic of Ireland, or any similar process)
- file evidence of Eurodac matches (the Eurodac system has not been accessible to the UK since 31 December 2020, but where Home Office systems record historic Eurodac matches to a safe third country, this information may be used for sifting purposes and to form the basis of enquiries to relevant countries to check the accuracy of the match and to request the individual's return in the event of a confirmed connection)

General suitability for inadmissibility referrals

For referral purposes, a case may be regarded as **potentially suitable for inadmissibility action** if it is known or suspected that the claimant has been granted protection in, was present in or has another connection to a safe third country.

The safe third countries most likely to be identified in asylum claims will be EU Member States, as well as other European countries such as Iceland, Liechtenstein, Norway and Switzerland. The USA, Canada, Australia and New Zealand may also be identified as countries of recent presence or connection. Other countries appearing to be safe must also not be overlooked.

Some cases are not suitable for third country inadmissibility action and must be referred for alternative processing once identified. Other examples may apply, but the main ones are summarised here:

- claims made by EU Nationals, who are liable to inadmissibility processes under s.80A of the NIAA 2002 (although if such action is not possible, the case may then be referred and considered for third country inadmissibility – see EU and EEA asylum claims for further information)
- claims made by Unaccompanied Asylum-Seeking Children (UASC) are presently treated as not suitable for third country inadmissibility action, and must therefore be allocated for substantive consideration (see [Application of this guidance in respect of children and those with children](#))
- claims made by individuals whose age is doubted but who are being treated as children under the Assessing age guidance must not be progressed for inadmissibility action (although if an age assessment later finds the claimant to have been an adult at a time when they could have been in scope for safe third country inadmissibility action, they may be referred for consideration for inadmissibility, as [Casework referrals](#) - see also [Disputed age](#))

Refer potential inadmissibility cases

Referrals of cases for possible inadmissibility action may be made at one of two points, based on general suitability:

- initial referrals, following asylum screening, at the point of workflow triage, or
- casework referrals, after the claim has been allocated for substantive decision (even if already considered for inadmissibility previously)

Initial referrals

After an asylum claim has been fully registered, the screening unit (or any other unit responsible for the claim at that point) must refer the case to the Decision Enablement Service (DES), which will then forward the case as appropriate to either CPIL or CSCPU will triage the cases according to general suitability (above) and any operational [prioritisation](#) that applies, and where appropriate, refer cases to TCU.

Casework referrals

Suitability for inadmissibility is determined according to the particular facts of a case at a particular time. As such, where a case has been allocated for substantive consideration, it may still be referred for consideration for inadmissibility action if it appears appropriate. A referral may be made even if the person has been interviewed about their claim (indeed, it may only be disclosures at interview which reveal the claimant's status or presence in a third country); however, cases must not be referred if a substantive decision on the asylum claim has been made and served.

Referrals are not precluded in cases where inadmissibility action was previously considered but not pursued (whether at triage or more fully). However, TCU is unlikely to accept a case it previously rejected if nothing has changed since that rejection. It is therefore important to check Atlas and any other available information sources for the details that would have informed any previous referral and consideration, and for the referral to highlight any relevant new information, extenuating factors or changed circumstances.

Casework referrals must be made directly to the TCU inadmissibility inbox, summarising the relevant evidence, as outlined above.

Casework inadmissibility decisions

If a case appears to be suitable and viable for inadmissibility action but cannot be processed because there is insufficient capacity in TCU at that time, other casework areas may undertake the inadmissibility work under TCU's supervision, and with support where needed from Asylum Policy. This is not expected to be a common scenario, and any such work on a case or group of cases may be undertaken only following discussion with TCU and with its explicit authorisation.

Prioritisation

Where cases appear to be suitable for inadmissibility action, they may be selected or prioritised for inadmissibility processes according to considerations such as operational capacity at a particular time, the strength of the evidence supporting the inadmissibility contention and the realistic prospects of an individual being removed within a reasonable time (including consideration of their particular circumstances).

Consideration will also be given to whether the claimant appears to stand a greater chance of being promptly removed if their claim is substantively considered and refused, rather than pursuing inadmissibility action. This situation is most likely to arise in cases where the person's country of origin is one listed in [Section 94\(4\) of the NIAA 2002](#), or where the person is suitable for the Detained Asylum Casework framework (DAC). See:

- Clearly unfounded claims: certification under section 94
- Detained Asylum Casework (DAC) – asylum process

Prioritisation may be administered at any time, including at initial triage by CPIL and CSCPU, according to arrangements agreed with TCU, or by TCU on receipt of cases.

Related content

[Contents](#)

Third Country Unit (TCU) – initial case actions

Notice of intent

TCU must review all referrals received. If a case does not appear suitable for inadmissibility action, it must be returned to DES or (if applicable) to the referring casework unit.

In first-time claims, if TCU considers that a case appears to satisfy the relevant decision framework, a 'notice of intent' must be issued to the claimant. The notice is not a formal decision: it is a letter to inform a claimant how their asylum claim is being managed, inviting representations regarding all matters which may be relevant to an inadmissibility declaration, removal from the UK and the country or countries of possible removal.

If, after the notice is issued, a further safe country or countries are identified (whether countries with which a claimant has a connection or others to which they might be removed), the notice should be reissued, referencing the additional countries.

In claims made by people who were removed or left the UK following a previous inadmissibility decision and who have subsequently returned to the UK to claim protection, different arrangements apply in respect of the notice of intent and representation timescales. See [Return to the UK and further asylum claim](#).

Representation timescales and extensions

The notice of intent gives timescales within which a claimant may make representations (in first-time claims, these are set at 7 days for those who are detained, and 14 days for others) and sets out that claimants may request extensions to these timescales. The notice is clear that at the end of this period, including any extension, an inadmissibility decision may be made, based on the information available to the Home Office at that time.

The grant of an extension is not necessarily an exceptional event: each request for an extension must be carefully considered on a case-by-case basis, taking account of the stated need for the extension and the particular circumstances of the claimant and their case, and the overriding principle of fairness.

