

## The Nationality, Immigration and Asylum Act 2002

‘Everyone has the right to seek and to enjoy in other countries asylum from persecution’. *Article 14 (1) The Universal Declaration of Human Rights*

The Nationality, Immigration and Asylum Act 2002 received Royal assent on the 7th November 2002. Many of the measures contained within the Act were initially introduced in the Government’s White Paper *Secure Borders, Safe Haven: Integration with Diversity*, published in the February of 2002. The White Paper set out to radically overhaul the asylum system and emphasised the control and removal of unsuccessful asylum applicants.

### Refugee Definition

The definition of a refugee and how countries are meant to treat them are outlined in the 1951 UN Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees. Countries can sign either document; currently 134 states have signed to both.

Article 1a of the UN Convention defines a refugee as any 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, unwilling to avail himself of the protection of that country.’

The refugee definition is very strict, and asylum seekers have to prove that they meet all of the following criteria in order to be given refugee status. They must:

- be outside their country of origin, or outside the country where they usually live
- be at genuine risk and in fear of serious harm
- prove their own government does not want or is failing to protect them
- prove that their fear is linked to their civil, political, or social status (for example, they are being persecuted by the state because they are affiliated to an opposition political party, or because they are of a different ethnic origin)
- need and deserve protection

### Overview of the key changes to the NIA Act 2002

Some of the amendments to the Act have far-reaching implications to the lives of asylum applicants. In October last year the Government announced its intention to end the presumption that all destitute asylum applicants should receive support from the National Asylum Support Service.

### Sections 55 and 57 of the NIA Act 2002

Sections 55 and 57 came into force on the 8th January 2003 and affect the eligibility of asylum applicants to apply for NASS support. Under Section 55 asylum applicants will only be eligible for NASS support if:

- they can prove they have applied for asylum – which can only happen once they have been through the asylum screening procedures
- they meet the criteria for destitution
- they apply for asylum ‘as soon as reasonably practicable’ after their arrival in the UK

Under Section 57 the Home Secretary can introduce secondary legislation to withhold access to NASS support for all those in-country asylum applicants who:

- are unable to provide a clear and coherent account of how they came to the UK
- are unable to provide coherent and accurate information about their circumstances
- do not co-operate with the authorities with further enquiries

The impact of these changes may well have serious consequences forcing thousands of asylum applicants into extreme poverty. The measures effectively seek to refuse to provide shelter and food to asylum seekers regardless of their needs or the validity and merit of their asylum application. In addition, as there is no definition or guidance on what is meant by ‘as soon as reasonably practicable’ it will be virtually impossible for an asylum applicant to prove that they made every attempt to apply as quickly as possible after entry.

# Refugees, Asylum Seekers and the law

## Referrals for Asylum Support

**NASS has confirmed that it will now be unlawful for statutory organisations and those in receipt of statutory funding to accept referrals for support.** As a result the Refugee Council can only accept referrals in the following circumstances:

1. Referral by an immigration officer at port of entry. **Referral can only be accepted** where the applicant has a standard letter of acknowledgement (SAL), an Application Registration Card (ARC) and their IS96 document duly stamped by an immigration officer. Written confirmation of an 'oversight' will be required if not stamped.
2. In-country cases can only be accepted where an applicant can show a NASS decision letter that authorises access.

### Appeals

- There is no right of appeal against a NASS decision to disallow access to NASS support
- Ends the right of in-country appeals for those with 'clearly unfounded' claims – any right of appeal to this must be made from abroad
- Introduction of statutory review process to replace judicial review for those appellants who are refused leave to appeal to the Immigration Appeal Tribunal
- Introduces a power to provide for a closure date to prevent adjournments of appeals
- Prevention of last minute appeals against administrative decisions that implement a decision already made e.g. removal directions. A fresh appeal will remain possible against a new direction.

