

Getting started: working with people seeking asylum

A woman taking notes at a Mayoral event

Key information

Publication type: General

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Introduction

This introductory section gives an outline of essential information for stakeholders who are working with people seeking asylum and refugees. It covers pragmatic working definitions (not suitable for legal/immigration/advice work) and the current situation in London. It introduces the processes that people seeking asylum go through and essential entitlements to support such as housing and health.

1. Pragmatic definitions

Pragmatic definitions are often enough when you are working with people seeking asylum in social, welfare, health and cultural spheres, with more precise definitions necessary when dealing with specific entitlements.

The information in this chapter is introductory, and not for immigration-related case work which you must be licensed to provide. It is not sufficient for detailed advice, case work or advocacy work.

1.1 'Asylum Seeker'

An asylum seeker is someone who has submitted an asylum claim to the Home Office and asked to stay in the UK on the grounds that, if they are returned to the country of origin, they are likely to face serious human rights violations. [Reference:1](#) They are still waiting for a decision and might also be waiting for a decision after appealing an initial refusal.

Someone who has **claimed asylum but whose application has been refused** might still describe themselves as an ‘asylum seeker’ but could have reduced entitlements to support and health services compared to people who are still waiting for a decision on their asylum claim.

Asylum seeker entitlements in outline:

- Asylum Seekers cannot work (unless they have obtained a work-permit).
- They have full, free access to NHS care.
- If they are destitute they are entitled to Asylum accommodation on a no-choice basis, and a weekly subsistence allowance from the Home Office, under provisions known as asylum support.

1.2 'Refugee'

Legal definition: The [international, legal definition](#) of refugee, from the 1951 Convention relating to the status of refugees is:

“A person who owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who... is unable or, owing to such fear, is unwilling to return to it.”

Pragmatic definition: Support staff often use the term ‘refugee’ in a pragmatic way, referring to a person’s entitlements, which may relate only broadly to a person’s immigration status. This working use of ‘refugee’ refers to people who have claimed asylum and have been given some kind of permission to stay in the UK. It is often used to distinguish between people who have some form of leave to remain in the UK and people who are still in the asylum process, entitlements and support.

Not everyone who is given a ‘positive decision’ and leave to remain is given ‘international refugee status’ (sometimes called ‘convention status’) as in the first definition. Some people may be given other forms of leave to remain; some permanent, others receiving leave with a fixed term, and this latter group will need to apply for an extension of their leave or settlement before their current leave expires. If they apply on time their rights and entitlements continue as people with refugee status or other leave to remain, while they wait for a decision on extension from the Home Office.

Refugee entitlements in outline:

- ‘Refugees’ (those who have been given status after applying for asylum) can work, they can get mainstream benefits, and have all the rights and entitlements of British nationals including full access to all NHS services.
- They find their own housing unless they in ‘priority need’, in which case the local authority will house them, as they would with a British national.
- ‘Resettled Refugees’ (who have arrived through resettlement schemes - see Experiential definition below) have different entitlements and different access to accommodation, training and employment and services from the council, which will depend on the details of the scheme they arrived through.

People working directly with refugees may find it useful to be aware of the different impact the sense of permanent security or only temporary protection can have on a person. People with long term or permanent

forms of leave to remain who feel fully secure, may be able to focus on rebuilding a life, taking long-term decisions and sense of agency. Those who still feel insecure may be making decisions on a much shorter time scale.

Experiential definition: A third working definition of ‘refugee’ can be one based on the experiences people have had before arriving in the UK, and how they identify themselves. For example, some Syrians and Afghans or Ukrainians and Hongkongers do not have ‘refugee’ status and have not come through the asylum process in the UK immigration system, but may have lived through experiences of persecution (or fear of persecution, as above) and war.

A more subjective definition is relevant to staff providing social, cultural, wellbeing and mental health support, and may not be related to a person’s legal status or entitlements.

2. Additional protections

Some groups of people seeking asylum and refugees have additional forms of protection and support. Although access to welfare benefits and housing is dictated by one’s immigration status, in some situations, people have rights and entitlements to services regardless of their immigration status, such as local authority social care.

a) **Children:** any child before their 18th birthday is a child in British law and has the rights and protections of a child in the UK.

Unaccompanied asylum seeking children should be taken into care by a local authority (‘Looked After Children’). Separated children seeking asylum (UASC) have additional support as they fall under the provisions of the Children Act 1989. Any young person who was ‘looked after’ and is now 17+ has the rights of any child leaving care, even if they are also still waiting for an asylum decision or even if they have been refused asylum.