If an extension is given, the terms of the extension must be clearly communicated to the claimant in writing. If an extension request is rejected (including where an extension is given but for a period shorter than requested), the claimant must be notified of the rejection. Any such rejection must outline the factors considered and explain how the decision was reached. The circumstances and timing will determine whether it is appropriate to communicate the rejection in a separate letter or within the inadmissibility declaration itself (if it will be issued promptly).

When a decision is made, it must take into account all evidence available at that time, including all representations, even if received late.

Further enquiries

Before making a decision, TCU must review the evidence available and undertake any further checks that are relevant to support decisions (for example, confirming whether a person has leave or status in the country if it is unclear).

There are unlikely to be many cases where historic Eurodac match evidence indicating a person's presence in a safe third country continues to be relevant to inadmissibility. However, if there is such evidence, it must not be used in direct support of an inadmissibility or refusal decision. Instead, it may be checked with the relevant country's authorities, which may confirm details which support the decision and removal.

If making enquiries with safe third countries, it will usually be appropriate also to ask for agreement to the person's removal, in the event inadmissibility is pursued.

Any enquiries with safe third countries must be in line with the policy guidance on Disclosure and confidentiality of information in asylum claims.

Asylum support for those with refugee status in an EEA state

If a person has been granted refugee status by an EEA state, they will generally be ineligible for asylum support in the UK.

Whether a person has refugee status is a matter to be concluded based on all of the information available. This would include any documents presented by the person, their screening evidence, and any responses they provide in response to the notice of intent or received in response to further enquiries with the EEA state.

See the guidance EU nationals or refugee status abroad for further detail.

Discretion to treat or declare a claim as inadmissible

The decision to declare an asylum claim inadmissible on safe third country grounds is discretionary (that is, the Secretary of State has the power to take such action but is not under a duty to do so). Caseworkers must therefore consider not only whether an inadmissibility decision **could** be made, but also whether such a decision **should** be made, in light of any factors known or representations made by the claimant which weigh or are alleged to weigh against such action in their particular circumstances.

The relevant factors may be unique issues which are not addressed elsewhere, or they may be matters which are also addressed in other parts of case management in wider considerations around policy, practicalities or in related decisions.

For example:

- if the Home Office is not likely to be able to remove the person within a reasonable timescale, it will not usually be appropriate to declare the asylum claim inadmissible (see [Removal agreements and timescales](#))
- if it is concluded that the person would otherwise have a successful HR claim which will result in their being granted leave to remain in the UK, it will not usually be appropriate to take inadmissibility action on the asylum claim
- there may be other compelling factors in an individual's case which mean it is inappropriate to proceed with inadmissibility action on the asylum claim

If it is determined that inadmissibility action is possible and appropriate, the decision letter must set out the reasons for that conclusion, addressing all of the factors known and raised in the case. Where applicable, this consideration may refer to and rely on other parts of the decision letter which address the issues in question.

If it is determined that inadmissibility action, though possible according to the relevant rules, is not appropriate in the full circumstances of the individual's case, caseworkers may exercise their discretion and route the claim for substantive consideration, according to normal procedures.

Related content

[Contents](#)

Decisions: overview

Authority

Inadmissibility decisions on safe third country grounds may be made only by caseworkers in the TCU, or other officers or units specifically authorised by TCU to make such decisions.

Decisions – summary

Each inadmissibility decision letter must, as a minimum, set out clearly and with reasoning and reference to evidence, the following key points:

- the opportunity the person has had to obtain legal advice
- the key dates and detail regarding the issuance of a notice of intent and, if applicable, the person's response to it, including any representations received after the return deadline (which must still be considered in the decision)
- the evidence considered as part of the overall decision-making
- the safe third country with which the person is believed to have a relevant connection and the nature of that connection
- the nature of the person's connection to the country (for instance, if they have been granted asylum there, or if they could have claimed asylum)
- where applicable, why it would have been reasonable to expect the person to claim asylum in the safe third country
- why the country of connection would be regarded as safe in the context of the individual's particular circumstances (this must, where relevant, include reference to the safe third countries listed in [paragraph 2 of Part 2 of Schedule 3 to the 2004 Act](#), and the presumptions in the part, and it may include consideration of ECHR issues, or reference to consideration of those issues if they are addressed fully elsewhere in the decision – [see below](#))
- the factors known or representations made by the claimant relevant to the exercise of discretion on whether to declare the claim inadmissible, and with reference to each point, why inadmissibility is nonetheless considered appropriate
- the safe third country to which removal is proposed (if it is different from the country of connection)
- why the third country of removal is regarded as safe, in the context of the individual's particular circumstances, including addressing any ECHR claims regarding serious harm (again, where relevant, this must include reference to the safe third countries listed in [paragraph 2 of Schedule 3 to the 2004 Act](#) and any presumptions which must be applied)
- why removal would be appropriate in the context of any other ECHR claims the person has raised
- certificates applicable to the country of removal for Refugee Convention purposes
- certificates or appeal rights applicable to any ECHR claims made

Evidence

TCU must consider all evidence and relevant facts available. This must include all factors which might count in the claimant's favour. What is available will vary from case to case, but may include documents from hard file, Case Information Database (CID) records, Atlas, biometrics, eyewitness accounts, closed-circuit television (CCTV), file minutes, screening interview responses, responses from claimants to notices of intent and any other statements they submit seeking to explain their behaviour, needs or other relevant circumstances.

If the person's factual account, or any other part of their evidence or behaviour indicates that they may be a victim of modern slavery and they have not already been referred to the National Referral Mechanism (NRM), caseworkers must consider such action, subject to the person consenting. See Victims of modern slavery and [Report modern slavery](#).

Credibility

The credibility of a person's evidence (for example, a person's claimed immigration history and the reasons they give for not claiming asylum in a safe third country) must be carefully considered.

