

## Change to the way UKBA registers in-country asylum applications and further submissions on asylum claims.

November 2009

### 1. The changes in brief

On the 13th October 2009, the United Kingdom Border Agency (UKBA) announced two significant changes to the asylum process:

- i. it is no longer possible for initial asylum applications to be made in Liverpool. Anyone wishing to make an asylum application, other than at the port where they first enter the UK, is required to do so in person at the asylum screening unit in Croydon.
- ii. that it has changed the way people are required to submit further representations concerning their existing asylum application where their circumstances have changed or if they wish to make a fresh asylum claim. Such submissions must now be made in person, rather than by post, and at named locations. No travel costs will be paid to enable people to do this.

These changes were introduced with immediate effect on 14th October 2009.

The UKBA notice of the changes and the ministerial statement can be seen at:

<http://www.ind.homeoffice.gov.uk/sitecontent/newsarticles/2009/october/18-asylum-changes>

These changes will undermine people's ability to access the asylum process and to submit further evidence that may be vital to their claim for protection. This is particularly the case for destitute applicants who will be denied support to cover their travel costs or to survive while their evidence is considered. The changes were introduced without consultation or warning. The Refugee Council, together with other organisations, is protesting in the strongest possible terms about these draconian measures.

The aim of this briefing is to provide further information about these changes, what they mean in practical terms, and to highlight the Refugee Council's concerns.

## 2. Initial in-country asylum claims<sup>1</sup>

The government expects asylum applications to be made when an asylum seeker first enters the UK at the port of entry. However for a variety of reasons many people enter the UK and make a claim at a later date.<sup>2</sup> In-country asylum claims can be made only in person at an Asylum Screening Unit (ASU). Previously there have been two ASUs — one at Liverpool and one at Croydon.

It is no longer possible for initial asylum applications to be made in Liverpool, and anyone wishing to make an initial asylum application in country is required to do so in person at the asylum screening unit in Croydon. This is the case no matter where they are in the UK.

UKBA will not pay for travel to Croydon ASU — people must make their own way to the place where they need to lodge their application. The address is Lunar House, 40 Wellesley Road, Croydon, CR9 2BY.<sup>3</sup>

It is not necessary to make an appointment — people can just walk in Monday to Friday between 8 am and 1 pm. However, appointments can be made by telephoning 020 8196 4524 between 9 am and 3 pm, Monday to Friday.

If a person is unable to go to Croydon in person, for example because they are detained or in hospital, they should seek legal advice about making an asylum application by post.

**Refugee Council concern:** we understand between five and ten cases per day were previously being screened by the Liverpool ASU. All of these people will now be faced with a journey to Croydon. Many will be destitute and lack the means to travel. UKBA has established a strong regional infrastructure which should be able manage to screen asylum applicants more closely to where they happen to be.

## 3. Further representations: different arrangements for Case Resolution Directorate (legacy) cases and “New Asylum Model” (NAM) cases<sup>4</sup>.

- People who claimed asylums **before** 5 March 2007, and whose case is being managed by the Case Resolution Directorate, are required to make further submissions relating to their asylum claim by appointment and in person at Liverpool Further Submissions Unit (formerly the asylum screening unit).
- People who claimed asylum **on or after** 5 March 2007 are required to make any further submissions in person, by appointment, at a specified reporting centre in their region.
- If people submit further representations by post after October 13th they will receive a letter from UKBA advising that they need to book an appointment and submit their papers in person.

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<sup>1</sup> An in-country asylum application is one that is not made at the port that an asylum seeker used to enter the UK.

<sup>2</sup> In the second quarter of 2009 only 8% of asylum applicants applied at port of entry. See UKBA Quarterly statistics <http://www.homeoffice.gov.uk/rds/pdfs09/immig209.pdf>

<sup>3</sup> See contact details at <http://www.ukba.homeoffice.gov.uk/contact/contactspage/asylumscreeningunit/>

<sup>4</sup> See Refugee Council briefings on these two types of case at <http://www.refugeecouncil.org.uk/policy/briefings/2009/caseresolutionupdate>. and <http://www.refugeecouncil.org.uk/policy/briefings/2007/nam.htm>

- There is information about the new process is on the UKBA website. This can be found at: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/asylum/info-sheet-fs>

