

Asylum Advice

Prior to Substantive
Interview



Section 3:

Prior to Substantive Interview (Main Asylum Interview)

This section explains the asylum process so that you know:

- what to expect from the Home Office;
- what happens after your screening interview to help prepare you for your main asylum interview (“the substantive interview”);
- what you are expected to do during your asylum interview and;
- how to prepare for the Home Office decision on your claim for asylum.

If you have questions which are specific to your claim you should ask your legal advisor.

3.1 Overview of the asylum process

The Home Office, part of the United Kingdom (UK) Government, is responsible for considering your asylum claim and must decide whether you are in real danger in your country of origin and need protection in the UK. There are several stages in the asylum process and how long it takes will depend on your circumstances, but you will not be removed from the UK while your case is being considered.

The first stage is normally a screening interview and this should have taken place when you applied for asylum. The main reason for the screening interview is to establish your identity and how you arrived in the UK.

You may have been asked to report to an immigration office at a specified time each week or month and it is important that you continue to report while your case is considered. It is likely that all adult dependants in your application will need to report.

You should also have received an ARC card. If you have not received your ARC you will need to contact either Asylum Help on 0808 8000 630 or Home Office directly on 0300 123 2235. An ARC appointment will then be arranged for you.

You have a right to legal advice, which is free if you do not have the financial means to pay for it. Asylum Help can provide you with contact details of legal advisers if you do not already have one.

The next stage is a substantive interview. This is called your substantive interview and is your opportunity to provide more information to assist the Home Office to decide whether you need protection.

After the interview you should normally receive the Home Office decision together with information about what to do next. This is normally within 4-5 weeks, but in some cases it may take a lot longer for the decision to be made. If your case is delayed you will be able to ask the Home Office about the reasons for the delay.

3.2 Before your interview

You should receive a letter inviting you to attend the interview. A copy of this should be sent to your legal representative if you have one. This letter provides important information about arrangements for your interview. You should make sure your legal representative is aware of your interview date. They may also want to have an appointment with you before your interview.

It is important that you keep both your legal representative and the Home Office up to date with your address. You need to keep both the team dealing with your support (if you have applied for this) and the team dealing with your asylum claim up to date with your address. You will be able to find the contact details on the paperwork they have previously sent. If you do not do this you may miss important information that has been sent to you. This may have a negative effect on both your case and/or your support.

It is possible for your interview to be tape recorded, but you must ask the Home Office at least 24 hours before your interview if you want this. Please speak to your legal representative should you wish to request this. You should be given a copy of the recording as well as a written copy of your interview.

You can ask for a male or female interviewer and interpreter if this would make you feel more comfortable talking about difficult personal issues. In most cases the Home Office will be able to arrange this for you. Speak to your legal advisor for help with this, or directly to the Home Office if you do not have a legal advisor.

Children should not normally be present during the interview as it could be distressing for them and it may make it difficult for you to be open about all your reasons for seeking asylum. If you have children you should, if possible, make safe alternative childcare arrangements whilst you attend your interview. If you cannot make any arrangements you should let the Home Office know before the date of your interview.

There may be childcare facilities available to you whilst you are being interviewed. The Home Office cannot guarantee this.

3.3 How your claim is considered

The Home Office will consider your asylum application by applying the 'Refugee Convention' and the 'European Convention of Human Rights' to the individual circumstances of your claim.

A refugee is someone who leaves the country they come from because they have a well-founded fear of persecution (being harmed) due to their race, religion, nationality, membership of a particular social group (which can include sexual orientation), or political beliefs.

Those accepted as refugees are allowed to stay in the UK and will not be returned to the country where they face persecution.

If the Home Office does not feel you meet the requirements for Refugee Status they may grant you Humanitarian Protection under the European Convention of Human Rights.

The Home Office may choose to grant you discretionary leave to remain if there are other factors which mean you need to stay in the UK.

If you do not qualify for any form of protection or discretionary leave you will be refused. In some cases you may be expected to depart from the UK. You may have a right to appeal a refusal.

Your responsibilities

When you claim asylum you must be able to show the Home Office that you are in real danger and that you need protection. It is, therefore, important for you to provide information about what has happened to you and why you feel it is not safe to return. You should also provide all information relevant to your claim that you, and if relevant, your family are in danger and why you feel it is not safe to return. Your legal representative may assist you to obtain medical reports and country reports to provide additional evidence and support for your claim if this is necessary.

If you have come to the UK primarily for another reason (such as work or education) and you do not meet the refugee criteria you should consider options other than asylum, including whether to leave the UK voluntarily.

If you make an unfounded or abusive asylum claim, including a late or opportunistic claim, it is likely to be refused and you will be liable for removal once your claim has been processed. In certain circumstances appeals may only be made after departure from the UK.

