mrsn
Manchester Refugee Support Network

ASYLUM GUIDE BOOKLET :

A guide to the asylum process

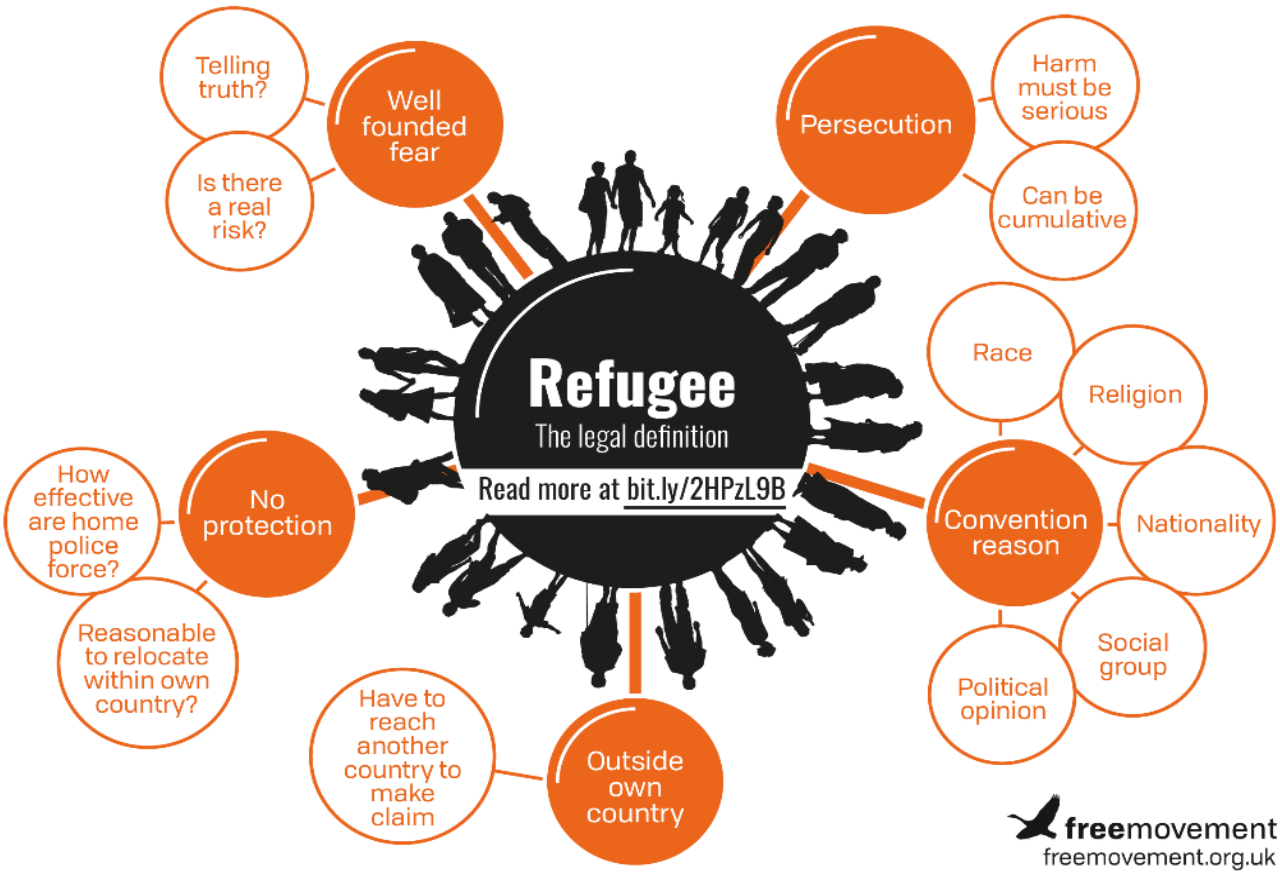
Definition of a Refugee

Asylum Seeker -

- Has made an application for asylum to the Home Office
- Is waiting for a decision on their claim

