

Settlement Protection: five year reviews and indefinite leave to remain – a briefing for advisers

August 2010

In August 2005 UKBA began a new policy of granting people who had been given refugee status or humanitarian protection only limited leave to remain for five years. These people are required to apply for Indefinite Leave to Remain at the end of the five years. The first cases will come to the end of their leave on August 30th 2010.

It is extremely important that people apply for ILR before their existing leave expires. If they do not then they will immediately lose all entitlements to benefits and the right to work because they will become overstayers. Also this will trigger an in depth review of their need for protection at all compared to those who apply in time who are simply asked to tick a box confirming that they are still in need of protection.

How to apply

Details of how to apply and a copy of the application form can be found on the UKBA website at http://www.ukba.homeoffice.gov.uk/settlement/applicationtypes/completing_set_protection_route/

People should only apply within the 28 days before their leave expires. If they do so earlier then their application will not be dealt with and risks being returned to them as they will not have completed the required period to qualify.

Applicants do not have to use the form provided if they do not wish to but they must provide all of the information that UKBA requires. As well as asking for confirmation of a continuing need for protection, the application form also asks questions about people's criminal record and whether they have travelled back to their country of origin.

If people have concerns about completion of the form they should be advised to seek legal advice. Legal aid is available for this.

A list of Frequently Asked Questions can be viewed on the Refugee Council website: <http://www.refugeecouncil.org.uk/Resources/Refugee%20Council/downloads/briefings/FAQs%20-%202010%20-%202007-14%20-%20v%204.pdf>

There are leaflets for applicants in a range of languages on the Refugee Council multilingual website: <http://languages.refugeecouncil.org.uk/english/index.htm>

Who can help with completion of the application form?

The Office of the Immigration Services Commissioner (OISC) has published guidance about the completion of this form which can be viewed at: <http://bit.ly/9jJRG7>

If people need legal advice they can find a legal representative by contacting Community Legal Advice on 0845 345 4345 who can refer them to a local legal representative or organisation. A legal representative should be from an organisation which has a contract with the Legal Services Commission in immigration law or is an adviser registered with the Office of the Immigration Services Commissioner (OISC). People can contact the OISC for a list of approved organisations which give advice about asylum law. Telephone: 0845 000 0046 or visit www.oisc.gov.uk

Can dependants be included on the application?

Applicants can use the same form to apply for indefinite leave to remain for their partner or any children who are aged under 18, including any born since they received their current leave.

The position with former dependants (adult children or separated spouses) is less clear and we await further guidance from UKBA. The latest we have been told is that where people also have refugee status in their own right they should apply separately but where they received leave in line with a main applicant then they should still apply on that applicant's form. This presents obvious potential difficulties which we hope UKBA will resolve.

Where should applications be sent?

Applications should be sent along with any requested documents by **registered post**. Applicants should ask at a Post Office how to send the letter by registered post. Once UKBA receives the form they will send within seven working days an acknowledgement letter as proof of receipt.

The application form should be sent to: **UK Border Agency, SET (Protection Route) Applications, Dept 21, PO BOX 306, Liverpool L2 0QN.**

What happens when the application is decided?

Once the application has been decided people will be informed by the UKBA by a letter sent by registered post. If the application has been successful the UKBA will send a new status document with indefinite leave to remain.

Is there a fee?

There is no charge if people are applying on the Protection Route to Settlement

Will applicants be required to meet the Knowledge of Language and Life in the UK criteria?

No. There is a waiver for these applicants.

Contact for further details:

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