It is a criminal offence to use deception or provide false documents in support of an application for leave to remain in the UK and you may be prosecuted and may be sent to prison if you do so.

3.4 Attending your interview

Your interview will take place in a Home Office building near to where you live. If you are receiving asylum support and live more than 3 miles from the interview centre, you should be given a travel ticket to enable you to attend your Asylum Interview. If it is not the nearest centre, and you have to travel a long way, the Home Office may arrange overnight accommodation. You will need to contact the Home Office to arrange travel. You will need to give as much notice as possible. You can also contact Asylum Advice (UK) on 0808 8000 630 for assistance with this.

When you arrive you will need to go through security. This is nothing to be alarmed about and is purely for safety reasons. You will be asked to remove any coats, jackets or belts and place them in a tray with the contents of your pockets. Your luggage and bags will be placed through a scanner or hand searched. Any items not allowed will be taken from you and can be collected when you leave. Any items that are deemed to be offensive weapons will be taken away.

You may need to wait in reception until a caseworker calls you (and your representative if you have one) into an interview room.

The Home Office will provide an interpreter for the interview if you need one and they must interpret what you say accurately so that the Home Office have a full record of the information you provide.

Interpreters are required to keep any information you provide strictly confidential. If you have any concerns about your interpreter or do not fully understand their accent or dialect you should raise this with the Home Office caseworker immediately. Please let your caseworker know if you have any concerns about the interpreter. It will not affect how your case is decided or the outcome of your case. You are able to request a break at anytime during your interview and this will not affect how your claim is decided.

If you are unhappy with the services that have been provided or feel that the Home Office staff, interpreters or anyone connected with the Home Office did not treat you with respect and dignity, or you are concerned with the professional conduct then you can make a complaint. It is important that you make your complaint as soon as possible after the event. The Home Office will not normally investigate complaints that are more than 3 months old.

You will need to make a complaint in writing. This can only be written in English or Welsh. If you are in the UK you will need to send this to either:

- Email: complaints@homeoffice.gsi.gov.uk. The Home Office normally respond quicker to email complaints.
- In writing: UKVI, Complaints Allocation Hub, 11th Floor, Lunar House, Wellesley Road, Croydon CR9 2BY.

You will need to make sure the following are included:

- Your name and full contact details;
- Full details of the complaint (including times, dates and places);
- The names or identifying numbers of any UK Visas and Immigration staff or contractors' staff who you have dealt with;
- Details of any witnesses (if relevant);
- Copies of letters or papers that are relevant; and
- Your Home Office reference numbers.

Your complaint will be managed by one of the Home Offices customer service units (CSUs). They will be responsible for ensuring that your complaint is resolved in a satisfactory and timely manner. The Home Office will send you an acknowledgement, telling you who is dealing with your complaint. They will normally give a full response in 20 days. However, if your complaint alleges serious professional misconduct it may take up to 12 weeks as an independent investigation will take place. Making a complaint will not affect how your case is decided, or adversely affect the outcome of your case.

3.5 During your interview

It is really important to provide as much detail as possible about the reasons why you are in danger and need protection, and how your family has been affected. This will help the Home Office to make an informed decision.

It is important that you provide information about occasions on which you have been harmed or threatened in the country you came from. You may include events since you left, as well as what you believe will happen to you or to your family if you return there.

You may feel you do not want to talk about certain issues, particularly personal or sensitive matters, but the issues that are often very difficult to discuss can be vital evidence to establish your claim. All the information you are able to provide helps the Home Office to better understand your reasons for seeking protection.

Your interviewer should help you through difficult questions, giving you time to explain what happened, and should be sensitive and offer you a break when talking about difficult issues. Although it may be very difficult, it is important that the Home Office are made aware of any information about incidents of torture, sexual violence, trafficking or abuse by family members or anyone else so that your case can be fully and properly considered.

The information you provide will be confidential and will not be shared with other members of your family, who are not dependant on your claim and will not be shared with the authorities of your country of origin.

You may have been advised not to tell the Home Office about some aspects of your claim or may even have been advised to provide a completely different story. This is damaging to your case and is likely to lead to refusal. It is essential that you tell the truth and provide as much information as you can about what happened to you and why you need protection.

Your interviewer should give you an opportunity to explain any inconsistencies in the information you give and should also give you an opportunity to add anything that has been missed at the end of the interview.

There are organisations that can offer you appropriate support and counselling to help you come to terms with difficult or traumatic events you may have experienced. To find out more information on the support available please contact:

Helen Bamber Foundation, www.helenbamber.org

Freedom from Torture, www.freedomfromtorture.org

3.6 Documents to support your claim

If you have any official documents that you think may help explain your claim, they should normally be translated into English before the Home Office can consider them. Speak to your legal representative about this.