Refugee -

- Meets the definition of a refugee
- Their application for asylum has been successful and have been given a set period of time to remain in the UK



Definition of Well-founded Fear

There are two key aspects to well founded fear:

- Truthfulness or credibility (Your account: is it consistent? Does it fit with your profile and with what is known about your country of origin? Is your behaviour consistent with their idea of a person fleeing persecution – e.g. did you claim asylum at the first opportunity? Have you lied in the past? (in their view)
- 'Well-founded' or good reason to be afraid (Your account, Your documents e.g. an arrest warrant, country reports, newspaper articles, or Medical reports). This should demonstrate there is a future risk to you if returned to your home country.

Persecution

- Have your human rights been breached? Eg the prohibition on torture and inhumane or degrading treatment?
- It can be one act or several acts which taken together mean one of your human rights has been breached

Protection from the State

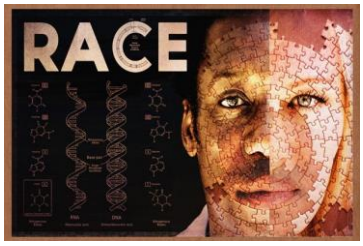
Can you get protection from the police in your home country? Is there another area of your home country which is safe for you?

If the State operates an 'effective' system of protection for its citizens, that is enough, as not everyone can be protected all of the time.

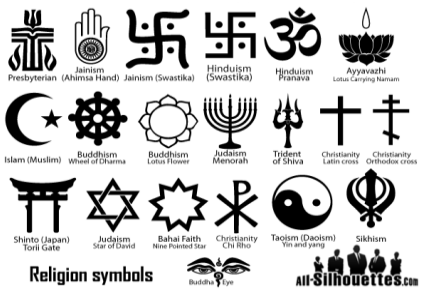
This is only relevant when the people persecuting you are non-state groups

Refugee Convention Reasons











The UK Asylum Process

Lodge Asylum Claim

NOTE: It is best to register with a solicitor for help with your asylum claim as soon as possible

Screening Interview

Move to Initial Accommodation and **apply for asylum support under Section 95** £

If you are **granted asylum support**



Move to asylum housing and get your ASPEN card

Substantive/asylum Interview

Asylum Decision

If you are **NOT granted asylum support**



You will not get housing and money from the Home Office (If you are refused asylum support at first, you can reapply with evidence of need)

Granted
'Leave to Remain'

Support may STOP After 28 Days

Appeal(s) Successful

Refused

Lodge Asylum Appeal

Following an asylum refusal with no ongoing appeal or outstanding application with the Home Office, **asylum support may end 21 days after your decision**.

Appeal Right not exercised

No 'In-Country' right of appeal

Appeal(s) Refused (Appeal Rights Exhausted)
Support may STOP After 21 Days

Possible Detention and/or Removal/Deportation

Further Submissions & Fresh Claim

Screening Interview

- You should claim asylum immediately. The screening interview takes place after this.
- The Home Office interviewer will ask questions and take notes.
- **It is very important that you get a copy of this screening interview - it is not audio recorded**
- They will ask about your journey to the UK
- They will ask if there is any reason why you shouldn't be detained e.g. do you have a mental health condition? Have you survived torture?

These questions may seem straightforward, but the information given will be used by the Home Office to compare against other interviews or statements.

