

# Guide to the UK asylum and refugee process for journalists (January 2016)

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The media plays a key role in how asylum seekers and issues around asylum are perceived by the public. With crises across the world heightening, it is tantamount that the media report fairly and accurately surrounding issues affecting groups of incredibly vulnerable people who are fleeing persecution and violence. What follows is a brief guide to the asylum process in Scotland to ensure reporting is representative of the facts.

## Key facts

A **Migrant** is anybody who moves from one region or country to another.

An **internally displaced person** (IDP) is a person who has been forced to flee their home but who has not crossed an internationally recognised state border.

An **asylum seeker** is a person who has made a claim to be considered for refugee status to a state which has signed the UN Convention on Refugees. Scottish Refugee Council prefers to say an asylum seeker is 'refused' instead of 'failed' if they are unsuccessful with a claim.

A **refugee** is someone whose individual application for asylum has been granted. They have been recognised by a designated authority as needing protection under the 1951 UN Convention on Refugees.

About the **UNHCR** (United Nations Commissioner for Refugees):<sup>1</sup>

*'The Office of the United Nations High Commissioner for Refugees was established on December 14, 1950 by the United Nations General Assembly. The agency is mandated to lead and co-ordinate international action to protect refugees and resolve refugee problems worldwide. Its primary purpose is to safeguard the rights and well-being of refugees. It strives to ensure that everyone can exercise the*

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<sup>1</sup> <http://www.unhcr.org/pages/49c3646cbf.html>

*right to seek asylum and find safe refuge in another State, with the option to return home voluntarily, integrate locally or to resettle in a third country.'*

The Universal Declaration of Human Rights states in Article 14 (1) that 'Everyone has the right to seek and to enjoy in other countries asylum from persecution.'<sup>2</sup>

### **Who can apply for asylum?**

Anyone can apply for asylum. Each claim will be considered on individual evidence

### **MYTH: we are over-run with asylum seekers**

In 2014, the last full year recorded by the Home Office, around 25,800 people applied for asylum in the UK. Around 2500 of these applicants were dispersed to Scotland while their claim for asylum was considered by the Home Office. In the UK there are 494 asylum applicants to the UK per million inhabitants in 2014.<sup>3</sup>

Germany received eight times as many asylum seekers as the UK in 2014, with Hungary three times as many. Sweden, France and Italy all received at least double the number of applications.

The overall estimate for total numbers of refugees and asylum seekers in Scotland is 15,000 to 20,000.<sup>4</sup>

In the UK the most people seeking asylum were from countries such as Eritrea, Pakistan, Syria, Albania, Iran, Sudan, Sri Lanka, Afghanistan, Nigeria, Bangladesh, India and China. The need to seek asylum can be for numerous reasons: some people escape human rights abuses, a totalitarian regime, or civil war. Reasons for fleeing are often complex and differ for each individual.

<sup>2</sup> <http://www.un.org/en/universal-declaration-human-rights/>

<sup>3</sup> <https://easo.europa.eu/wp-content/uploads/EASO-Annual-Report-2014.pdf>

<sup>4</sup> [http://www.scottishrefugeecouncil.org.uk/assets/0000/5495/4087\\_SRC\\_Referendum\\_Report\\_V3.pdf](http://www.scottishrefugeecouncil.org.uk/assets/0000/5495/4087_SRC_Referendum_Report_V3.pdf)

## **Where can they apply?**

An application for asylum can be done in country, at port, or from another country via a scheme through the UNHCR. In the UK there have been various schemes to support safe routes for refugees to come to the UK. The current UK arrangement is the Syrian Vulnerable Persons Relocation Scheme (Syrian VPR).

### **MYTH: they have to apply for asylum in first country entered**

The UN Convention on Refugees 1951 does not mention in what country people have to apply for asylum. This means that anyone can apply in any country they want to.