The Assessing credibility and refugee status guidance is aimed primarily at substantive asylum decision-making, and some parts are specific to that consideration and task, including references to standard of proof, the preliminary information questionnaire, substantive interviews, and [section 8\(4\) of the 2004 Act](#) (failure by the claimant to take advantage of a reasonable opportunity to make an asylum claim or human rights claim while in a safe country). The guidance does however contain useful information that can be applied more broadly and is relevant to establishing the facts in claimant evidence in inadmissibility decisions.

Keeping in mind the specific context of inadmissibility decision-making, the facts to be determined and the opportunities available to claimants to respond to questions and present evidence (and keeping in mind [Standard of proof](#), below), particular attention must be paid to the following parts of the guidance:

- structured approach to credibility assessment
- underlying factors
- the effect of trauma on memory and disclosure
- the impact of lies on credibility
- sufficiency of detail and specificity (noting that there will not normally be an asylum interview in inadmissibility cases, which may limit the opportunity a person has to provide detail)
- internal consistency
- modern slavery factors
- external consistency
- country of origin information
- considering medical evidence
- plausibility

- benefit of the doubt

Standard of proof

The considerations in an inadmissibility and removal decision involve a number of decisions in which facts must be determined for different purposes and risk assessed accordingly. Different approaches to the standard of proof in these decision areas are required, according to the particular issue being considered.

Material facts – connection to safe third country

The standard of proof applicable to determining the material facts establishing the applicant's connection with a safe third country (under [section 80C of the NIAA 2002](#) for claims made since 28 June 2022, or for claims made before that date under [paragraph 345B of the Immigration Rules as in force at that time](#)), is the balance of probabilities.

Refugee Convention rights, ECHR protection rights and other ECHR claims under Article 3

The standard of proof applicable to determining the risk to claimants in questions involving Refugee Convention rights, ECHR protection and other ECHR Article 3 rights (including establishing the safety of a third country of connection or removal under [section 80B\(4\) NIAA 2002](#) for claims made since 28 June 2022, or for claims made before then, [paragraph 345B of the Immigration Rules as in force at that time](#)) is whether the matters in question are reasonably likely to be true. This is also expressed as whether there is a 'real risk' of the person's rights being breached and is a lower standard of proof to the balance of probabilities.

General

This guidance does not change the standard of proof applicable to other types of claim or application. For further advice, please review the guidance for the relevant claim or policy area.

Other claims

Other claims or applications may be raised by individuals who are subject to the inadmissibility process, for example, claims under Article 3 of the ECHR relating to protection in the country of removal, or to health or destitution risk in the country of removal, or claims raised under Article 8 of the ECHR in respect of private and family life in the UK. All such claims must be considered before any removal.

See in particular the guidance Considering human rights claims.

If wider claims have resulted or will result in a grant of leave in a case such that the individual will not be required to leave the UK for some time, consideration should be given to whether inadmissibility action is appropriate. If it is determined that

inadmissibility action should not proceed, the case should be referred to DES, to be allocated for substantive consideration.

Appeal rights

If a decision is to be made which would confer appeal rights and those appeal rights would not be certified, consideration should be given to whether to continue with inadmissibility action, in view of the likely timescales applicable to any appeal being determined, the conditions attached to any removal agreement in the case, and the delay in the person being able to progress their asylum claim. This consideration must be made on the particular facts of the case, including the basis of the inadmissibility decision and whether the person already has protection in another country.

Related content

[Contents](#)

Decisions: consideration and implementation

As set out in [Application of the relevant legislation](#), asylum claims made on or after 28 June 2022 may be considered for third country inadmissibility action under [section 80C of the NIAA 2002](#).

Asylum claims made before 28 June 2022 may also be considered for third country inadmissibility action, but only according to the decision framework set out in [paragraphs 345A-B of the archived Immigration Rules](#).

Despite these frameworks having different drafting, different requirements according to the date of the asylum claim, and specific differences between s.80C(4) and (5) and paragraph 345A(iii)(b) (see [Two-stage test of reasonableness](#), below), they are very similar in their substance and cover the same case types, in terms of what constitutes a safe third country and the ways in which a person may have a relevant connection to such a country, and so this guidance addresses decision-making under both frameworks.

The table below outlines how provisions in these decision frameworks correspond (see also [Legislation](#)):

Archived Immigration Rules	NIAA 2002
Paragraph 345A(i)	Section 80C(1)
Paragraph 345A(ii)	Section 80C(2)
Paragraph 345A(iii)(a)	Section 80C(3)
Paragraph 345A(iii)(b)	Section 80C(4)
Paragraph 345A(iii)(c)	Section 80C(5)
Paragraph 345B(i)	Section 80B(4)(a)
Paragraph 345B(ii)	Section 80B(4)(b)(i)
Paragraph 345B(iii)	Section 80B(4)(b)(ii)
Paragraph 345B(iv)	Section 80B(4)(c)

Access to legal advice

In all cases, claimants must have reasonable opportunity to obtain legal advice before any decision is made to declare their asylum claim inadmissible. In the case of first-time claimants, they must have reasonable time to submit written representations.

Where claimants are detained, the target decision timescales are rapid (7 days). Decision-makers must therefore proactively establish whether a detained person has had an opportunity to seek and obtain legal advice before declaring their claims inadmissible.

Decision-making must be paused to allow the claimant the opportunity to obtain legal advice, if for reasons beyond their control, they have not already had that opportunity.

Where further time is given for a claimant to obtain legal advice, reasonable extensions to the time available for making representations in response to the notice of intent must also be considered.

Decision letters must outline what is known about the individual's opportunity to obtain legal advice, in particular whether or not they have made and attended legal surgery appointments, and what reasons if any they have given for not attending. This will ensure that a clear account of the claimant's opportunity to obtain legal advice is recorded.

See [Notice of intent](#) and particularly [Representation timescales and extensions](#).

See also [Return to the UK and further asylum claim](#) for where exceptions may apply in respect of the time given for representations to be made in certain instances.

Review evidence

Where a consideration of the evidence and facts suggests the claimant was present in or has a connection to a safe third country, in line with sections 80B and 80C of the NIAA 2002 (or in line with paragraphs 345A-B as the case may be), detailed consideration must be given to an inadmissibility decision.

