

Asylum claims being treated as withdrawn

Essential information for refugee support organisations

At a glance

A recent change in law means that the Home Office can more easily 'conclude' asylum applications by treating them as withdrawn. This is major cause of concern.

This brief guide is intended to assist refugee support organisations to help their members, clients or service users to understand and abide by the new requirements. Specifically, asylum seekers are now required to maintain contact with the Home Office and to provide up-to-date contact details.

Attached to this guide for support organisations is a leaflet aimed at asylum seekers, which will shortly be available in translation on the Law Centre website.

Remember that only OISC registered advisers or solicitors are authorised to provide immigration advice.

1. Withdrawal of asylum claims: what does it mean?

Asylum claims are normally granted or refused. However, there is also provision for the Home Office to treat an asylum claim as 'withdrawn'.¹ Asylum claims can be treated as withdrawn in two ways:

- *Explicit withdrawal* occurs when the applicant notifies the Home Office that she no longer wishes her asylum claim to be examined. The applicant signs a document form to formally withdraw from the asylum system. In practice it is very rare that those seeking sanctuary choose to do this.²
- *Implicit withdrawal* occurs when the Home Office decides to treat a claim as withdrawn based on the applicant's conduct. In effect, the Home Office *assumes* that the person no longer wishes to claim asylum.

2. What happens if an asylum claim is treated as withdrawn?

Where a claim is treated as withdrawn, the asylum application will no longer progress. This means that the asylum seeker:

- Will not be granted refugee status;
- Loses legal protection from removal to their home country;
- Is no longer eligible for asylum support and so loses financial support and accommodation;

¹ See Immigration Rule paragraph 333C 'withdrawal of applications'. Available [here](#).

² An example might be when the applicant has decided to make a voluntary return or is applying for leave to remain through a different route such as Ukraine Scheme or EU Settlement Scheme.

- Loses benefits associated with being an asylum seeker e.g. free school meals and school uniforms.³

3. In what circumstances can asylum claims be treated as implicitly withdrawn?

Until recently, asylum claims were only treated as *implicitly withdrawn* where the applicant:

- leaves the United Kingdom (without authorisation) at any time before the conclusion of their application for asylum.
- fails to complete an asylum questionnaire as requested by or on behalf of the Secretary of State.
- fails to attend a personal interview, unless the applicant demonstrates within a reasonable time that that failure was due to circumstances beyond their control.

In August 2023, the circumstances in which claims are treated as withdrawn were widened to include where the applicant:

- fails to maintain contact with the Home Office or to provide up-to-date contact details.
- fails to attend reporting events unless due to circumstances outside the applicant's control.

4. Why is the Law Centre worried?

As reported in the *Free Movement* blog, there has been a really significant increase in the number of asylum applications being treated as withdrawn in a very short period of time.⁴ There are concerns that this practice may be an intentional way for the Home Office to reduce the asylum backlog.⁵

We know that asylum seekers regularly change their telephone numbers for example to avail of free or cheap sim-card deals. Likewise, on occasion asylum seekers do not attend reporting events for example due to sickness, caring responsibilities or due to important health appointments or exams. We also know that practically it can be difficult to report changes in circumstances: Law Centre colleagues seeking to contact Migrant Help by telephone have been on hold for several hours.

We are therefore worried that the new rules provide easy justification for the Home Office to treat asylum applications as withdrawn.

5. Can withdrawn asylum applications be reinstated?

³ Note that asylum seekers should be able to continue to access free healthcare even if their asylum cases are treated as withdrawn.

⁴ Home Office data shows an increase from 1,652 withdrawn cases in Q4 2022 to 6,068 withdrawn cases in Q1 2023. Sonia Lenegan, 'Briefing: is the Home Office unlawfully treating asylum claims as withdrawn?' *Free Movement Blog*, (8 August 2023). Available [here](#).

⁵ Nadia, O'Mara, 'Briefing: why and how is the Home Office treating more asylum claims as withdrawn', *Free Movement Blog* (26 July 2023). Available [here](#).

The Home Office should notify asylum seekers that the claim is withdrawn.⁶ Individuals must act quickly. There is no right of appeal however it is possible to request that the asylum application is reinstated in certain circumstances.⁷ If the request for reinstatement is not successful, a ‘fresh claim’ for asylum may be necessary.

Request for reinstatement should be handled by the applicant’s immigration solicitor. If the person seeking sanctuary does not have a solicitor, a support organisation can *assist* the individual make the request but cannot do it on their behalf (unless the organisation has OISC accreditation).

6. What about asylum seekers who are also in the NRM (trafficking) process?

An increasing number of asylum seekers also have concurrent trafficking claims. Trafficking matters are dealt with by the Single Competent Authority (SCA). While this is also run by the Home Office, it is completely separate to the Home Office’s asylum work. It is therefore a good idea to notify the SCA of any change in circumstance in addition to notifying the asylum team.

You can do this by calling 03000722654 or by emailing nrm@modernslavery.gov.uk. Cite the NRM reference in the subject line and include the client’s full name, DOB and nationality.

7. How can support organisations help?

Support organisations have an important role to play. You can help by:

- Helping your asylum seeker clients, members and service users to understand the new requirements;
- Helping your clients to notify the Home Office of any changes of circumstances;
- If your organisation provides sim cards, please remind your clients that they must notify the Home Office of their new number;
- Helping your clients ensure that they can attend any Home Office interviews or reporting events e.g. by arranging or paying for transport, arranging childcare, etc.
- If clients miss their interview or reporting event, help them to explain their reasons or help them to compile evidence e.g. GP note confirming sickness.

For more information about this briefing please contact the Migration Justice Project at Law Centre NI at:

☎ 028 9024 4401

✉ migrationjustice@lawcentreni.org

Disclaimer: Although every effort is made to ensure the information in Law Centre publications is accurate, we cannot be held liable for any inaccuracies or their consequences. The information contained within this document should not be treated as a complete and authoritative statement of the law. If necessary, please obtain immigration advice to discuss individual circumstances.

⁶ The Home Office should write to the claimant and immigration advisor (if applicable). See Home Office, [‘Asylum policy instruction: withdrawing asylum claims’](#) (Version 8:0, 7 August 2023) at p. 16.

⁷ Home Office, [‘Asylum policy instruction: withdrawing asylum claims’](#) (Version 8:0, 7 August 2023) at p. 25.