



COVENTRY LAW CENTRE

IMMIGRATION

REFUGEES

WHO CAN APPLY ?

Anybody who requires international protection can apply for asylum in the UK.

Refugee This meaning of “Refugee” is taken from the Geneva Convention of 1951 and the 1967 Protocol. United Kingdom immigration rules provide that asylum may be granted if, in all the relevant circumstances, a person required to leave would have to go to a country to which s/he is unwilling to go owing to a well founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion.

WHEN TO APPLY ?

Application for asylum in the United Kingdom must be made to the Immigration Service or the Home Office as soon as possible after leaving the country from which you need protection. This should be the first country you reach, or at least the first which will not simply return you to your own country.

If you entered the United Kingdom by deception or without permission, you are an “illegal entrant.” An illegal entrant is liable to arrest, detention and prosecution and rapid removal but generally will have a right of appeal before removal. If you entered the UK lawfully, but fear persecution in your own country, your claim to asylum should be made as soon as possible, certainly before your leave to remain runs out.

Without Foundation Certificate (S1): The Secretary of State may certify certain cases, without detailed consideration of the evidence, as manifestly unfounded so that appeals against refusal of asylum take place within a special, rapid procedure. Such appeals are limited to consideration by a Special Adjudicator only without any right of further appeal to the Immigration Appeals Tribunal.

Third Country Certificates (S2): The Secretary of State may certify cases in which an appeal against refusal of asylum can only be made after the Applicant has been removed from the UK to the country from which s/he travelled to the United Kingdom.

Proof: Our job is to make representations on your behalf to convince the Home Office that your fear of persecution is genuine and with a real basis in fact. We will help you to submit a detailed claim, discuss with you and obtain any documentary, forensic and witness evidence that may be available. We will also seek independent evidence from any other reliable source.

Asylum applications typically rely on unprovable factual claims. The truth of personal accounts of arrest, detention, harassment and ill treatment, may be held by the Home Office to be undermined by delay in making an asylum claim, or in giving factual details. Any dishonesty, presentation of forged documents, or unexplained inconsistencies, may also weaken a claim. It is therefore essential that you help us by giving the fullest possible information and explanations at the earliest opportunity.

WHAT HAPPENS WHEN YOU APPLY FOR ASYLUM ?

The Home Office may invite you to a screening interview soon after you apply for asylum in the UK. This helps the Home Office to develop a record of you and your claim for asylum. You will be fingerprinted to ensure that no other person can make an asylum application in your name.

After you have declared your intention to claim asylum in the UK, you may be given a questionnaire to complete in support of your asylum claim. You should return the completed questionnaire to the Home Office within two weeks. Thereafter, the Home Office may call you for a substantive asylum interview. The interview will last for about an hour. You should take with you any evidence relating to your identity that the Home Office has not been given before. Any other evidence should be kept until asked for.

The Immigration Officer will ask you about the persecution you have suffered and details about the answers that you give. For example:-

- **Why do you need to claim asylum?**
- **Were you ever detained or harassed in your own country?**
- **What were the dates and times of any detention?**

You should only take evidence relating to your identity. Other evidence, such as arrest warrants, country of origin information, will be needed later.

After the interview, you will have to wait while the Home Office make a decision. They will take into account everything you have told them at your interview and all the evidence you have given them. Other things that they will consider are:-

- **Length of time you have been in the UK (only if this is 14 years or more)**
- **The situation in your home country**
- **The information you have given them at interview**
- **Any compassionate and compelling circumstances**

You can remain in the United Kingdom while you are awaiting a decision, even if your leave to remain expires before an application is submitted.

HOW LONG BEFORE YOU GET A DECISION ?

It is difficult to predict when your asylum application would be decided by the Home Office. It can take any time from 3 months to 2 years to reach a decision. Sometimes the Home Office can make a decision on an application within weeks of application.

WHAT TO DO WHILE THE APPLICATION IS BEING CONSIDERED ?

While your application is pending, you should not leave the UK. Leaving the UK operates to withdraw your application.

Following the Nationality and Asylum Act 2002, the SSHD will refuse to support asylum applicants who have not applied for asylum at the port of entry or as soon as possible thereafter. You will have to establish that you are destitute to access support from NASS. This does not affect people who are currently receiving support from NASS, Social Security or the Benefits Agency.

Additional Information: If you are in the UK illegally, you may be detained but should be only if the Home Office suspects that you are likely to abscond. For instance, if you have absconded before, if you have been caught entering the country illegally or if you have no documents, you are more likely to be detained.

IF YOUR APPLICATION IS SUCCESSFUL AND YOU ARE RECOGNISED AS A REFUGEE ?

If your application for asylum is successful, you would be granted indefinite leave to remain in the UK. Any dependants of a person will be permitted to join him/her after such leave is granted.

WHAT IS EXCEPTIONAL LEAVE TO REMAIN IN THE UK ?

If your application is refused, you may be granted Humanitarian Protection. This is a discretionary status granted on compassionate grounds. It carries no rights, but is likely to be granted for a limited period. Towards the end of the period of leave, you may apply for indefinite leave to remain in the UK. Again, it is based on a discretionary basis and any such application must be submitted to retain your right of appeal, in the event of it being refused by the Home Office. Asylum seekers have no right to bring dependants to join them until they are formally recognised as refugees or in the case of people granted Humanitarian Protection, granted indefinite leave to stay in the UK. If you need advice on travel documents or entry clearance for relatives, please ask us.

Alternatively, the Home Office may grant you Discretionary Leave to Remain in the UK for a period.

WHAT IF YOUR APPLICATION IS REFUSED ?

You may have a right of appeal within the United Kingdom against refusal of asylum. If you have no such right, it may be possible to challenge the decision by the process of Judicial Review in the High Court. In either case you need expert legal advice as soon as possible.

If your case should go to appeal, you will be given the opportunity to present your case directly to a special Adjudicator. A Home Office Presenting Officer will also be present at Court and will be representing the Home Office's arrangements. He or she will be able to ask you detailed questions in front of the Adjudicator, so you must be well prepared and clear about what you want to say. The Adjudicator will assess your case on what you say and the evidence you and the Home Office have given and will decide in the next few weeks whether you should be granted asylum, or s/he may make a recommendation. A recommendation means that the Adjudicator does not allow the appeal but recommends that the case merits further consideration by the Home Office. An Adjudicator will make a recommendation when s/he believes that the Home Office has not considered factors such as medical conditions or compassionate circumstances, which may have a bearing on your case.

APPEALS

Coventry Law Centre will advise you about appealing and may represent you at the hearing. The Law Centre offers free legal advice and representation.

You can contact the Law Centre for an appeal appointment or telephone our free legal advice line on Tuesdays and Thursdays between 10:00 and 12:00 on 024 76253168.

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