### **Claims made before 5 March 2007 (Case Resolution Directorate Cases)**

- People must make an appointment by telephone by calling 0151 237 0980. This telephone line is operated Monday to Friday between 9 am and 4 pm.
- They will then receive written confirmation of the date and time of their appointment, including the address of the FSU. Liverpool FSU does not accept walk in applications.
- UKBA will not meet the cost of travel to submit further representations.
- The appointment will not involve a formal interview. Its purpose is to confirm people's identity and for UKBA to receive all the relevant documentation. People should be given written confirmation that further representations have been made and a receipt for their documents. If they are not offered a receipt they should ask for one.
- The documents received at the interview will be passed to a dedicated CRD unit based in the same building in Liverpool which will decide whether or not the further representations amount to a fresh claim. Before the CRD unit can decide an application they will need to get the person's file from Croydon which may take two to three days.
- People should receive an appointment within ten days of contacting the unit. A decision on whether what has been submitted constitutes a fresh claim should be made within a further ten days. Where a Section 4 application has also been made on the basis of the further submissions, UKBA will seek to make a decision on the submissions within 2 to 3 days of the appointment.
- If people have family members who are dependent on them they do not have to attend the ASU. However if there is a new dependent not previously part of the asylum application then UKBA would prefer them also to attend but this is not a requirement.
- People on temporary admission are liable to detention at any time so there is at least the possibility that people may be detained when attending such an appointment. People should seek advice from their legal representative before attending and make arrangements for the eventuality of being detained.

### **Asylum claims made since 5 March 2007 (NAM cases)**

- People who claimed asylum on or after 5 March 2007 and are in the NAM process will be required to make any further submissions in person at a specified reporting centre in their region.
- The further submission should be made at a pre-booked reporting event at a designated regional reporting centre. People should contact their UKBA case owner for advice on how to make a further submission in their region.
- Arrangements will vary by region, but generally the case owner will receive the papers and make a decision.
- It may be possible to claim for travel expenses as part of the general entitlement to claim fares to travel to report.

## 4. Exceptions where postal applications may still be made

The UKBA Policy Instruction<sup>5</sup> states that only those who fulfil the following criteria will be able to make postal applications:

- *Those who have a disability or severe illness and are physically unable to travel*
- *Those who are imprisoned or in detention and unable to make their application in person*
- *Those with ongoing Judicial Review or other litigation*
- *Those with Removal Directions have been set or the individual has been accepted on a charter flight*
- *Individuals who come to light through enforcement action*

Exceptional cases can fax their submission on 0151-213-2008.

Applicants who fall within the above categories must include evidence that they meet the exceptional criteria when they send their further submissions. The UKBA has stated that they will return any further submissions made by post/fax that do not meet the criteria, to the legal representative/applicant. The UKBA does not intend to set Removal Directions before clients receive this notification and have had a reasonable opportunity to make an appointment to present a further submission.

## 5. What happens after the appointment request?

- People will receive a letter confirming the date and time of their appointment. They must attend their appointment, if they fail to do so they must call and rebook an appointment.

## 6. What can people expect at the appointment?

- Only the primary applicant and any new dependants not on the original asylum claim need attend the appointment. (Note that it is not compulsory for a new dependant to attend).
- People must take with them all the requested written evidence. In the UKBA guidance it suggests bringing:
  - completed Further Submissions application pro-forma or letter detailing the additional information the failed asylum seeker would like the UK Border Agency to consider. (Note that UKBA cannot require people to use the pro-forma provided — people should seek legal advice about the best way to make their submission.)
  - Supporting documents (including, where available, Reasons for Refusal Letter, appeal determination, documents in support of the further submissions.)
  - Application Registration Card (if still in possession of this)
  - Passport (of main applicant and any dependants in the UK, where owned and not held by the UK Border Agency)
  - Police Registration Certificates (if held)
  - Other identity documents (if held)

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<sup>5</sup> See the API on Further submissions at:

<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumprocessguidance/postdecisionrepresentations/guidance/further submissions.pdf?view=Binary>

- 4 unseparated passport-sized photographs (of main applicant and any dependants)
  - Evidence of accommodation (if not provided by the UK Border Agency)
  - Any other relevant documents
- If not all the required documents are provided at the appointment, UKBA staff will not give an extension but will require the applicant to return for a further appointment.
  - UKBA strongly encourages applicants to use the pro-forma as they state that the aim is to increase the speed of the decision making process.<sup>6</sup>
  - People should request a receipt recording that they have submitted their fresh representations and copies of all documents that they submit to the UKBA.
  - The appointment is an administrative screening process to ensure that all relevant documentation is available and to obtain any further relevant information. The UKBA case owner will receive the new documents, check everything required is present, and verify the person's identity (including: checking the ARC if they have one, taking finger prints, and checking documentation matches). The decision will then be made after the appointment and notified to the applicant by the Case Owner in writing.