However, in the EU, the Dublin (III) Regulation stipulates that the country that is responsible for processing a claim is the Member State that the person first entered into in the EU.<sup>5</sup>

### **MYTH: they're all here illegally**

The UN Convention relating to the status of refugees stipulates that, generally refugees should not be penalised for their undocumented or irregular entry or stay. This recognises that the seeking of asylum can require refugees to contravene immigration rules. Scottish Refugee Council collaborated with the Lord Advocate in 2015 to produce guidance for the legal profession in Scotland on this section of the Refugee Convention, so that people are not penalised for offences related to their entry to Scotland.<sup>6</sup>

### **MYTH: there's no room, we're already overcrowded**

This simply isn't true.

We are, unsurprisingly, not about to run out of places to live any time soon. In fact, 25,000 homes<sup>7</sup> in Scotland are currently empty.<sup>8</sup>

<sup>5</sup> <http://www.ecre.org/topics/areas-of-work/protection-in-europe/10-dublin-regulation.html>

<sup>6</sup>

[http://www.crownoffice.gov.uk/images/Documents/Prosecution\\_Policy\\_Guidance/Guidelines\\_and\\_Policy/CO\\_PFS%20Refugees%20Policy.pdf](http://www.crownoffice.gov.uk/images/Documents/Prosecution_Policy_Guidance/Guidelines_and_Policy/CO_PFS%20Refugees%20Policy.pdf)

<sup>7</sup> <http://www.mirror.co.uk/news/ampp3d/housing-crisis-10-empty-homes-5008151>

<sup>8</sup> <http://www.gov.scot/Topics/Built-Environment/Housing/supply-demand/emptyhomes>

If all the refugees and asylum seekers in Scotland gathered at Hampden stadium it would be less than 40% full.<sup>9</sup>

Asylum seekers make up less than 0.5% of the population of Glasgow.<sup>10</sup>

The UK is home to less than 1% (0.0026%) of the world's refugees – out of more than 59.5 million forcibly displaced people worldwide.<sup>11</sup>

About 86% of the world's refugees are living in developing countries, often in camps.<sup>12</sup>

Even if we were truly overcrowded – we still can offer somewhere safer than the countries which refugees are fleeing from. We have both a moral and a legal obligation under the UN Convention on Refugees 1951, The Universal Declaration of Human Rights and The United Nations Convention on the Rights of the Child to respect peoples' right to a safe haven.

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<sup>9</sup> <http://www.asylumscotland.org.uk/files/2013/08/SRC-The-Facts-Booklet.pdf>

<sup>10</sup> <http://www.asylumscotland.org.uk/files/2013/08/SRC-The-Facts-Booklet.pdf>

<sup>11</sup> <http://www.unhcr.org/gr13/index.xml>

<sup>12</sup> <http://www.unhcr.org/gr13/index.xml>

## The application process

Applications for asylum can be made at immigration control at a port of entry into the UK (airports or sea ports), or at the asylum screening unit in Croydon. Approximately 90% of asylum applications are made in-country at this unit in Croydon.

Shortly after making an application the applicant will be required to attend a screening interview where a photograph will be taken along with fingerprints and loaded onto an Application Registration Card (also known as an ARC) issued to the asylum seeker. This first interview is used to establish some key facts about the person, such as identity, country of origin, when and how they arrived in the UK and what documents they possess such as a passport or identity card. At this point the asylum seeker is issued with an IS96 or IS248 letter to grant temporary admission to the UK. The letter outlines the residence and reporting restrictions that the claimant must abide by.

The applicant is allocated a casework team within UK Visas and Immigration (UKVI) that will conduct the second interview and make the decision on the claim. This interview is often called a substantive interview. This interview is more in depth than the first interview and is used to compare information is accurate and consistent to the first interview. This is when the claimant has to provide evidence to back up their claim. This evidence can be in the form of documents such as a warrant for arrest from country of origin, newspaper cuttings, and passports that substantiate a claim for asylum from persecution. All evidence needs to prove that they are in need of protection and cannot safely return to their country of origin.

Whilst the decision making process is underway, which can take more than 6 months, the claimant must report to a reporting centre or police station nearest them showing their ARC when they report. Failure to attend the reporting centre can lead to detention and likely to mean that their support is discontinued.