Third Safe Country Cases

- After 1st January 2021 the UK government introduced new rules about 'inadmissible' claims
- This means that if another 'safe' country will accept you, the Home Office can send you there without considering your asylum claim in the UK, **including countries you have never been to**.
- Since Brexit however, the Home Office no longer has access to the EU database of fingerprints so this is identified through evidence collected when you claim asylum, showing you have spent time in another country
- It is still important to be open and honest about your journey to the UK because a lie will undermine your credibility which could harm your case
- You should **seek legal advice as soon as possible if you receive this decision.**
- **There is a 6 month window in which they can attempt to remove you from the UK.**

After the Screening Interview

- If you have no current leave to remain, you will be released on 'immigration bail' (even though you may never have been detained)
- In these circumstances you should be given a 'Bail 201' form, which will tell you where you should live and when and where you must report to on a regular basis.
- You should receive an ARC (Application Registration Card). The card is an important document that shows you have made an application for asylum.
- Your ARC should show your accurate photo, personal details and conditions attached to your claim (or 'bail').
- If there are problems with the information on your ARC, you have not received it yet, it has expired, or it has been lost or stolen, you can report the issue by contacting the Home Office. How you do this depends on the issue.

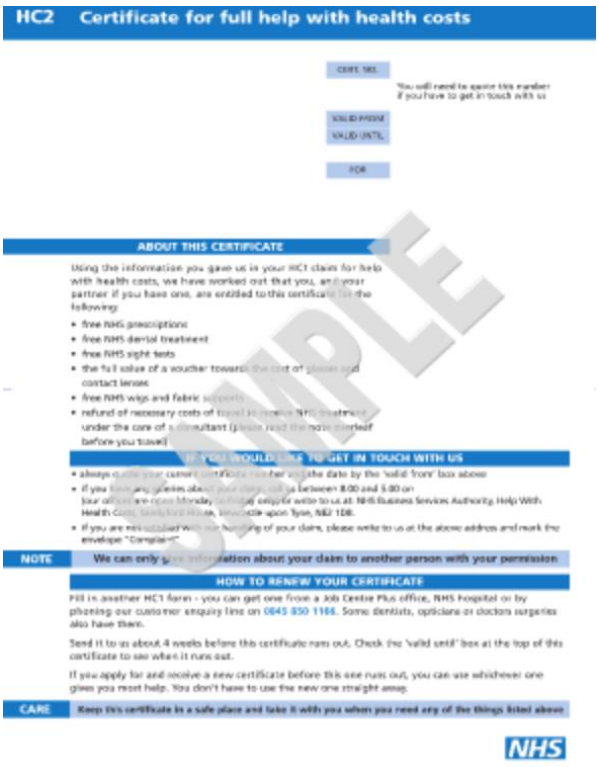
Section 95 Asylum Support

- Your asylum support is linked to your asylum claim.
- Most people are not allowed to work while their claim is being processed. So, the Home Office provides housing and money for those who cannot support themselves.
- If you are granted asylum support, you will receive asylum housing and £45.00 per week through your ASPEN card, which can be used in shops and bank cash-machines. You can choose to apply for 'subs-only' support. Housing is on a 'no choice' basis.
- You can get extra support if you are pregnant, have a baby, or a child aged between 1 and 3.
- You can also request extra support for travel to hospital appointments.



Healthcare

- You are entitled to free, confidential healthcare from the National Health Service while your asylum claim is being processed, including for your mental health. This includes:
  - Free hospital treatment
  - Free prescription medicines
  - Free dental care for your teeth
  - Help paying for glasses
- You should register with a GP and receive a HC2 certificate



Volunteering, Working & Studying

Generally, people seeking asylum are not allowed to work. You can only apply for permission to work if:

- you have waited over 12 months for a decision on your asylum claim or for a decision on your further submissions; and
- you are not considered responsible for the delay in decision-making.

If you are allowed to work, you are normally restricted to jobs on the shortage occupation list published by the Home Office. Those jobs are at 'graduate level' or above.

People seeking asylum are allowed to volunteer, but not to do anything that might make them an employee or worker.
This means :

- No contract (i.e. attending isn't mandatory
- No payment (apart from travel expenses)
- Has to be for a charity
- Not a substitute for a paid role

Volunteering is a great way to make new friends, become part of the local community and develop new skills.

College
You can apply to study at college for free if you have been in the UK and in the asylum process for a minimum of 6 months and no decision on your claim has been made

University
You can attend university whatever your immigration status, unless you have 'no study' immigration bail conditions.

