

Brief Guide to Asylum

September 2014

Who applies for asylum

In 2013 there were 23,584 applications for asylum in the UK. This represents an increase from 2012 but is still lower than in 2008 and 2009 in recent years.

Some countries which have regularly featured in the top ten countries of origin of asylum seekers over recent years are Afghanistan, Iran, Sri Lanka, Eritrea, and Pakistan. In 2013 there were significant increases in the number of applications from Albania, Eritrea, and Syria.

The application process

Applications for asylum can be made to an immigration officer at a port of entry into the UK or at the Asylum Screening Unit in Croydon. In very exceptional circumstances, such as someone unable to travel to Croydon, or unaccompanied children, applications can be made at UK Visas and Immigration (UKVI) Local Enforcement Offices. The vast majority of applications are made via the Asylum Screening Unit.

Asylum applicants have to attend a screening interview, usually soon after making the application. This interview is used to collect basic information such as identity, country of origin, when and how the person arrived in the UK, and what documents they have, such as a passport or other identity papers. The asylum seeker is fingerprinted and a photo is taken which is put on the Application Registration Card (ARC) which is issued to them.

Each application is assigned to a caseworker within UKVI, who is then responsible for that case throughout the asylum process.

A second, more detailed interview then takes place, often referred to as a substantive interview. The basic information from the first interview is checked to ensure a consistent account is given. It is at this interview that the asylum seeker has to provide the evidence to back up his/her asylum claim and show that they are in need of protection and cannot safely be returned to their country of origin.

While the application is under consideration the asylum seeker may be required to report on a regular basis to one of the 15 UKVI Reporting Centres across the UK. They are expected to produce their ARC when they report. Failure to report can lead to the withdrawal of any asylum support they have been awarded.

The decision

The caseworker decides whether the applicant qualifies for recognition as a refugee under the terms of the 1951 UN Convention Relating to the Status of Refugees. According to the Convention a person who has reason to fear persecution in their country because of their race, religion, nationality, membership of a particular social group, or political opinion, should be recognised as a refugee.

Applicants who are granted refugee status by UKVI are given leave to remain in the UK for 5 years. They are free to work, and are eligible for mainstream benefits. If they have a spouse and children outside the UK they can apply to join the refugee in the UK. After 5 years they can apply for indefinite leave to remain, which will normally be granted, the exceptions are usually people who have had serious criminal convictions.

Some people who are not granted refugee status are given permission to remain. A very small number are granted humanitarian protection, which means that UKVI do not believe their case justifies refugee status, but do accept that the person cannot be safely returned to their own country. Humanitarian protection will normally be for 5 years, and at the end of the period the person can apply for indefinite leave to remain.

Others are granted discretionary leave to remain for a time limited period, after which they may be able to apply to extend their leave. Many of these cases involve unaccompanied children seeking asylum who are granted discretionary leave to remain to reflect the government's position that lone children will not be returned unless there are adequate conditions for them to be looked after in the country of return. The child will have to make another application to request leave to remain for a further period.

How many people are granted refugee status

In recent years the percentage of applicants granted refugee status has varied from 17% to 33%. The refusal rate has varied from 63% to 74%. The remainder have been granted humanitarian protection or discretionary leave.

Appeals against refusal

An asylum seeker whose claim is refused will generally have a right of appeal against the decision. If they do appeal they are also expected to put forward at the same time any other arguments, such as a case based on human rights, as to why they should be allowed to remain in the UK. The decision on the appeal is made by an immigration judge at a tribunal hearing. The proportion of appeals allowed has been in the range 25 – 29% in recent years, so a significant number of initial decisions are found to be wrong by the tribunal.

What happens to people whose claim is refused and lose their appeal

People who have been refused, and have either not appealed, or have lost their appeal, are expected to return to their country of origin. Some will return on a voluntary basis, and anyone willing to do this may be eligible to apply for assistance to do so via schemes of assisted return. Otherwise UKVI will enforce removal from the UK. The exceptions are usually people who UKVI accept cannot be safely returned who may be allowed to remain in the UK until conditions in their country of origin permit safe return.