If at any stage it is determined that there is insufficient evidence of earlier presence in or connection to a safe country, or it is clear that inadmissibility action would not be appropriate for any reason, that action must be discontinued and the case must be referred to DES to route for substantive consideration, or referred directly to other units for substantive consideration if such prioritisation has already been agreed.

Decision consideration

The decision template letter guides decision-makers through the various matters that need to be included in a properly made inadmissibility decision, but the guidance here gives more detailed instruction on key points.

Facts around the notice of intent and legal access

The decision must set out the opportunity the person has had to obtain legal representation. In detained cases, this should very clearly detail when the person had a legal appointment and their attendance at it, or any reasons provided by the person if they were unable to attend one or more appointment.

The decision must also record all relevant details regarding the notice or notices of intent (if applicable), including the date of issue, the countries of connection and possible return identified, and the final date given in it for any representations to be made. It must also set out if representations to the notice of intent were received

after the deadline or extension deadline, although that does not alter the fact that such representations must be considered.

Safe third country connection

A person must have one of the connections to a safe third country specified in sections 80C(1) to (5) of the NIAA 2002 (or paragraphs 345A(i)-(iii) of the archived Immigration Rules, for pre-28 June 2022 claims) for an inadmissibility decision to be possible.

Where there is a connection (and where the wider facts support an inadmissibility decision, in line with the considerations set out in this guidance), the written decision must first clearly address the specific connection and the appropriateness of applying it in the particular claimant's circumstances, by setting out:

- the connection asserted by the Home Office (for example, 's.80C(1) – the claimant has been recognised as a refugee in the safe third country and remains able to access protection there in line with the Refugee Convention')
- the evidence supporting the asserted connection (for example, setting out the person's claimed immigration history from their country of origin, including their presence in Italy and France)
- any evidence weighing against the connection applying, according to the requirements of the particular connection type (for example, for a s.80C(4) case, any explanation provided by the claimant why they did not claim asylum in any of the safe countries to which they have been linked)

'Reasonable to expect [the claimant] to make [such] a claim'

The connections set out in sections 80C(1) to (3) of the NIAA 2002 (and paragraphs 345A(i)-345(iii)(a)) concern **those who have claimed asylum or otherwise have protection in a safe third country**.

The connections set out at section 80C(4) and (5) (and 345A(iii)(b) of the archived Immigration Rules for pre-28 June 2022 claims) are about **claimants who did not claim asylum in a safe third country in which they were present or with which they have a connection** (see [Legislation](#)). Claims involving this connection require particular handling, set out below.

The s.80C(4) and (5) connections apply only in cases where **it would have been reasonable to expect [the person] to have made a relevant claim** in the safe third country. The paragraph 345A(iii)(b) connections are worded differently to s.80C(4)(b) and apply only where the person **could have made an application for asylum to that [safe third] country but did not do so and there were no exceptional circumstances preventing such an application being made**.

In practice there is likely to be little difference between the 2 provisions when applied to relevant facts, but decision makers must have in mind the correct provision when applying the 2-stage test and must refer to the correct provision in their decisions.

If there are general issues which as a matter of fact would have prevented access to the asylum process (for instance, systemic failings in a country's asylum system, consideration of which may be similar or the same as whether the country has an effective asylum system, as set out in [Safety in the country of connection](#), below), the criteria in conditions s.80C(4) and (5) will not be met, regardless of other considerations, and inadmissibility action on the basis of those conditions will not be appropriate.

Two-stage test of reasonableness (or exceptional circumstances)

In the absence of any general issues which would prevent a person from accessing the asylum system in a safe third country, the 'reasonable to expect the person to have made a relevant claim' criteria must be considered according to a two-stage test, taking full account of the person's evidence and the wider evidence in the case, addressing (1) credibility and (2) reasonableness.

Stage 1

Caseworkers must assess (in line with [Standard of proof](#)) whether the explanation the claimant asserts for not claiming asylum in the safe third country is a true account of their reasons for not claiming asylum - this is about what the person believed, rather than whether that belief was sound.

This will involve assessing the credibility of the person's explanation, considering factors such as the internal consistency of their account, and the external consistency with any objective evidence that might be available and relevant.

For example, common reasons people might give for not claiming asylum in a safe third country are that they were afraid of particular individuals or groups; that they were physically constrained or controlled; or they were physically or psychologically impaired. The facts to be determined in these examples are, respectively, whether the person was genuinely afraid; whether they were constrained as described; and whether they were at the time physically or psychologically impaired, as claimed.

If the explanation the claimant asserts as their reason for failing to claim asylum is accepted, caseworkers must go on to consider the second stage of the test.

Stage 2

Where stage one of the test finds the person's factual account of their reasons for not claiming asylum in a safe third country to be true (assessed in line with [Standard of proof](#)), caseworkers must then assess whether it would nonetheless have been reasonable to expect the person to have claimed asylum in the safe third country (or, for pre-28 June 2022 claims, whether there were exceptional circumstances preventing an asylum claim being made).

For example, if it is accepted that a person believed they could not claim asylum in a safe third country because they were constrained from doing so, that account must be carefully considered in the full context of the person's departure from their country of origin, their intentions at that time, the stages of their journey, the suspected

motivations of those alleged to have constrained them, and the circumstances of their departure from the safe third country to the United Kingdom.

Article 3 of the ECHR

Neither sections 80B-C of the NIAA 2002 nor paragraphs 345A-B have an explicit requirement to consider whether a claimant was at risk of their rights under Article 3 of the ECHR being breached in the third country of connection. This is distinct from the requirement, as set out directly below, that the third country of connection must be a place from which a claimant would not be removed to another country in breach of their rights under Article 3; it is also distinct from the consideration due to any breach of rights under Article 3 that the claimant may allege in respect of the country of removal, as set out in [Safety in the removal country and certifications](#).