Documents may include:

- Passports and travel papers
- Birth, marriage and/or death certificates
- Papers related to any arrest/detention
- Papers provided by a court, magistrate or other official
- Newspaper articles or internet sites that relate to your claim
- Any other evidence that you may be able to provide (e.g. photographs)
- Any medical evidence to support your claim.

Your legal representative (if you have one) will help you to translate documents and will be best placed to advise you about what may be relevant. If possible you should try to provide any documents to the Home Office before your interview, including a written witness statement if you can.

If you have documents in your home country that you think are important, you should discuss this with your legal advisor as soon as possible. It may be possible to delay the consideration of your claim while you arrange for these documents to be sent here, providing it is safe for you or your family to do so.

The Home Office will keep any documents you do provide safely, whilst your claim is decided. The Home Office will not accept documentation that have not been legally translated.

3.7 Home Office responsibilities

The Home Office has a responsibility to consider your claim fairly and openly and will make a decision based on the law. It will consider all of the information that you have provided.

The evidence includes what you are able to provide during your asylum interview, your screening interview, any documents you are able to provide and general information about your country of origin.

The Home Office will explore the reasons why you need protection in detail. If you appear to be avoiding answering questions relevant to your circumstances or provide inconsistent evidence, you should be given an opportunity to explain.

For example if you told them you were born in one place in your Screening interview but say another at your substantive interview, the Home Office should ask you to explain why your answers are different.

Your interview is your opportunity to tell the Home Office in your own words why you believe you are in danger in your country of origin but it also enables the Home Office to ask questions so that the important aspects of your case are fully explored.

After your interview, the Home Office will consider your claim. Part of the consideration process is about deciding whether to believe the account you have given. The Home Office may accept some, all, or none of what you say. This is referred to as assessing your credibility.

3.8 After the interview

It is important that you keep the Home Office and your legal representative up to date with your details if they change. A letter may be sent to you directly confirming the outcome of your case.

It is important that you continue to report to your local reporting centre while waiting for your asylum decision in accordance with your reporting paper (IS96).

If you are supported by the Home Office and live more than 3 miles from the reporting centre and/or you have exceptional circumstances in your family then you may be eligible to receive help with travel tickets for reporting.

It is important that you contact the reporting centre or your legal representative if you have any difficulties in reporting. Failure to report may affect your access to support and in some circumstances may lead to the discontinuation of support. “Non Compliance” with reporting or other Home Office requests may result in you being detained.

If the Home Office has not made a decision on your asylum application within 12 months or has not interviewed you yet then you can apply to them for permission to work. This may be granted if you are not considered responsible for the delay in decision-making. Any permission to work stops once the asylum claim has been finally determined (i.e. when all appeal rights are exhausted).

If you are granted permission to work then you will only be able to partake in employment that is on the Shortage of Occupation list (this is a list of work that you are allowed to do) which is available on the Home Office website. Any Income may affect your entitlement to asylum support and legal Aid. You should inform the Home Office support teams and your legal advisor if you start work.

As an asylum seeker you are allowed to volunteer while you are in the UK. You can volunteer within public sector agencies, not-for-profit organisations and charities, but there may be some restrictions on the type of activity you are allowed to undertake. You cannot receive payment for your time but can be reimbursed reasonable expenses e.g. travel costs and lunch.

3.9 Receiving a positive decision

If it is accepted that you have a well-founded fear of persecution or it would breach your human rights to expect you to return to your country of origin, you will be allowed to stay in the UK for a set period of time.

Family members who are dependant on your asylum claim will also be allowed to stay for the same duration if you are granted leave.

The time you are allowed to stay will depend on what basis you are granted permission to stay.

You will be provided with information telling you what you can and cannot do in the paperwork the Home Office provide with your decision.

Before your permission to stay expires, you must make another application for permission to extend your stay in the UK if you want to stay. You need to remember when your permission to stay runs out and you must apply on time. Your legal representative will be able to help you and you can find all the information you need on the Home Office website.

3.10 Receiving a negative decision

If the Home Office refuses to grant you leave to remain, they have to provide you with a letter setting out the reasons why. This will be sent to either you or your legal advisor. This letter will be written in English.

You must make contact with your legal representative as soon as you are aware a negative decision has been made. You will need to discuss your options. You should carefully consider your options at this stage:

- You may be able to appeal the Home Office decision but there are strict timescales for doing so. That means you can ask an Immigration Judge, who is independent from the Home Office, to look at the decision and decide if they agree with it. (See briefing section regarding asylum refusal)
- If you choose not to appeal you will be expected to make arrangements to leave the UK. The Home Office's Assisted Voluntary Return (AVR) scheme may be the most suitable way.

For more information about Assisted Voluntary Return please visit:

www.gov.uk/return-home-voluntarily
Voluntary Departures Team: 0300 004 0202