Although in the past there have been periods when the Home Office has suspended all removals to a particular country and this has been public policy, there are at present no countries which fall into that category.

In 2013 8,995 refused asylum seekers and dependants left the UK, and about 46% of these were voluntary departures.

Support and accommodation for asylum seekers

Asylum seekers are not allowed to claim mainstream benefits. They are not allowed to work, unless their application is still undetermined after a year, in which case they can apply for permission to work, but this applies to very few people.

To qualify for support from UKVI the asylum seeker has to show that they are over 18, have applied for asylum as soon as reasonably practical after arriving in the UK, and are unable to support themselves. Young people under the age of 18 who apply for asylum are supported by local authorities. Asylum seekers applying to UKVI for support can apply for accommodation and cash, or if they have somewhere they can stay with relatives or friends, for cash only support. Someone who has nowhere to stay may be offered initial accommodation on a short term basis while their application for support is decided.

If UKVI accept an application for accommodation and cash the asylum seeker will be offered accommodation outside London and the South East, and will have no choice about where that is. Currently UKVI has contracts with a number of private companies to provide accommodation in different parts of the country. The asylum seeker is allowed to remain there until their claim, and their appeal if they have been refused, is decided.

Examples of the level of cash support provided are £72.52 per week for a couple, £43.94 for a lone parent, and £42.62 for a single person over 25. For comparison for people claiming a mainstream benefit (income support) the levels are £111.45 for a couple both over 18, £71.00 for a lone parent or a single person over 25. The level of cash support has not increased since April 2011.

Support and accommodation for refused asylum seekers

Refused asylum seekers with children under the age of 18 will continue to receive support from UKVI until they leave, or are removed from, the UK. In a few cases, where a child is born or attached to the application more than 21 days after refusal, the child will not qualify and may have to be supported under the Section 4 regulations.

For single people, all that is available is via what is referred to as 'Section 4' support. (This is because it is specified in Section 4 of the 1999 Immigration and Asylum Act). It is only given to people meeting one of a small number of tightly defined conditions. These include demonstrating willingness to leave the UK, having a medical reason not to travel, or being unable to travel because there is no safe route of return. The person must be destitute or about to become destitute.

If UKVI agree to Section 4 support they usually provide basic self catering accommodation and support to the value of £35.39 per week. The support is not in cash, but is loaded onto the 'Azure' support card which a number of shops such as Asda and Tesco will accept for payment. In some cases full board accommodation is provided, which includes meals, and if this is the case then no Azure card will be provided.

At the end of 2013 there were 4,831 people (including dependants) in receipt of Section 4 support. People whose applications for Section 4 support are refused because they do not fit the conditions will generally be left destitute.

Detention

Some asylum seekers are detained at the point when they make the application and are put into what is called the Detained Fast Track (DFT). The presumption is that these are cases on which a quick decision can be made. Although the UKVI criteria for suitability do not specify that this means a quick refusal the fact is that cases taken through DFT have a very high refusal rate. In 2013 (the last year for which statistics are available) of 4,286 cases in the DFT only 131 (3%) were granted refugee status, and 7 granted humanitarian protection or discretionary leave to remain. Of refusals which went to appeal only 9% were successful. However there has been considerable criticism of the DFT, including by the Independent Chief Inspector of Borders and Immigration, who expressed concerns about the number of people having to be released from DFT due to health concerns or evidence related to torture or trafficking. During 2013 there were 935 cases taken out of the DFT before a decision was made on the asylum claim.

In policy terms, apart from initial detention via the DFT, the other point in the asylum process at which detention may occur is expected to be at the end of the process when refused asylum seekers may be detained prior to removal from the UK.

However of 14,729 asylum detainees recorded as leaving detention in 2013 less than half (43%) were removed from the UK on leaving detention, and the remainder were released, bailed, granted temporary admission, or even in a few cases granted leave to remain.