However, an Article 3 risk in the country of connection itself is highly relevant to the question of whether it would have been reasonable to expect the claimant to claim asylum in the third country, or whether there were exceptional circumstances preventing them from claiming asylum there. If there is a risk that a claimant's rights under Article 3 of the ECHR would have been breached in the country of connection (assessed (in line with [Standard of proof](#)), it will not be reasonable to expect them to have claimed asylum there. Inadmissibility action will not be appropriate in such cases. Such risk must be considered in line with any rebuttable presumption of safety which may apply in respect of the country of connection (see directly below).

Safety in the country of connection

[Section 80B\(4\) of the NIAA 2002](#) (or paragraph 345B of the archived Immigration Rules as the case may be) sets out the criteria that must be met for a country to be regarded as a safe third country for inadmissibility.

The safety of a country of connection must be considered according to any statutory presumptions of safety, in line with relevant country information and any other available evidence (and in line with [Standard of proof](#)).

There is an irrebuttable statutory presumption, under [Part 2 of Schedule 3 to the 2004 Act](#), to treat the countries it lists as places where a person's life and liberty would not be threatened for a Refugee Convention reason and from which they would not be removed to another country, other than in accordance with the Refugee Convention. **Because this presumption is irrebuttable, it is not a matter which needs to be established by consideration of the facts on a case-by-case basis.**

There is also a rebuttable statutory presumption under Part 2 of Schedule 3 to the 2004 Act to treat the same listed countries as places to which a person can be removed, without their rights under Article 3 of the ECHR being contravened and places from which they would not be removed in breach of their ECHR rights. **As this presumption is rebuttable, any factual challenge of the presumption must be considered on a case-by-case basis (this contrasts with the irrebuttable presumption, as set out in the paragraph above).**

[The Republic of Croatia and the Principality of Liechtenstein were added to Part 2 of Schedule 3 only on 28 June 2022, and as such, the requirement to treat them as safe countries of connection does not apply for claimants whose connection with them ended before that date.]

For countries not listed in Part 2 of Schedule 3 (or not listed at the time of the person's connection), detailed consideration of safety in the country of connection according to a person's Refugee Convention rights will be required, looking at any evidence submitted and the country information already available to the Home Office.

Unsupported claims by a claimant that their rights would have been breached in the third country, including allegations that they would have been removed from there to a place in breach of their Refugee Convention and Article 3 ECHR rights, are likely to be adequately addressed by summary reference to the country being a signatory to both conventions, and the lack of credible evidence to show such a risk (which must be assessed in line with [Standard of proof](#)). More detailed representations will require more detailed consideration and demonstration of that consideration in the written decision.

A further but essential part of establishing that a third country would have been safe for a person is that the possibility exists for a person to apply to be recognised as a refugee and where appropriate, receive protection in accordance with the Refugee Convention. If the claimant states that it was not possible for them to apply for asylum in the third country, any evidence and representations to that effect must be reviewed alongside country information. Caseworkers must identify whether the country is signatory to the Refugee Convention or purports to operate a system in accordance with it, and decide whether, on the basis of all the evidence available, it operates it in practice, to an effective level. (This must be established in line with [Standard of proof](#)).

Safety in the removal country and certifications

The safety of the country of removal must be established in line with [Standard of proof](#) and the relevant provisions of section 80B(4) of the NIAA 2002 (or paragraph 345B of the archived Immigration Rules). Additionally, the decision must take account of the requirements and any applicable presumptions set out in Part 2 or Part 5 of Schedule 3 to the 2004 Act, according to the particular claims and decision being made, and the version of Schedule 3 applicable at the time of consideration (for certificates made on or after 28 June 2022, the current published version of Schedule 3 should be applied – for further information see [Application of the relevant legislation](#)).

Where appropriate and according to the guidance below, the relevant certificates in Schedule 3 should be applied, to remove appeal rights associated with the removal decision and any claims that the removal would contravene the claimant's rights under the ECHR and the Refugee Convention. Where a certification provision requires consideration of whether claims are clearly unfounded, that term must be understood in line with the meaning set out in the guidance Clearly unfounded claims: certification under section 94. If representations regarding ECHR rights are

made and refused, but the refusal is not certified, it will attract an in-country right of appeal.

In practice the s.80B(4) criteria (or paragraph 345B criteria) overlap in part with the requirements in Schedule 3, and in cases where the country of connection and country of removal are the same, the consideration for the latter will address almost all of the former, and duplication can be avoided by signposting the relevant considerations and criteria.

Country of removal is listed in Part 2 of Schedule 3

Section 80B(4) of the NIAA 2002 (equivalent to paragraphs 345B(i) and (ii) of the archived Immigration Rules, for pre-28 June 2022 claims) sets out:

- (4) For the purposes of this section, a State is a “safe third State” in relation to a claimant if—
- (a) the claimant’s life and liberty are not threatened in that State by reason of their race, religion, nationality, membership of a particular social group or political opinion,
 - (b) the State is one from which a person will not be sent to another State—
 - (i) otherwise than in accordance with the Refugee Convention

[Paragraph 3\(2\) of Schedule 3 to the 2004 Act](#) requires a listed third country of removal to be treated as a place where the person’s life and liberty are not threatened by reason of his race, religion, nationality, membership of a particular social group or political opinion, or from which a person will not be sent to another State in contravention of the Refugee Convention.

Therefore, if the country of removal is listed in paragraph 2 of Schedule 3, section 80B(4)(a) and (b)(i) (or Immigration Rules paragraphs 345B(i) and (ii), as the case may be) will be met, without the need for further consideration.

Under section 80B(4)(c) (or archived Immigration Rule paragraph 345B(iv)), a country will be safe only if an individual can apply to be recognised as a refugee and (if so recognised) receive protection in accordance with the Refugee Convention there. The assessment of this point must take account of relevant country information and any evidence and representations. See [Standard of proof](#).

Under paragraph 3(1A) of Part 2 of Schedule 3, unless the claimant demonstrates otherwise, a country listed in Part 2 must be treated as a place to where a person can be removed without their rights under ECHR Article 3 being contravened, and a place from which they would not be removed to another country in contravention of their ECHR rights.