People seeking asylum can't access student finance, so you have to arrange another way to pay for university.

Many universities offer scholarships for those who can't access student finance. These usually pay your tuition fees and often provide extra funding for your living costs.

Legal Advice and Legal Aid

- It is a good idea to sign up with a lawyer before your Substantive Interview – DO THIS AS SOON AS POSSIBLE AS CASES ARE NOW BEING DECIDED WITHIN A MATTER OF MONTHS
- Only Use Qualified, regulated lawyers
- Once you have signed up, you cannot change your solicitor unless you have a very good reason such as poor service, or you have moved to a different area of the country
- Legal aid helps people with no or little income, pay for the cost of getting legal advice, so it is free for you
- You need to prove that you are receiving s.95 or s.4 asylum support to show that you are on a low income
- They can only claim a fixed fee of £400 for each case
- Legal aid funding does not cover your lawyer attending

A good legal adviser would…

- Explain any documents they ask you to sign
- Take full instructions on all aspects of the claim
- Explain how the law applies to you, and make legal arguments for your case to the Home Office
- Give detailed advice on:
  - the strengths and weaknesses of the case
  - the evidence that might be obtained
- Agree who will be responsible for any necessary actions (this can be the client as well as the solicitor)
- Arrange translations and professional evidence – e.g. expert reports, medical evidence
- Provide an interpreter
- Inform you of your right to complain and who you can complain to
- LEGAL AID SOLICITORS: should explain legal aid funding

A good legal adviser won't…

- Promise success
- Do everything for you
- Lie to the Home Office, courts or third parties on your behalf
- Call you regularly, if there is nothing to update regarding your case (but your lawyer should speak to you before and after each stage in your application (e.g. your Home Office interviews, the decisions on your case).

You should…

- Always have a copy of your documents, and anything your lawyer has submitted to the Home Office (including your contract with them)
- Know the last action your lawyer took: what they did, when, and when they expect a response.
- Tell your lawyer if you move address or change phone number
- Contact your lawyer any time you receive a letter from the Home Office or from the Court
- Contact your lawyer before any interviews with the Home Office
- Tell them everything about your case as accurately and fully as possible
- Act quickly on any advice
- Gather as much evidence to support your claim as possible

Substantive Interview

- **The asylum, or substantive interview is your main interview, it is often the most important part of your asylum claim.**
- **You will be asked in detail about your reasons for claiming asylum.**
- **It can be a very long, difficult and traumatic interview.**
- **The HO interviewer may explicitly say they don't believe you.**

Preparing for your interview

- Speak to a lawyer beforehand
- You may wish to write a timeline of the events that took place leading up to you having to leave your country, to get it clear before you are asked questions in the interview
- Request an audio recording of the interview
- You can request a male/female interviewer/interpreter
- If there are any problems understanding the interpreter, make this known ASAP.
- During your interview if you need a break, request one – this is your right
- If you find a question upsetting to answer, or you feel unwell during the interview – tell the interviewer
- If you don't know the answer to a question, are unsure, or can't remember; tell the interviewer – don't guess
- If you want to go back to question or clarify information you can do this at the end. You can also inform the interviewer of anything that you think is important that they didn't ask about.
- **Be prepared for a hostile environment / disbelief**

The Questions

Example questions to start:

- Do you have any medical conditions?
- Have you brought any documents you wish to submit today as part of your asylum claim?
- Are you aware of the contents of your screening interview?
- Are there any mistakes you want to correct from it?

Example Background questions:

- Where did you live in your home country?
- Were you educated?
- What is your religion?
- What family do you have in your home country?
- What is the flag/bordering countries/leader/landmarks? (Questions to establish you are actually from there)

Example Asylum claim questions: Credibility:

- In your screening interview you said…can you talk more about this?
- Did you travel through any other countries on your way to the UK? If yes, why didn't you claim asylum there?
- Did you claim asylum straight away when you arrived in the UK? If not, why not?

