

What is asylum?

If you have come to the UK and you need to stay because you would be in danger in the country where you are from or where you normally live, you can claim asylum.

By claiming asylum, you are asking the UK government to give you protection. This is often called international protection because the UK has signed an international agreement along with lots of other countries to protect some people who have had to leave their own country. This agreement is the 1951 Refugee Convention.

This page looks at what you need to show to be granted asylum (to win your asylum claim and be granted Refugee Status or Humanitarian Protection). Read this page to find out how your asylum claim will be decided in the UK. You can find information on this page about a claim based on danger specific to you, or danger to everyone where you're from. On this page you can also find out who can be excluded from refugee protection.

To be granted asylum (to get refugee status), you need to show that you have a **well-founded fear of persecution**.

This phrase is from the **Refugee Convention**. The Refugee Convention covers fear of persecution, if that persecution would be because of your race, religion, nationality, political opinion, or your membership of a particular social group. You can find out more about all of these below.

To get protection from the UK government, you will also need to show that you cannot get protection in your own country. Read below for more information.

Your asylum claim is your application for protection in the UK. In this claim, you explain, through your own words (spoken and written) and through evidence, that you fear returning to your country. You need to say what you think will happen to you if you go back. Who would do this to you? Why would they do this? Why do you think this will happen to you? Have things happened to you in the past? Have things happened to people you know or people like you? Remember, you need to show that your fear is **well-founded** – is it likely to happen?

Persecution

Persecution, in terms of claiming asylum, is serious, targeted mistreatment of an individual because of who they are, or what they do, or what people think they are or do.

It is mistreatment of someone because of their **identity**.

The rules that the Home Office use to decide asylum claims say that persecution is an act that is sufficiently serious by its nature or repetition as to constitute a severe violation of a basic human right. Persecution could also be an **accumulation** of various measures which would make it sufficiently serious.

The rules say that an act of persecution could include (but there may be other actions that are not in this list):

- an act of physical or mental violence, including an act of sexual violence
- a legal, administrative, police, or judicial measure which in itself is discriminatory or which is implemented in a discriminatory manner
- prosecution or punishment which is disproportionate or discriminatory
- denial of judicial redress resulting in a disproportionate or discriminatory punishment
- prosecution or punishment for refusal to perform military service in a conflict, where performing military service would include crimes or acts falling within the grounds for exclusion (meaning a crime against peace, a war crime or a crime against humanity)

Discrimination is not the same as persecution, but if it is repeated or is very serious, it may then be considered persecution.

Many people seeking safety in the UK are fleeing war and widespread violence rather than individual persecution because of their identity. If the risk to you isn't specific persecution, you may be considered for a different kind of protection. See "Widespread harm" section below.

Well-founded fear

To succeed in your asylum claim, you need to show that you have a "well-founded fear" of persecution if you were returned to your home country. This means you do not need to show that the persecution would definitely happen, but that there is a **real risk** it could happen.

Having been persecuted in the past does not necessarily mean you will get refugee status. You need to show there is a **future** risk.

To show this fear is well-founded, you will need to provide **evidence**.

Also read: the Evidence page of this guide

The evidence that everyone has is their story – what has happened to you, what have you been threatened with, what has happened to your family/colleagues/people you know. Do these things mean you are at risk? Why did you leave? Why can't you go back?

In many people's cases the UK Home Office, will not believe your story. If you are able to go to court and appeal the Home Office refusal of your claim, the judge may also not believe your story.

Try and obtain other evidence to support your story. You should not wait for the Home Office or courts to say they do not believe you before you try and get evidence to support what you have said.

Are there witnesses to things that happened to you? Have you got documents that prove any part of your story? These might include arrest warrants, court documents, letters from friends/organisations showing you are in danger. Is there newspaper coverage of an event you are talking about? Are there human rights reports that show the situation in your country is like you say it is?



Grounds for an asylum claim

To qualify for refugee status, you need to show you have been persecuted or will be persecuted because of one of the Refugee Convention grounds. These grounds are:

- race
- religion
- nationality
- political opinion
- membership of a particular social group (this is explained below).

You do not need to specify or say in legal language which of these Refugee Convention grounds you are applying under. Your case may actually come under more than one of these grounds. You tell the Home Office your reasons for fleeing, and they then consider which grounds this comes under. If you feel you have been refused because they applied the wrong grounds, this could be challenged.

You may be at risk of persecution because of **imputed identity or beliefs**. This means what people think you are or do. What people think you are, or do, could put you at risk of persecution even if it's not true.

For example, if your local community thinks or says you are a Christian or an atheist, this may put you in danger even if you are not actually a Christian or atheist. If your family and neighbours believe you are gay or lesbian, you might be at risk even if you are not gay/lesbian. You may not actually be a member of an at-risk political group, but someone might spread rumours that you are, to try and get you in trouble.

Imputed beliefs might be a factor if a family member or friend is politically active or a member of a religious minority, and it is assumed you also hold these beliefs.

Imputed beliefs may be assumed because of where you live, the job you do, and many other things outside of your control.

Particular social group

Particular social group is the most complicated area of the Refugee Convention grounds. This is because it is quite vague and can cover a variety of situations. This category is reliant on previous cases that have been used to define how the law should be applied or understood.

Gender and **sexuality** are not distinct Refugee Convention grounds but come under particular social group. Gender as a particular social group needs to be more narrowly defined than just "being a woman" or "being a man". A certain category of women or men who face gender-specific persecution may fall under this category, such as "women at risk of domestic violence in Pakistan".