If a claimant claims or makes representations that their rights under the ECHR as described in paragraph 3(1A) would be contravened if removed to a particular listed country (including onward refoulement in breach of Article 3), those representations must be carefully considered. If it is concluded that there is a risk that removal to the country would lead to the claimant’s ECHR rights as described being contravened (assessed in line with [Standard of proof](#)), it will not be appropriate to consider

removal to that country). In such circumstances, it will be appropriate to consider removal to any further safe third countries which may have been identified, or to discontinue inadmissibility action.

The consideration of the risk of a person being onward refouled in breach of their Article 3 rights, under paragraph 3(1A) of Schedule 3 to the 2004 Act, addresses the consideration of the same issues under section 80B(4)(b)(ii) of the NIAA 2002 (or archived Immigration Rules paragraph 345B(iii)).

Refugee Convention and ECHR certification

If it is certified under paragraph 5(1) of Part 2 of Schedule 3 that a person will be removed to a listed safe country and that they are not a national of that country, the person may not appeal in reliance on a claim that removal to the country would breach the Refugee Convention.

Since 28 June 2022, once the Secretary of State has issued a certificate under paragraph 5(1), a person may not bring an appeal in reliance on a human rights claim if the Secretary of State certifies under paragraph 5(4) that the human rights claim is clearly unfounded. Under paragraph 5(4), an ECHR claim **must** be certified as clearly unfounded unless it is not clearly unfounded.

Any claim relating to Article 3 may include allegations of a risk of serious harm in the country of removal, destitution or medical claims (see [Standard of proof](#)).

Other ECHR claims, for instance, under Article 8 relating to family and private life, must be considered according to the relevant guidance. See in particular Appendix FM and 276ADE (family members and private life).

If any HR claim is refused but not certified, the person must be notified of their appeal rights in the inadmissibility declaration decision letter.

Country of removal is not listed in Part 2 of Schedule 3

Refugee Convention and ECHR certification

Under paragraph 17 of Part 5 of Schedule 3 to the 2004 Act, a certificate may be applied to a person who has made an asylum claim if it certifies that the person will be removed to a country where they are not a national or citizen, if it is a country assessed to be one where the person's life and liberty are not threatened by reason of their race, religion, nationality, membership of a particular social group or political opinion and a place from where they would not be refouled in contravention of their Refugee Convention rights.

The effect of this certificate is that a person may not appeal in reliance on an asylum claim which asserts that to remove the person to the specified country would breach the United Kingdom's obligations under the Refugee Convention.

If it is considered that the country of removal is safe on the above criteria, the safe third country criteria at sections 80B(4)(a) and (b)(i) of the NIAA 2002 (or archived

Immigration Rules, paragraphs 345B(i) and (ii) as the case may be) will be met; sections 80B(4)(b)(ii) and 80B(4)(c) (or archived Immigration Rule paragraphs 345B(iii) and 345B(iv) respectively) will not be addressed by this consideration, and will need to be addressed separately.

Under section 80B(4)(c), a country will be safe only if an individual can apply to be recognised as a refugee and (if so recognised) receive protection in accordance with the Refugee Convention there. The assessment of this point must take account of relevant country information and any evidence and representations. See [Standard of proof](#).

ECHR claims and certification

Under section 80B(4)(b)(ii) (or for claims treated as having been made before 28 June 2022, archived Immigration Rule paragraph 345B(iii)), a country will be safe only if an individual will not be at risk of onward refoulement from that place in breach of Article 3 (see [Standard of proof](#)). This matter must be considered regardless of whether an individual has made representations on this point.

If an individual has made representations that can be considered an ECHR claim, including any claim that they might be removed to an unsafe state in breach of these rights, and if a certificate has been issued under paragraph 17 (see above), the ECHR claim may be certified under paragraph 19(c) of Part 5, if the claim is assessed to be clearly unfounded. The effect of this certificate is that the claimant may not bring an appeal in reliance on a human rights claim.

The consideration for this certificate must include any claim relating to Article 3. As with paragraph 5(4) certificates, this may include allegations of a risk of serious harm in the country of removal, destitution or medical claims, and claims that onward removal from the third country to another may breach the person's ECHR rights.

If a claimant makes representations regarding risk of onward refoulement in breach of Article 3, proper consideration of those representations under paragraph 19(c) of Schedule 3 to the 2004 Act will cover consideration of the same issue required under section 80B(4)(b)(ii).

If it is concluded that there is a risk that removal to the country (assessed in line with [Standard of proof](#)) would lead to the claimant's ECHR rights as described being contravened, it will not be appropriate to consider removal to that country. In such circumstances, it will be appropriate to consider removal to any further safe third countries which may have been identified, or to discontinue inadmissibility action (keeping in mind that the inadmissibility decision is discretionary) and refer the case to DES to allocate to a casework team.

Paragraph 19(c) may also be used to certify other ECHR claims where appropriate, for instance, clearly unfounded claims relating to Article 8 family life. Any such decisions must be considered according to the relevant criteria and guidance for the particular claim, with the reasons for any such decision clearly set out.

As set out above for decisions involving countries listed in Part 2 of Schedule 3, if any HR claim is refused but not certified, the person must be notified of their appeal rights in the inadmissibility declaration decision letter.

Decision service and onward action

Once a decision has been prepared and any wider claims addressed, it should usually be held until the safe third country of removal has confirmed it will accept the person (this is a general position – see [Removal agreements and timescales](#)). At that time, it will usually be appropriate to serve the inadmissibility decision and any other decisions made at the same time, along with refusals of leave and a formal removal decision.

Related content

[Contents](#)

Removal agreements and timescales

Removal agreements

Where an inadmissibility declaration under the relevant decision framework appears appropriate, TCU must seek the agreement of a safe third country to admit the person. The country of removal may be one in which the person was present before claiming asylum in the UK, one with which they have some other connection, or any other safe third country that will accept them.

Agreement by a third country to accept a removal may be through formal arrangements or case-by-case agreements based on individual referrals by TCU. Where there are multiple possible safe countries of removal and individual referrals are to be made, they should generally be done simultaneously rather than sequentially, to avoid unnecessary delay in securing agreement for the claimant's removal.