### Decisions

The casework team make a decision based on whether the claimant qualifies for recognition as a refugee under the 1951 UN convention relating to refugees. A refugee, according to the UN Convention, is someone who is

unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion.

If refugee status is granted by the UKVI, the claimant will be given permission to stay in the UK for 5 years. This is known as leave to remain. If asylum is refused, very rarely a claimant can be granted humanitarian protection, which means that the UKVI don't think the claimant qualifies for refugee status, yet they acknowledge that it is not safe for this person to return to their country of origin. If granted refugee status or humanitarian protection, the claimant can normally stay in the UK for five years. Once five years has passed they can apply to stay in the UK indefinitely, which is granted most of the time.

The UKVI may grant discretionary leave if the claimant does not qualify for refugee status or humanitarian protection. This is for a limited time only, after which they may apply to stay longer.

## **Appeal**

Most asylum claimants that have had their application for asylum in the UK refused have the right to appeal against the decision. This requires that the claimant put forward any extra evidence to support their claim for protection as to why they should be granted leave to remain in the UK. All extra information will be heard by a judge at a tribunal hearing. In Scotland tribunal hearings are held at the Glasgow Tribunal Hearing Centre. Claimants do not need to be present at the hearing unless the tribunal rule the individual should be physically present so they can fully understand their situation.

The appeals process in Scotland does not differ from the process throughout the rest of the UK. The Immigration and Asylum Tribunal is dealt with by Reserved Tribunals administered by HM Courts and Tribunal Service.

From 2004 to 2014 around three-quarters of main applicants refused asylum at initial decision lodged an appeal. In 2014 around 30% of initially refused asylum seekers had their appeals allowed, finding that initial decisions made in the substantive interview are often wrong.

## Housing

Asylum seekers are entitled to support whilst making a claim to stay in the UK. This includes cash support and accommodation as long as the application has been made as soon as 'reasonably practicable' after arriving in the UK. Asylum seekers cannot claim mainstream benefits and are not permitted to work in the UK whilst claiming asylum. If the claimant's application has not been processed by the UKVI in 12 months, they can apply for the right to work. However this is rarely granted, and if granted work is only permitted if it is a job included on the official shortage occupation list<sup>13</sup>.

If needed, accommodation can be provided. This ranges from accommodation in a house or flat, to being housed in a bed and breakfast or hostel. If the UKVI grant housing, the asylum seeker will then be offered somewhere to stay outside the south east of England and in particular London. Glasgow was identified as a dispersal city in 1999 in a bid to move asylum seekers away from London and the south east of England.

Housing is contracted out by the Home Office under a contract called COMPASS (Commercial and Operational Managers Procuring Asylum Support Services) to a number of private companies, including G4s, Serco and Clearel. The claimant is entitled to stay in accommodation until their application has been refused or accepted.

## Financial Support

Asylum seekers of whatever age, including children, that successfully claim cash support from UKVI are entitled to £36.95 per person per week (as of August 2015) which is available for collection every week at a designated post office using the Application Registration Card (ARC). This payment has remained fairly static since 2011 with an increase of 33p for a single person in 2015. In 2015 the cash support provision for asylum seekers was changed to provide anyone claiming with the same standard rate. Pregnant woman can claim £3 extra a week if they meet specific guidelines set out by UKVI. Pregnant

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<sup>13</sup>[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/308513/shortageoccupationlistapril14.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/308513/shortageoccupationlistapril14.pdf)

woman are also entitled to a one off £300 payment if they meet these guidelines.

Asylum seekers are entitled to free NHS healthcare throughout the process of their application including free prescriptions, free dental care, free eyesight tests and vouchers for glasses.

Support is sometimes provided for refused asylum seekers under what is called 'section 4' support. The refused asylum seeker has to meet specific definitions outlined by the UKVI. This entitles them to £35.39 per week, but not as cash. Instead it is loaded onto an 'azure' card with the purpose of purchasing food and some essential toiletries. The balance of this card refreshes every week, and is only available to spend at specific shops such as Tesco's, Morrison's and Asda. Travel is almost impossible to purchase for refused asylum seekers who are not able to earn money.