In some cases, as an alternative to detention, a refused asylum seeker may be required to report on a regular basis at a UKVI Reporting Centre.

Unaccompanied Children

In 2013 there were 1,265 asylum applications from unaccompanied children. The number of applications has dropped compared with a few years ago. Three quarters of the applications in 2013 came from just 6 countries of origin; Albania, Afghanistan, Eritrea, Iran, Syria and Vietnam. The vast majority of child applicants are male, approaching 90% of applications.

Unaccompanied children are looked after by local authorities until they reach the age of 18.

Women

The proportion of asylum applications made by women has varied in recent years between 27% and 33%. However there are considerable variations from one country to another. For a few countries of origin at least 50% of asylum applications in 2013 were from women; Zimbabwe, The Gambia, Democratic Republic of Congo, and Uganda were examples. From Bangladesh, in contrast, only 9% of applications in 2013 were from women.

In recent years women asylum seekers have been more likely to be granted refugee status than men, but less likely to be granted humanitarian protection or discretionary leave. Refusal rates have been broadly the same for men and women. Women have also had a higher success rate on appeals.

Concerns about the way in which women are dealt with during the asylum process have frequently been raised, and whether the process is sensitive to the specific issues faced by women. For example the expectation that at an interview with a UKVI caseworker, a woman who has been the victim of domestic violence or rape will be able to disclose this, has been pointed to as a serious problem.

'Legacy' Cases

In 2006 the Home Secretary announced a programme of work to clear outstanding asylum cases by 2011. At that time it was estimated that there were as many as 450,000 case records in the UK Border Agency (UKBA) of cases where an asylum claim had been made before March 2007 and the claim was unresolved, or more often, that UKBA had not closed the case. This became known as the legacy programme. The aim of the programme was essentially to review all the outstanding cases, and decide whether or not the person should be allowed to remain in the UK. The Case Resolution Directorate was set up to handle this programme.

The 2012 report of the Independent Chief Inspector of Borders and Immigration found that in March 2011 when UKBA said that the review of all the cases had been concluded there were actually 147,000 cases unresolved. These cases had been passed to a new unit (the Case Assurance and Audit Unit) within UKBA to resolve, but this process was heavily criticised. The programme remains unfinished.

The Gateway Programme

The Gateway Protection Programme is operated by UKVI in conjunction with the United Nations High Commissioner for Refugees (UNHCR). It creates a route for up to 750 refugees to settle in the UK each year separately from the standard asylum procedures.

Applications are made to UNHCR in a country where they are operating. UNHCR then refer suitable applicants to UKVI. Checks are carried out by UKVI to assess the applicant's refugee status, need for resettlement, family status, and whether they pose a security risk.

Applicants who are accepted and come to the UK are supported on arrival via programmes involving local authorities who have agreed to take part in the programme and a number of NGOs.

Note

UK Visas and Immigration (UKVI) is one of the two units set up within the Home Office (the other is the Border Force) which have taken over the work which used to be carried out by the UK Border Agency (UKBA).

Further information and links

Refugee Council policy and statistics briefings:

<http://www.refugeecouncil.org.uk/policy/briefings>

http://www.refugeecouncil.org.uk/policy_research/the_truth_about_asylum

Home Office research and detailed statistics:

<https://www.gov.uk/government/statistics/immigration-statistics-april-to-june-2014-data-tables>

UKVI The asylum process and asylum support:

<https://www.gov.uk/browse/visas-immigration/asylum>

Asylum Policy and law, staff guidance and instructions, and immigration rules:

<https://www.gov.uk/government/organisations/uk-visas-and-immigration>

Independent Chief Inspector of Borders and Immigration:

<http://icinspector.independent.gov.uk/>

HM Inspector of Prisons reports on immigration removal centres:

<http://www.justice.gov.uk/publications/inspectorate-reports/hmi-prisons>

About the Refugee Council

The Refugee Council is the largest organisation in the UK working with asylum seekers and refugees. We give help and support to asylum seekers and refugees, and also work with them to ensure their needs and concerns are addressed by decision-makers.