The category of particular social group is particularly important when dealing with non-state actors of persecution (see below). This is because in these situations, the Home Office often say that you may be in danger, but not for a Refugee Convention reason. This would mean that the UK has no obligation to offer protection. This may include gang violence, blood feuds and other communal disputes.

Who are you at risk from?

You may fear persecution from the state and/or its agents such as the army or the police. If this is the case, it is fairly clear why you would be "unable or unwilling" to seek protection from the state, to use the words of the Refugee Convention.

You may fear persecution from people that aren't officially recognised as the state, but are in effective control of a country or part of the country. Examples of this in recent years could be Al-Shabaab in areas of Somalia, or ISIS in Iraq. Again, it should be fairly easy to explain why you cannot get protection from the "state" in these circumstances.

Persecution might also come from "**non-state actors**", such as a member of your family or community, a gang, religious or political opponents.

To qualify for Refugee Status because you fear persecution from a non-state actor, you must show that you **cannot be protected from this persecution by the state**. This may be because there is **no protection available** from your government, or it may be that asking for protection would put you in danger

Internal relocation

Another factor that will be considered when deciding if you need protection in the UK is whether there is somewhere else in your country you could go and be safe.

The Home Office may accept that you would be at risk in your home region of Afghanistan but argue that you would be safe if you relocated to the capital Kabul. Or they may accept that you may be at risk of persecution because of your clan identity in the capital Mogadishu, but argue that you would be safe in Somaliland because your clan has protection from a majority clan there.

To show that internal relocation is not going to protect you, you would either need to prove that the risk you face would follow you to where you were relocated (e.g. you would be tracked down by those trying to harm you), or that you may be safe from persecution but other risks would present themselves.

This may be because you have no family or social networks in the place it is being suggested you could internally relocate to, and could not safely begin a new life there. Economic and social factors should be considered here – would you be able to make a living if you didn't know anyone and had no social, religious or ethnic connections? If you couldn't make a living, what would happen to you?

The Home Office (and the courts, if you appeal) will consider whether asking you to relocate within your country would be "*unduly harsh*".

Widespread violence

Refugee Status should be granted if you can show you are at risk of serious, targeted mistreatment of an individual because of who you are, or what you do, or what people think you are or do. If you are fleeing war or violence that is harming or could harm many people – not you specifically – you may not qualify for Refugee Status.

You may, instead, have your case decided under a different part of the Refugee Convention that provides protection in a situation of a

“serious and individual threat to a civilian’s life or person by reason of indiscriminate violence in situations of international or internal armed conflict.”

This includes situations where civilians are at serious risk simply by being present in a place of armed conflict or where other indiscriminate violence is widespread.

Very few situations have been ruled to meet this definition, but if they do then Humanitarian Protection may be granted.

How the Home Office decides asylum claims

When you claim asylum, the Home Office will consider what you say in your screening interview, your preliminary information questionnaire if you submit one, and your bigger substantive interview.

They will use this information to decide if they think you have a well-founded fear of persecution (or more widespread violence). They will decide if that persecution falls under one of the Refugee Convention grounds. They will also consider whether you could be protected from harm by your own government, or whether you could live somewhere else in your country to be safe.

As well as looking at the records of your interviews and any statements or evidence you give to them, the Home Office will use their own guidance documents about your country to make their decision.

Evidence to support an asylum claim

At the early stages of an asylum claim, your evidence may just be your testimony (your story) about what has happened to you and/or what you think may happen, and why that means it is not safe to return to your country.

You may also have evidence in the form of documents that you want to give to the Home Office (and later the courts, if you are appealing a refusal).

If you are going to submit documents, make sure you know where they came from. Who sent them to you? How did they get them? If posted to you, keep the envelope they came in and any other proof of postage. Wherever possible, you need to submit original documents, not photocopies or scans. If they are in a language other than English, you (or your lawyer, if you have one) will need to get a formal translation.

Never submit documents if you are not sure they are genuine – this could seriously damage your case. If possible, your lawyer should get an expert on your country/reason for claiming asylum to comment on whether they are genuine. This is because the Home Office often say that documentary evidence is fake.

In addition to documentary evidence specific to your case, general information about the

situation in your country from reliable sources may be useful. This is sometimes called “*objective evidence*”. This may show that what you have experienced fits a pattern of human rights abuses or persecution in your country of origin. This is particularly important if you were persecuted by a state official such as a police officer or army officer. You will need to demonstrate that the state cannot protect you from these people because state officials are routinely *involved* in these abuses, and that it was not just a one-off attack which would be unlikely to happen again.

Also read: the Evidence page of this guide

Exclusion from protection

In some cases, the Home Office may take the view that a person should be excluded from protection under the Refugee Convention.

This can happen in cases where the person has committed a serious criminal offence, or where the Home Office considers they may have been involved in human rights violations in their country of origin. This is a broad definition, and can extend to people who were employed in a wide range of roles in the government in their countries of origin if that government was involved in human rights abuses.

One stage of the process where the Home Office will try and find out if the exclusion clause applies to you is during the screening interview. They will ask you questions about criminal convictions, arrest warrants, involvement in terrorism, detention as an enemy combatant and encouragement of hatred between communities. The Home Office will also seek this information from elsewhere if they suspect it to be the case.

If the Home Office raise exclusion in your case, or if you feel it is a possibility, it is very important to seek legal advice. You can appeal against being excluded from Refugee Status or Humanitarian Protection. Even if an exclusion is upheld, you may be allowed to stay if could be at risk of torture, inhuman or degrading treatment/punishment if you were returned.