## 7. What financial support is available to people making further submissions?

Many of the people wishing to make further submissions are likely to have had their asylum support ended some time before and may be destitute. If their further representations are accepted as being a fresh claim for asylum they will have their asylum support restored. However, they will be faced with a further period of destitution whilst waiting for an appointment and a decision. The Refugee Council believes that support should be restored pending a decision on whether their representations are accepted as a fresh claim and are pressing the UKBA to do so. Where people are refused support in these situations, they should consult their legal representative as it may be possible to legally challenge a refusal to grant support pending a decision on whether the new representations constitute a fresh claim.

## 8. Get legal advice

We strongly suggest people get legal advice about any further submissions before phoning for an appointment. Legal aid is available to assist people to make further submissions on their claim and a legal representative should be able to assist with the completion of the form and provide any additional written submission on their behalf.

Legal aid is not available for legal representatives to travel to or attend the interview so it is important to seek legal advice before attending an interview to ensure that the written submission covers the important points.

If people do not have a current legal representative they can find information on qualified legal representatives in their area by telephoning the Community Legal Service Direct (CLSD) on 0845 345 4435 or by visiting the CLSD website, [www.clsdirect.org.uk](http://www.clsdirect.org.uk) which has a directory of legal advisers. Representatives must be properly qualified to advise so they should be either a qualified lawyer who

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<sup>6</sup> The recommended pro-forma can be viewed at: <http://www.ukba.homeoffice.gov.uk/sitecontent/applicationforms/asylum/fs-form.pdf> (Accessed 19/10/09). UKBA cannot lawfully ignore submissions just because they are not on this form - your legal adviser can advise you about this.

is a member of the Law Society or an adviser who is officially recognised by the Office of the Immigration Services Commissioner (OISC). The OISC maintain their own list of qualified persons and can be contacted on 0845 000 0046 or visit their website [www.oisc.ciov.uk](http://www.oisc.ciov.uk)

## 9. Refugee Council concerns

The Refugee Council condemns the introduction of such significant changes, overnight and without any consultation. It is difficult to see the new measures as anything other than a deterrent designed to reduce the numbers of new asylum claims and further submissions UKBA receives.

It is wholly unreasonable to require people to travel the length of the country in order to present further information about their asylum claim, particularly if they are not provided with funds to enable them to do so. Many of those affected will be destitute and lack the means to travel. The distances involved mean that people may not be able to travel and return in a single day but they will not have anywhere to stay overnight when this is required nor the means pay for overnight accommodation. The Refugee Council will support our partners work to pursue legal challenges to this change.

The exceptions to this policy of requiring people making further representations to travel to Liverpool are inadequate. There is no mention of victims of torture, many of whom have poor mental health, may also suffer from physical impairments and may struggle to cope with the stresses that this new procedure entails. Others may have mental and physical health problems or be responsible for child care, which makes travel impossible. It is unrealistic for UKBA to state that "satisfactory medical evidence" must be provided for a case to be recognised as exceptional without UKBA suggesting a procedure for doing this. Further, many people will be isolated and may have problems accessing health care so will not be able to obtain a medical letter sufficient to persuade UKBA that they should be treated as an exception. The reality is that such people will be effectively barred from making further submissions.

We share the concerns of the Medical Foundation about the poor practice of torture survivors being required to personally deliver medico-legal reports as part of any further submissions they are making. This is a highly questionable practice in view of the sensitivity of such reports. These should properly be transmitted directly and securely by legal representatives to UKBA.

We are also concerned that there is now only one place in the whole of the UK where initial in-country asylum claims may be made. People apply for asylum in-country for a variety of reasons, often not of their own making, due to the manner of their arrival or due to changes in their circumstances or conditions in their country of origin. An asylum application should be able to be made at any regional UKBA office.

## 10. Conclusions and recommendations

The Refugee Council will continue to press for these changes to be reversed. Those who wish to make an in-country claim for asylum should be able to access the process easily and those who need to raise further issues or evidence relevant to their case should be supported to do so. It is for UKBA to ensure procedures are in place to facilitate access to justice in the asylum process and to make high quality decisions on further representations as they are submitted and in a reasonable timescale.

Until these changes are reversed, the Refugee Council is urging UKBA to take urgent steps to:

- i. Enable people to make initial asylum claims at the regional office where they are located.
- ii. Widen the categories of exceptions for postal submissions to include survivors of torture.
- iii. Pay for the cost of travel and any overnight stay necessitated by these changes.
- iv. Provide support and accommodation to destitute applicants while they wait for a decision on their further submissions.

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