Example Asylum claim questions: Well-founded fear:

- Who do you fear?
- Why do you fear them?
- Do you fear anyone else?
- Is there anyone you fear in any other country?
- What do you believe would happen if you returned to your home country? – you need to show you are at risk of something happening if you were returned to your country now.
- If you didn't leave your country immediately after an incident that put you or people you know in danger, why was there a delay?
- Has the threat affected other people? If someone in your family has been granted asylum in Europe because of it, mention this and give details.
- If your family or other people persecuted in the same way did not leave the area, why didn't they leave? Why did you leave and they didn't? If you left family members behind, did you put any measures in place to try and ensure their safety?
- If family members or other people in similar situations to you haven't been threatened, explain why you have

Example Asylum claim questions: Persecution:

- When did your problems first start?
- Was there a specific event which made you leave your country? Was it just one event that made you leave? If you'd been suffering persecution over time, what was it about that final event or threat that made you leave at that point?
- If you were imprisoned in your home country as part of your persecution, you will need to explain how you were released, or if you escaped explain how you managed this. The Home Office are usually very suspicious of escape stories – be clear about how this was possible, and don't assume the Home Office know anything about how these things work in your country.
- Are other people facing longer sentences/torture, and might this happen to you if you were imprisoned again?
- If you were mistreated while you were imprisoned, make sure to give information about this. Were there bad conditions? For example, many people sharing a small cell, withholding of food rations, no "yard" time outside, or were you kept in isolation? Did you experience torture?
- Did you sustain any injuries? If so do you have evidence of this like a medical report

Example Asylum claim questions: Refugee Convention Reason

- If you are fleeing persecution on grounds of religion – they may ask you questions about your religion, for example about holy days. If it is for political reasons they may ask you about your political party, for example when was it founded?

Example Asylum claim questions: State Protection

- If you returned to your home country could you live somewhere different to where you were persecuted?

At the end of the interview the interviewer should ask four questions:

- Whether you have anything to add
- Whether you have any other reasons for wanting to remain in the UK
- Whether you have understood the questions
- Whether you intend to submit further evidence by any agreed deadline

After the Interview…

- **Audio and written copy of the interview**
- **Meet with your lawyer to discuss it**
- **Submit further documentary evidence – can be any time before they make a decision**
- **Home Office have moved away from 6 month service standard for asylum claims – can contact MP about this**
- **Be prepared for a negative decision- Learn about your appeal rights**

Negative Decision

- Right to appeal? Some claims are 'certified as clearly unfounded' without the right of appeal – only remedy then is judicial review to try and get the right of appeal (need a public law solicitor for this)
- Time limit for appealing is 14 days
- Legal Aid for appeal is based on merit (need to have over 50% chance of success)
- You can represent yourself if you can't find a legal aid solicitor – Right to Remain have information on this
- 1st Tier Tribunal (court in front of a judge)
- There is currently a large backlog in processing appeals so it may be months or even years before you get a hearing
- If refused, you can appeal to the Upper Tribunal but there has to be an 'error of law'

Appeal rights exhausted

- **Support will be stopped**
- **Fresh Claim**
- **Detention / removal**
- **Voluntary Return**

Possibilities after negative decision

Detention and Removal

- You can be removed from the UK if you don't have leave to remain in the country, and youre not waiting for a decision from the Home Office
- However, they have to show that you can be removed 'within a reasonable time'
- The Home Office also has to take into account the impact on any family members, and if you have a travel document so removal can take place
- Children and 'adults at risk' should never be detained, risks include:
- Serious physical or mental health conditions, torture victims, potential victims of trafficking, older people, pregnant women, trans people
- Give copies of all your documents and evidence to a friend
- Keep important phone numbers with you - E.g. Your lawyer, charity support organisations and friends. Your phone will be taken from you if you are detained. You will be given a replacement.
- You should have access to free legal advice in the detention centre.

