

Entering the UK to claim asylum

There is no visa for coming to the UK to claim asylum.

If you are in danger in your country of origin or residence, and you want the UK to grant you international protection, you can claim asylum when you are in the UK.

Once you make it to the UK, you claim asylum at the port of entry, or at the UK government department the Home Office. To find out more about where and how you claim asylum read our Claiming Asylum page. You can also find out about the new asylum laws (brought in in January 2021) regarding “safe third countries” and inadmissibility.

Find out more in the Claiming Asylum page of this guide

This page is not about refugee resettlement – when people are transferred from other countries on an official scheme. People “resettled” to the UK do not need to claim asylum here.

Because there is no formal visa to claim asylum, people get to the UK how they can. Some people enter the UK legally, using their passport and maybe a visa for entry to the UK for some other purpose.

Other people are not able to do this, and have to enter the country illegally.

False passports

Some people who come to the UK to seek asylum use their own passport. For some people, however, this is not possible. This might be because they do not have one and to ask for one would put them in danger. Or if they do have their own passport, it might put them in danger to use it.

Article 31 of the Refugee Convention recognises the possible danger of using a real passport in your own name. The Refugee Convention says that asylum seekers should not be punished if they have a good reason for using false documents/passport.

The “Article 31” principle is part of UK law as Section 31 of the 1999 Immigration and Asylum Act.

Section 31 means that you may have a “not guilty” defence if you are charged with ‘document offences’, if you can prove that you have:

- come to the UK directly from a country where your life or freedom was threatened
- presented yourself to the authorities in the UK without delay
- showed good cause for your illegal entry or presence, and

- made a claim for asylum as soon as was reasonably practicable after your arrival in the UK.

People prosecuted by the UK government for the use of a false passport may not be aware of this statutory defence. If you are represented by a lawyer who specialises in criminal law, and who does not know this Section 31 defence, the lawyer may wrongly advise you to plead guilty. This will be because they think the evidence of the crime is clearly there, and pleading guilty should lead to a shorter sentence. You should, however, be given advice about the Section 31 defence which allows you to plead not guilty.

If you are convicted, you may serve a prison sentence. Your criminal conviction for using a false passport may be used as a reason to refuse some immigration applications – including indefinite leave to remain. It can also cause problems when you apply for jobs.

If you are in Scotland, you should ask your lawyer to look at the Crown Office's prosecution guidelines, designed to protect refugees fleeing persecution:

http://www.crownoffice.gov.uk/images/Documents/Prosecution_Policy_Guidance/Guidelines_and_Policy/COPFS%20Refugees%20Policy.pdf

If you are prosecuted

There are things that may help you if you have been prosecuted for use of a false passport, even after a criminal sentence has been given. One of these is the **Criminal Cases Review Commission (CCRC)**.

The CCRC was set up to deal with suspected miscarriages of justice. It has reviewed a number of convictions based on false documents offences against asylum seekers/refugees. In most of these cases, the applicants were advised to plead guilty, and were not advised that they may have a defence. The CCRC has the power to refer convictions (and sentences) to the appropriate appeal court if it determines there is a real possibility that the conviction will be quashed.

For more information on this process, contact the CCRC on 0121 233 1473 or get an application form on their website: <http://www.ccrcc.gov.uk/making-application/how-to-apply/>

The CCRC can deal with cases in England, Wales and Northern Ireland. For cases in Scotland, contact the Scottish CCRC on 0141 2707030 or see their website for more information: <http://www.sccrc.org.uk/>