### Recent Changes

The Government have also announced that asylum applicants from those designated as safe countries would have their applications certified as 'clearly unfounded'. These countries include the ten EU accession countries (Poland, Hungary, Latvia, Lithuania, Czech Republic, Estonia, Slovenia, Slovak Republic, Cyprus and Malta). More recently a further seven countries have been added to this 'white list' of safe countries. These are Albania, Bulgaria, Jamaica, Macedonia, Moldova, Romania, Serbia and Montenegro. Asylum applicants from any of these countries will have to rebut the presumption that their human rights or asylum claim is 'clearly unfounded'. If applicants are unable to rebut this presumption they will have no right of appeal in the UK against a refusal of their claim.

In addition to the changes set out in the Nationality, Immigration and Asylum Act 2002 the Home Office is to –

- Stop accepting asylum applications in the UK by post, all applications will have to be made in person – effective as of 8th February 2003
- Suspend the operation of the 1959 Council of Europe Agreement on the Abolition of Visas for Refugees. All holders of refugee travel documents will require a visa before coming to the UK – effective as of 11th February 2003

## Eastern Region Four Immigration Areas

- **Stansted Enforcement Unit:**  
Essex above Colchester, Cambridgeshire, Hertfordshire and Essex ports from Maldon to Southend, Tilbury, Purfleet and Grays
- **Harwich Immigration Service:**  
Northern Essex ports as far as Maldon, and Suffolk
- **Norwich Immigration Service (Airport):**  
covers Norfolk
- **Bedford Immigration Service:**  
Bedfordshire, Luton Airport

### Dispersal Areas in the Eastern Region

The region initially was to consist of the three main cluster areas of Peterborough, Ipswich and Norwich with an additional four sub-cluster areas. After further consideration the four sub-cluster areas were removed from the listing.

**Peterborough** – largest dispersal area (figures not available)

**Norwich** – 200 asylum applicants by March with an additional 400 over an unspecified period

**Ipswich** – 100 asylum applicants by March with a growth of a further 300 over an unspecified period

# Refugees, Asylum Seekers and the law

## NASS: Asylum Processes Level 1 Overview (fig.1)

**Making an application:** asylum seekers can make their application at their port of entry to the UK or to the Immigration and Nationality Directorate.

**Screening:** applicants will be screened to establish their identity and nationality.

**Induction:** All claimants will go through an induction process wherever they are located e.g. a designated Induction Centre or a Removal Centre.

**Voluntary Assisted Return:** at any point during the asylum process an applicant may apply to this scheme.

**Accommodation:** NASS accommodation may be offered on a no choice basis either at an accommodation centre or in a NASS dispersal address.

**Reporting:** Applicants will be required to report periodically to NID throughout their application process and will be asked to provide either their Application Registration Card (ARC) or standard acknowledgement letter (SAL).

**Assessing the claim:** based on details given at interview and undertaken by a caseworker or immigration officer. If Statement of Evidence form issued applicant has opportunity to explain the basis of their claim – must be completed in English.

**Refugee Status:** an asylum seeker who is recognised as a refugee is granted indefinite leave to enter or remain in the UK