If the asylum claim is successful the claimant will no longer be entitled to cash support, instead they will be able to work and claim mainstream welfare benefits.

## **Detention**

Detention may be perused by the UKVI if an asylum claim is refused prior to removal from the UK. Some claimants are detained as soon as they make an application for asylum through a process called the Detained Fast Track (DFT) system which aims to deal with claims quickly. However, the DFT process has been temporarily suspended after a high court ruling found that the process focused on speed and efficiency, in place of fairness and justice.

Under the current constitutional settlement immigration is a reserved matter, so is dealt with by the UK government under Schedule 5 of the Scotland Act 1998.

Dungavel House immigration removal centre in South Lanarkshire is used to detain asylum detainees in Scotland by the UKVI, and is the only centre in Scotland. Occasionally detention may be proved unsuitable in cases that someone has been a victim of torture or violence, in which case the person is required to report frequently to a reporting centre.

## **Unaccompanied children**

There were 2,564 asylum applications from unaccompanied children in the year ending September 2015, an increase of 50% from the year ending September 2014 (1,712). These applications represented 9% of all main applications for asylum in the year ending September 2015. 69% of these applications were granted, with the child allowed to stay in the UK. Most unaccompanied children that make their way to the UK are male.

## **Syria**

Syria is currently entering its fifth year of civil war, and is one of the world's worst humanitarian crises with no visible solution in sight. Almost 4 million people have fled the country to seek refugee status abroad, while over 7 million remain displaced within the country.

The UK government has agreed to accept 20,000 Syrian refugees under an expansion outlined by David Cameron of the Syrian Vulnerable Persons Relocation (SVPR) Scheme. Scotland has agreed to home 2,000 Syrian refugees and welcomed many at the end of 2015. Under the scheme refugees are identified with the help of the United Nations High Commissioner for Refugees (UNHCR) and are granted five years' Humanitarian Protection in the UK. These refugees are supplied with a certificate to travel, which currently costs £382; however it is still unclear whether they will be granted leave to remain after five years.

Syrian citizens remain one of the UK's highest claimants for asylum, with many making their way to the UK to seek asylum from civil war.

**About Scottish Refugee Council** - Scottish Refugee Council is an independent human rights charity dedicated to supporting people who have fled horrific situations around the world. We believe in a Scotland in which all people seeking refugee protection are welcome and where people seeking sanctuary can live dignified and safe lives. We help people rebuild their lives by providing essential advice, information, support and a listening ear.

**Any questions – get in touch with our media team**

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Phone: 0141 248 9799

**Note:** UK Visas and Immigration (UKVI) was formerly known as UK Borders Agency.

**Acts passed in the UK that underpins asylum policy.**

- 1971 Immigration Act
- 1987 Carriers' Liability Act
- 1993 Asylum & Immigration Appeals Act
- 1996 Immigration Act
- 1998 Human Rights Act
- 1999 Immigration & Asylum Act
- 2002 Nationality Immigration and Asylum Act
- 2004 Asylum & Immigration (Treatment...)Act
- 2006 Immigration Asylum & Nationality Act
- 2007 UK Borders Act
- 2009 Borders, Immigration and Citizenship Act
- 2014 Immigration Act
- 2016 Immigration Bill

## Links of note

UKVI asylum policy

<https://www.gov.uk/topic/immigration-operational-guidance/asylum-policy>

Scottish Refugee Council policy

[http://www.scottishrefugeecouncil.org.uk/what we do/policy and research](http://www.scottishrefugeecouncil.org.uk/what_we_do/policy_and_research)

The Scottish Government refugee and asylum seeker information

<http://www.gov.scot/Topics/People/Equality/Refugees-asylum>

Latest UK Government immigration statistics

<https://www.gov.uk/government/collections/immigration-statistics-quarterly-release>

Scotland Welcomes Refugees

<http://www.scotlandwelcomesrefugees.scot/>

HM Courts and Tribunals

<https://www.gov.uk/government/organisations/hm-courts-and-tribunals-service>

The Independent Chief Inspector of Borders and Immigration

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