It will usually be appropriate to obtain agreement for a person's removal to a safe third country before a formal inadmissibility decision is made in their case. This approach ensures that only those who are most likely to be removed will receive a decision, thereby managing expectations and decision-making resources. It also enables the inadmissibility decision to be served with the removal decision, thereby mitigating the risk of further delay and cost which might otherwise be seen by sequential legal challenges of each decision.

There may be instances where it is appropriate to make a decision ahead of obtaining removal agreement. For example, if a claimant has already been granted protection in a safe third country, if it is sufficiently clear that they are still able to access that protection (according to the requirements of the relevant decision framework), and if they possess or could reasonably be expected to obtain travel documentation to return to the relevant third country, an inadmissibility decision may be appropriate without first having secured removal agreement.

Timescales

There are no rigid timescales within which third countries must agree to admit a person before removal. However, the inadmissibility process must not create a position where a pending decision or delays in removal after a decision prevents a claimant advancing their asylum claim either in the UK or in a safe third country. If it is concluded that it is not possible to make an inadmissibility decision or effect removal following an inadmissibility decision within a reasonable period (or to reasonably expect the person to travel to the safe third country themselves), inadmissibility action should usually be discontinued, although if facts change, inadmissibility may be considered again at a later date – see [Casework referrals](#).

There will be some cases where it is clear or becomes apparent that there are not realistic prospects of effecting removal within a reasonable period. For example:

- where there is no prospect of removal, because all possible countries of removal have emphatically refused to accept the person
- where there is a very low prospect of removal because the countries of removal refuse to engage in any discussions around admitting the person (in circumstances other than where the person could reasonably be expected to take steps themselves to travel to and lawfully enter a safe country where they already have protection which they could continue to enjoy)

The reasonable period may be longer in some circumstances, for example:

- if early inadmissibility processing has been delayed, because a claimant's presence in or connection to a safe country was not disclosed or clearly evidenced at the time the asylum claim was made and registered, but instead is disclosed at a later time, for instance, during an asylum interview
- if a person whose age is initially disputed is treated as a child and therefore not progressed in the inadmissibility process, but is later assessed to be an adult
- where disruptive or other non-compliant or uncooperative behaviour by a claimant introduces delay to case progression
- where third countries have actively engaged with the Home Office in discussions around admitting a person (or people), but where through no fault of the Home Office, progress towards agreement has been delayed
- where a claimant is referred into the National Referral Mechanism, it will be usually be appropriate to pause inadmissibility action until the consideration of whether or not the person is a victim of modern slavery has been completed
- where there is evidence that the claimant already has protection in a safe third country, it may be reasonable for a much longer period of time to pass before inadmissibility action is taken, because the Home Office decision is unlikely to prevent the person from being able to access that protection

Post-decision timescales

After an inadmissibility decision has been made, the claimant must be removed to the safe third country within a reasonable period, in line with paragraph 345D of the Immigration Rules (or paragraph 345D(i) of the archived Immigration Rules).

What is reasonable will depend upon the particular facts of each case, including any matters which may delay removal, such as outstanding legal proceedings, late claims and uncooperative behaviour. A person who has been granted protection in a third country and who can continue to access that protection has no need for protection in the UK, and if they possess or can obtain a travel document to return to the safe third country, they will be expected to do so. The reasonable period before removal is likely to be significantly longer in these circumstances than in other cases.

Related content

[Contents](#)

Post-decision

Discretion to admit the asylum claim for consideration after it has been declared inadmissible

Once an inadmissibility declaration has been made on a claim, the decision framework allows for discretion to be exercised, for inadmissibility action to be discontinued and for the case to be routed for substantive consideration. (Note that different arrangements apply where the recipient of an inadmissibility decision is removed from or leaves the UK and then returns – see [Return to the UK and further asylum claim](#).)

Careful consideration must therefore be given to any change in circumstances arising after the decision which may change the appropriateness of inadmissibility action in the claimant's particular circumstances. This may include (but is not limited to) representations made by the claimant or their legal representative.

For claims made before 28 June 2022 and treated as inadmissible under [paragraphs 345A-B of the archived Immigration Rules](#), paragraph 345D(ii) states:

(when...) “upon consideration of a claimant's particular circumstances the Secretary of State determines that removal to a safe third country is inappropriate the Secretary of State will admit the applicant for consideration of the claim in the UK”.

For claims made or treated as made on or after 28 June 2022 and treated as inadmissible under [sections 80B-C of the NIAA 2002](#), section 80B(7)(a) of that legislation states:

“An asylum claim that has been declared inadmissible under subsection (1) may nevertheless be considered under the immigration rules... if the Secretary of State determines that there are exceptional circumstances in the particular case that mean the claim should be considered...”

If it is determined under one of these provisions that a claim should be considered substantively, the reasons for that conclusion must be recorded in Atlas as appropriate, and the case routed for consideration according to normal procedures.

Further submissions

The further submissions process does not apply to asylum inadmissibility decisions or to associated inadmissibility decisions on humanitarian protection claims. This is because inadmissibility decisions themselves are not decisions on the asylum claim in the person's country of origin – they are decisions that the UK is not responsible for substantively considering the claim. Consequently, whilst a person may make representations against an inadmissibility decision and those representations must be carefully considered and responded to, they would not engage the further submissions policy.

Further submissions on human rights refusals

As has been set out, if a person alleges or claims that their ECHR rights will be breached if they are removed from the UK to a safe third country, for instance, because they would be at risk of serious harm in or being refouled from the third country, or that their removal from the UK would breach their private or family life rights, those claims must be fully considered, according to the relevant guidance, rules and in line with [Standard of proof](#). This consideration must be within the inadmissibility decision letter if the ECHR claims were made prior to the inadmissibility decision.

If human rights claims have previously been made and refused, and the appeal rights have either been certified or exhausted (or have lapsed), all subsequent representations received in respect of human rights would be in the scope of the Further submissions policy, and must be considered accordingly. This applies whether or not the person has remained in the UK after the decision or has departed and then returned.