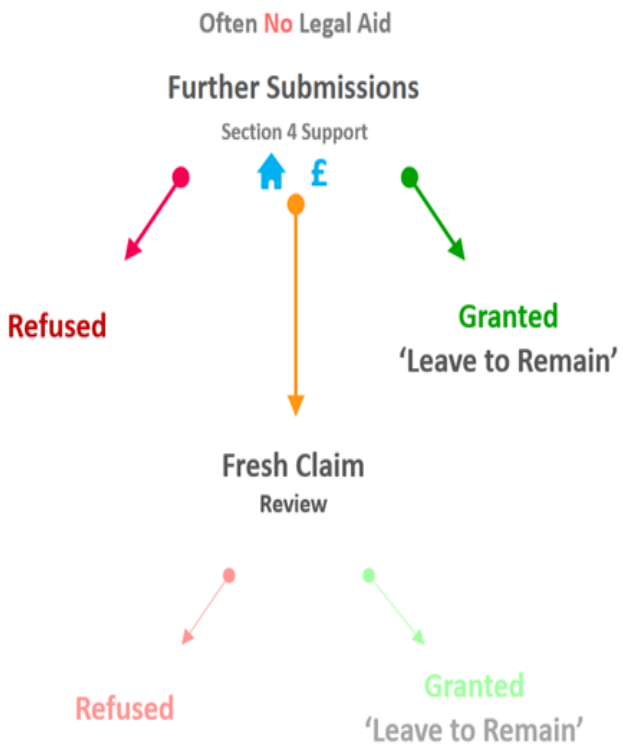
Further Submissions/Fresh Claim

Further Submissions have to be new evidence the HO hasn't seen before

It could be:

- New Evidence supporting your original claim
- Change of circumstances in your home country
- Change of circumstances in the UK eg new family here
- Change in UK law, policy, or country guidance
- A new claim on a new basis

It is Important to build a strong case for further submissions. Many Further submissions are dismissed quickly because they are too weak.



- **Section 4 support is a form of support for refused asylum seekers, if you have already made your further submissions.**
- **There are other reasons you can claim as well, like being unfit to travel because of pregnancy, or already having applied for voluntary return**
- **It is accommodation and financial support, but you will not be able to withdraw money. You can only use the card to purchase necessities. Housing is on a 'no choice' basis**
- **A family unit with children under 18 will continue receiving their Section 95 support even though their asylum claim is rejected. This is for the best interests of the children.**

Positive Decision

Grant of refugee status or humanitarian protection
Claim made before 28 June 2022

You could be granted either Refugee Status or Humanitarian Protection:

You have permission to stay for 5 years
You can apply for settlement at the end of the 5 years (but you must submit your application before your permission runs out)
You can work, study and claim benefits
You may be able to sponsor your close family members to join you in the UK

Support will stop in 56 days

Transfer from asylum support to mainstream housing and welfare

Should receive 3 documents:

Letter granting status
Notice to Quit letter
Directions on how to create an e-Visa (new form of ID which is only online)

Family Reunion

- Normally only for 'pre-flight' family members – spouse and children under 18, though you may be able to apply for other family members 'outside the rules'.
- No charge for the application but no legal aid available so a lawyer can be expensive, some charities can help you for free.

Useful links

http://www.asaproject.org/about - Asylum Support Appeals Project (ASAP) - information on asylum support

https://righttoremain.org.uk - accessible resources for people to understand and navigate the asylum system and take practical action in their legal case + lots of translated videos/materials

https://find-legal-advice.justice.gov.uk/ - a tool to search for a legal aid adviser

Detention Action: https://detentionaction.org.uk/detainees/

AVID, a national charity that supports volunteer visitors to people in immigration detention : http://www.aviddetention.org.uk

Bail for Immigration Detainees (BID): https://www.biduk.org/pages/6-information-for-detainees

Medical Justice: http://www.medicaljustice.org.uk/help-and-referrals/if-you-are-a-detainee/