Please note: if the Illegal Migration Act comes into force, this will change arrangements for supporting unaccompanied children, and includes power to detain children.

Note on age disputes/assessments:

A person judged by Borders officials to be significantly over 18 will be housed in adult accommodation. If they claim to be under 18 and/or other professionals consider they may be under 18 this should be reported immediately to the local Multi-agency Safeguarding Hub (MASH) as this is a safeguarding concern. Contact should also be made with the Home Office Safeguarding Hub. The young person should be moved from adult accommodation pending a Local Authority ‘Merton’ Age Assessment.

Where previously UASC were cared for by the local authority where they presented, the National Transfer Scheme now distributes UASC across local authorities, so many authorities are starting to support larger numbers of UASC than previously.

b) **A disabled person or a person with care needs** has rights to support under Adult Social Care legislation, Equality and Disability legislation and Human Rights legislation. A person who is disabled or believes they have care needs has a right to a Care Assessment from their local authority.

c) If someone has had an **initial refusal but has submitted an appeal** and is waiting for a further decision, they continue to have the rights and entitlements of a person seeking asylum, including potential Home Office accommodation and support. Those who have been refused may be able to continue to access asylum support (known as Section 4).

d) If the Illegal Migration Act comes into full force, any person arriving from 7 March 2023 by ‘irregular’ routes will have any asylum claim ruled inadmissible, and may be detained subject to removal. This group is likely to remain in limbo for many months or years with extremely limited options to gain status, waiting to be removed. They may have reduced support similar to s4, but some bodies consider it likely that a substantial proportion may leave Home Office accommodation and become undocumented migrants.

You can find further information via a [summary of the GLA's emergency summit on the Illegal Migration Bill](#) (before it received royal assent) and [Refugee Council's impact assessment of the Act](#).

3. Entitlements of people seeking asylum

Entitlements change at different points in the pathway of a person seeking asylum towards refugee status or application refusal. Entitlements depend on the individual circumstances which may also change over time. Entitlements may change as policy changes.

For current information on asylum support entitlements, please see the below resources:

- [Official Government website](#)
- [Migrant Help](#) (Home Office-commissioned asylum support provider)
- [Asylum Support Appeals Project \(ASAP\)](#)
- [Right to Remain Toolkit – Right to Remain](#)
- Advice on entitlements for pregnant women and babies from [Happy Baby Community](#).

All people in the UK are protected by the Equality Act 2010, the Human Rights Act 1998 and Statutory Safeguarding Duties.

4. An outline of the asylum process

1. A person makes a claim for asylum.
2. Initial interview - Biometric details, finger prints; original identity documents, receive Application Registration Card (ARC) (can then apply for Asylum Support).
3. Substantive interview - to present the case for refuge and provide evidence.
 - What are the grounds for ‘Refugee Convention Status’:
 - You must prove a ‘Well-founded fear of persecution...’ (1951 Refugee Convention)
 - You must prove you are at risk, now – not about previous experiences.
 - You must be seen as reliable and credible.
 - Currently under the ‘streamlined asylum process’ (SAP) there are different procedures for people from Afghanistan, Eritrea, Libya, Syria, Yemen. See the [government's website](#), and more information via [Refugee Council](#) and [Right to Remain](#).

- It is important to note that If the full Illegal Migration Act (IMA) comes into force, any person arriving from 7 March 2023 onwards by what the Government decides are irregular routes will have their claim deemed inadmissible: they will not be able to claim asylum. They will be subject to detention and removal from the UK to their country of origin or a safe third country where such a removal is deemed lawful.
- 4. Decision - letter sent to individual or solicitor.
 - If a letter with a **Positive** decision:
 - Biometric Residence Permit (BRP), right to work, mainstream benefits.
 - 28 days from date the decision letter is issued to 'move on' i.e. leave Home Office accommodation and support (see our page on [Supporting changing needs](#)).
 - 7 days from when notice to vacate/quit letter is issued, if after 28 days.
 - If a letter with a **Negative** decision:
 - Includes instructions to leave the UK.
 - Appeal: Through tribunal/apply through other immigration channels.
 - Agree to depart/take active steps to depart.
 - They may continue to receive Home Office Section 4 support.
 - Households with a negative decision which include children are not evicted from asylum accommodation.
 - While all asylum seekers are on 'Immigration Bail' and thus subject to detention, those who have had their claim refused are more likely to be detained.
 - Some people become undocumented, or irregular migrants without a right to remain in the UK.

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References

- [Reference:1](#) For the purpose of inclusive language, this toolkit uses the term 'person seeking asylum'. Where referring to Home Office guidance and policy, we refer to the Government's official terminology of 'asylum seeker'.