Judicial review

An inadmissibility declaration in respect of an asylum claim (and on any associated humanitarian protection claim) may be challenged only through judicial review.

The same applies to any decision to remove appeal rights (in the case of certificates issued under [schedule 3 to the 2004 act](#)) and a decision to remove a person from the UK.

To determine whether a judicial review has suspensive effect (which means that the individual must not be removed from the UK until the proceedings have concluded) the judicial review must be referred to the Operational Support and Certification Unit (OSCU) or Litigation Operations, as appropriate, to consider in line with guidance Judicial reviews, injunctions and applications to the European Court of Human Rights: in relation to enforcement of immigration removal and deportation.

Related content

[Contents](#)

Return to the UK and further asylum claim

If a person is removed from the UK as a consequence of an inadmissibility decision but then returns, any further attempt by them to claim asylum in respect of their country of origin must be treated as a new asylum claim, not as further submissions. In such cases, the claim may be considered again for inadmissibility action, although there are some parts of the process that may differ from first-time claims.

Screening returnees

A returnee who claims asylum must have their claim registered and must have a proper screening interview. In practice, the screening will not require all of the information to be collected anew. It should be possible to complete a large part of the screening interview based on information already held, and then briefly ask the person to confirm that the information remains accurate; if there are differences, the new information must be clearly recorded and the differences noted.

The previous screening interview will not say anything about the person's time or behaviour since they were last removed from the UK. Those areas must therefore be explored carefully and thoroughly, with robust follow-up questions asked where appropriate, to properly understand where the person has been, what they have done and why they have come to the UK rather than seeking asylum or otherwise remaining in the safe third country of return.

In all returnee cases, at the start of the screening interview, the following statement should be read to the person and recorded on the screening form:

“The inadmissibility process for returnees differs from that for first-time asylum claimants. On this occasion, we may proceed to make an inadmissibility decision soon after this interview, without giving you specific further opportunity to make representations in writing. It is therefore very important that when asked, you inform us clearly why you could not return to the third country to which you were previously removed or to which you voluntarily returned. It is also important that as soon as possible, you take the opportunity available to you to obtain legal advice.”

All parts of the screening interview may contain information relevant to the handling of the person's case and to considerations around their needs and security. Officers must therefore be diligent in completing the screening, and alert to the responses given. However, some preparation may reduce the overall time of the screening.

Least likely to have changed since the person's screening interview at the time of their original asylum claim, and therefore more likely suitable for prepopulating and just confirming with the claimant during the interview:

- Part 1 ('Personal Details and Identity')
- Part 4 ('Basis of asylum claim')

More likely to be informed by recent events and to therefore be relevant to further inadmissibility action:

- Part 2 ('Health/Special Needs', especially question 2.5 relating to exploitation)
- Part 3 ('Travel and Third Country', especially questions 3.3-3.7 relating to journey to the UK and reasons for not being able to return to the third country)

If the responses to the questions at parts 2 and 3 in particular do not provide a clear account of the person's behaviour, whereabouts and reasons for coming back to the UK, they must be asked further questions to obtain this information.

Official – sensitive: start of section

The information in this section has been removed as it is restricted for internal Home Office use only.

Official – sensitive: end of section

Notices of intent and representation window for returnees

As with first-time asylum claims, decision-makers must not make an inadmissibility decision in any return cases without first establishing that the person has had the opportunity to obtain legal advice.

As set out in [Notice of intent](#), in first-time claims, every claimant must be issued a notice of intent and given a minimum period of 7 days (detained cases) or 14 days

(non-detained cases) within which to make representations. In cases involving returnees, these requirements do not apply: it is not a policy requirement for a returnee making a subsequent claim to be issued with a notice of intent, or to have a specific opportunity with standard timescales to make representations before their claim is declared inadmissible again (if appropriate); instead, a discretionary approach applies on a case-by-case basis, so that where appropriate, removal may be expedited.

Decision-makers must assess whether and how much time the person should have to make pre-decision representations, considering the time between their removal from and return to the UK, their account of events over that time, and any other relevant information going to the issue of inadmissibility and return to the safe third country.

Even if a limited timescale or no time for representations is given, if the person asks for time to make representations before any decision, that request must be considered and receive a written response, just as with any such request.

Note that these arrangements in which pre-decision representation timescales may be truncated or removed do not impact the post-decision arrangements under which people subject to enforced removal must be given at least 5 working days' notice before removal. See Enforced removals - notice periods.

Notice of intent not to be issued – no representation window

If it is clear from the screening interview that nothing significant happened outside the UK in the period since the last removal to indicate that the person was at risk of harm in the safe third country or would be if they had to go back, then giving the person specific time to make representations is unlikely to be appropriate.

The length of time the person has spent in the third country before returning to the UK is also likely to be highly relevant to this consideration: this will be the context within which any further events disclosed by the person will have taken place, and within which the reasonableness of the person not claiming asylum in the safe third country or waiting to pursue their asylum claim or other complaints can be assessed.

In such cases, it is not necessary to issue an Nol, although **the inadmissibility decision must clearly explain why time for representations was not given.**

Notice of intent to be issued – short representation window

If the person claims to have been at risk of harm in the time between their removal from and return to the UK, or could be at risk of harm if they had to go back to the third country, it may be appropriate to give them limited time within which to make representations (or within which to request further time to make representations). In such cases, the person must be issued with a notice of intent, **which should set out the time they have to make representations, and clearly explain why a deadline less than the standard period applicable in first-time claims is appropriate.**

Inadmissibility decision-making for second claims

The process for considering and implementing an inadmissibility decision in the case of a returnee is the same as that applicable in a first-time claim. However, where inadmissibility and return to the same safe third country is determined to be appropriate, the decision can either reference, attach and adopt the considerations already set out in the original decision, or copy the relevant considerations.

See also [Further submissions on human rights refusals](#), which will be relevant if a human rights claim was refused previously and the subsequent asylum claim asserts human rights grounds.

Related content

[Contents](#)