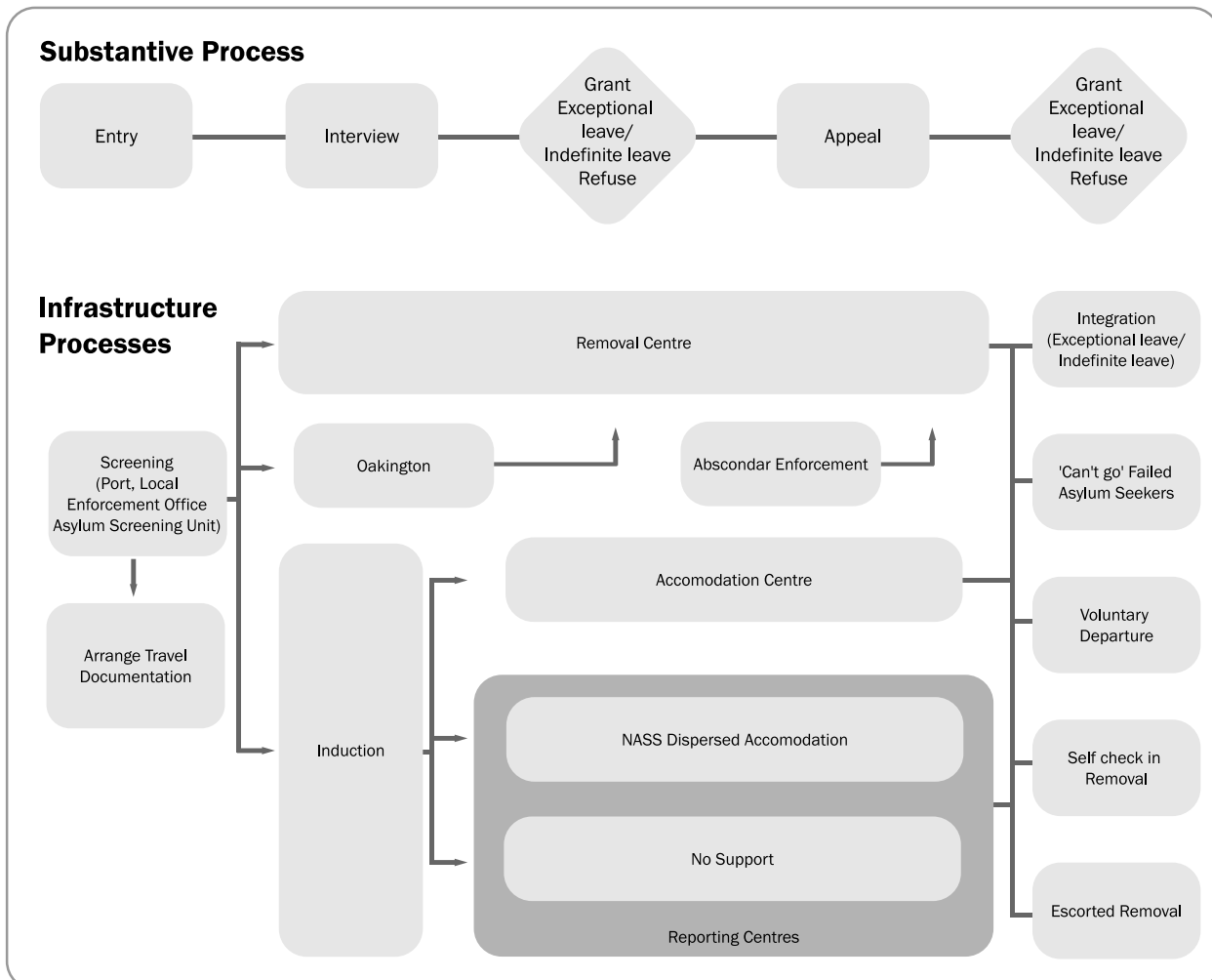
**Exceptional Leave to Remain:** applicants refused asylum may be granted 'exceptional leave to remain' (ELR) at the discretion of the Home Secretary and for a limited time period only.

**Appeals:** details of right to appeal and process will be given at time the decision is notified.

**Removals:** asylum seekers refused refugee status or ELR are expected to leave the UK. They may be detained until escorted removal can be arranged.

**Integration:** projects to aid refugee integration may be funded by the Home Office.

### Asylum Process Level 1 Overview



# Asylum Support Table

Check this table to see what support your client might be eligible for:

Date of application	Location of asylum application	Stage in the asylum process	Support services asylum applicant <u>can</u> access	Support services asylum applicant <u>cannot</u> access
<u>before</u> 03.04.00	Port of entry	Waiting for initial decision	-income support -housing benefit -homelessness assistance, including temporary LA housing community care	-no local authority tenancy -no permanent social housing
<u>before</u> 03.04.00	Port of entry	Initial refusal (in England and Wales) <u>before</u> 25 September 2000 and appealing	-Social services support -community care	-no welfare benefits -no homelessness assistance -no permanent social housing
<u>before</u> 03.04.00	Port of entry	Initial refusal (in England and Wales) <u>after</u> 25 September 2000 and appealing	-NASS support if no children -NASS support through local social services if children -community care	-no welfare benefits -no homelessness assistance -no permanent social housing -no protection from eviction
<u>after</u> 03.04.00	Port of entry	No initial decision yet or initial decision and appealing	-NASS support -community care	-no welfare benefits -no homelessness assistance -no permanent social housing -no protection from eviction
<u>before</u> 03.04.00 17.04.00 24.07.00 31.07.00 14.08.00 29.08.00	In-country in: Scotland, Northern Ireland Kent London North East, Yorkshire and Humberside, Wales North West, East Midlands, Eastern region, South West, South Central West Midlands, Sussex	No initial decision yet or initial decision and appealing	-Social services support -community care	-no welfare benefits -no homelessness assistance -no permanent social housing
		<p><b>Important note:</b> From 8 January 2003, the Home Secretary will withhold access to NASS support for all those in-country asylum applicants who are unable to provide a good enough reason as to why they were unable to apply for asylum at a port immediately on arrival.</p>		
<u>after</u> 03.04.00 17.04.00 24.07.00 31.07.00 14.08.00 29.08.00	In-country in: Scotland, Northern Ireland Kent London North East, Yorkshire and Humberside, Wales North West, East Midlands, Eastern region, South West, South Central West Midlands, Sussex	No initial decision yet or initial decision and appealing	-NASS support -community care	-no welfare benefits -no homelessness assistance -no permanent social housing -no protection from eviction

Refugee Council

## STOP PRESS

**At the time of publication the High Court blocked the Government's new rules that deny late claimants the right to state support, for being inhumane and a breach of the Human Rights Legislation. The Government is to appeal against the judgement. The appeal will be heard in March. see [www.guardian.co.uk](http://www.guardian.co.uk)**

## Resources

### Refugee Council Eastern Region

1st Floor, 4-8 Museum Street  
Ipswich  
IP1 1HT  
Tel: 01473 297900  
[www.refugeecouncil.org.uk](http://www.refugeecouncil.org.uk)

### Immigration enquiries:

Lunar House  
40 Wellesley Road  
Croydon  
CR9 2BY  
Tel: 0870 606 7766

### Nationality enquiries:

Home Office IND  
Immigration & Nationality Policy Directorate  
3rd Floor, India Buildings  
Water Street  
Liverpool  
L2 0QN  
Tel: 0151 237 5200

### Home Office web site:

[www.ind.homeoffice.gov.uk](http://www.ind.homeoffice.gov.uk)

### National Asylum Support Service (NASS)

Easter Regional NASS Manager  
Room A043  
Stansted Airport  
Basingbourne Road  
Chelmsford  
Essex  
Tel: 0787 984 8866

### NASS Policy Bulletins:

[www.indhomeoffice.gov.uk/default.asp?payid=2056](http://www.indhomeoffice.gov.uk/default.asp?payid=2056)

### NASS helpline:

0845 600 0914 (for existing NASS support)

### NASS policy & asylum support contact:

0845 602 1739

### East of England Consortium for Asylum Seeker Support (EECASS)

EECASS co-ordinate statutory and voluntary asylum support services throughout the region.

### EECASS

Flempton House, Flempton  
Bury St Edmunds  
Suffolk  
IP28 6EG

### Joint Council for the Welfare of Immigrants (JCWI)

JCWI provides free advice & casework, training courses and a range of publications on immigration, refugee or nationality related issues.

115 Old street  
London  
EC1V 9RT

Advice line for advisers: 0845 602 1020

Advice line for clients: 020 7251

8706/8708

E-mail: [infor@jcwi.org.uk](mailto:infor@jcwi.org.uk)

Web site: [222.jcwi.org.uk](http://222.jcwi.org.uk)

### VHG

1st Floor 36 St. Giles Street  
Norwich NR2 1LL  
tel: 01603 617299  
fax: 01603 621521

Email [vhg-east@tiscali.co.uk](mailto:vhg-east@tiscali.co.uk)

Web <http://www.vhg-east.org>

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