

## Starting your application

The Home Office expects that people genuinely in need of refugee protection will claim asylum immediately when they arrive in the UK. However, there can be many different reasons why people do not or cannot claim asylum immediately. If you did not claim asylum immediately, you must explain your reasons.

It is important to have a [lawyer](#) to assist you during the asylum process but remember that if you delay claiming asylum, there is a risk the Home Office might think you do not need refugee protection. To register your application, call the Home Office on 0300 123 4193. They will ask simple questions about you and your family. They will not ask why you're claiming asylum. They will also ask for an address where they should send you a letter for an appointment for an interview at the Asylum Screening Unit, Lunar House, 40 Wellesley Road, Croydon CR9 2BY.

If you are destitute or homeless, you can go straight to the Asylum Screening Unit. You do not need to call the Home Office first.

## Screening interview

The first of two interviews that you will have with the Home Office is called the screening interview. At your screening interview, the Home Office will ask questions to establish who you are and how you arrived in the UK. They will also ask you to briefly state the reason or reasons why you are claiming asylum.

They will take your fingerprints and your photo. They will then give you a card or other papers confirming your personal details and that you have claimed asylum. The Home Office will check their records to see if you have previously stayed in the UK, and whether you have been fingerprinted or made a claim for asylum in another European country. If your fingerprints are found in the European database, the Home Office may later decide to return you to the country where you previously claimed asylum or were fingerprinted.

Home Office will offer you an interpreter, normally on a telephone, which is free. It is important that you are happy that you and the interpreter understand each other well.

You can be at the Screening Unit for several hours. The Home Office will then decide whether to detain you or release you while processing your claim. It is unlikely that you will be detained at the Screening Unit.

During your screening interview, the Home Office should also ask if you would prefer your asylum, or 'substantive', interview to be conducted by a man or woman and if you will need an interpreter. Your asylum interview is the second interview you will have with the Home Office when you will speak about your asylum claim in detail (see below).

Read more about claiming asylum on the [government website](#).

## Preliminary Information Questionnaire (PIQ)

At or after your screening interview, you may receive a questionnaire that you need to complete and return to the Home

Office by a particular date.

This questionnaire contains detailed questions about your case, and you should get legal advice to complete it because it will be a part of your evidence.

If you cannot return the questionnaire by the deadline, you should contact the Home Office before or on the day of your deadline to explain why. If you do not return the questionnaire or do not give the Home Office a reason why you cannot complete it on time, the Home Office might consider your application as withdrawn.

If you do not have a lawyer, our Legal Officer may be able to give you some advice, including how to ask for more time, but will not be able to complete the form with you.

Make a copy of the form for yourself before you send it to the Home Office.

## **Asylum interview**

After your screening interview, you will have your asylum interview. It is at this interview that the Home Office will ask about the details of your claim. Some people do not wait long to get a date for their asylum interview and some wait for several months. These interviews can last several hours. If you need an interpreter, make sure you tell the Home Office in advance and they will arrange one for free.

At the start of the interview, the Home Office will ask if you are feeling well enough to be interviewed, if you have any medical conditions and if you and the interpreter understand each other.

The Home Office will also ask if you want to hand in any evidence. You must translate any evidence in other languages into English before you give it to the Home Office. You should show your evidence to your lawyer before giving it to the Home Office. Your lawyer may advise to send your evidence shortly after your interview. Remember to keep a copy of any evidence you provide.

The Home Office interviewer will ask about your family and social background. The interviewer will also ask you to confirm that your claim is based on sexual orientation or gender identity. The interviewer should ask how you want to be addressed, for example what name you want to use, and what words you want them to use to describe your sexual orientation, gender identity or sex characteristics. They will ask you what you fear in your country of origin. They will ask you questions about how you came to realise your sexual orientation or gender identity. If you claimed asylum on the basis of your sex characteristics, i.e. because you are intersex, you may be asked questions about how and when you became aware that your sex characteristics varied from those typically expected of men and women. These are questions about your personal history. They may ask how you think and feel about yourself. They will ask you to describe anything that might have happened to you in your country of origin or if relevant, about previous or current partners. The Home Office must not ask you to describe sexual acts. The questions will vary depending on the circumstances of your case.

At the end of the interview, you will have the opportunity to give additional information. You will also be asked if you have any other reasons to remain in the UK apart from those discussed in the interview.

If you need a break during your interview, you can ask. If you do not understand a question, you should say so. If you do not remember a date or other details, it is better to say so rather than guessing, to avoid the risk of making mistakes that may make the Home Office think you are not telling the truth (known as ‘damaging your credibility’).

The Home Office normally tape records interviews, but you can make sure they do so by making a request in advance. A written record of the interview and a recording on a memory stick is usually given to you before you leave the interview room.

At your interview, you may be asked to complete a form in which you give permission, or “consent”, to the Home Office to request your medical records from your doctors. You do not have to give your consent for this if you do not want to. Refusing to consent should not affect the decision on your application. It is best to ask your lawyer’s advice before signing the consent form.

[See our tips for how to prepare for your substantive interview.](#)

## Evidence

Evidence is anything that you give to Home Office to support your claim, including what you say. Interview records, statements, documents, letters, reports, statements from other witnesses are all evidence.

You need to explain in detail why you fear being persecuted in your country of origin. Many Home Office refusals of LGBTQI asylum claims are because they don’t believe the applicants are lesbian, gay, bisexual, trans, queer or intersex. It is therefore important to be prepared to talk about your experience in relation to your sexual orientation, gender identity or sex characteristics. This does not mean talking about sex, but how you came to be who you are as a person. You must get professional translations for any evidence written in other languages into English.

Below are the main categories of evidence but there can be others as well.

### Your personal witness statement

Your statement should describe your experiences as an LGBTQI person. Your statement should also give details of any persecution you may have suffered in the past. It could include descriptions of any relationships you may have had. If relevant, you should write an explanation about why you did not claim asylum earlier. You will also need to explain why you fear returning to your country and why you believe you would be persecuted.

Your statement is your main piece of evidence, and your lawyer should help you prepare it. Usually, you would start with a description of your family, your education and any employment you may have had in your country of origin or elsewhere. You should provide some details of your journey to the UK. You then need to explain any experiences or incidents relevant to your case. Describe them in the order they happened, ending with the reason why you decided to leave your country. If

you were persecuted in the past, or managed to avoid persecution, you need to describe that.

At the end you need to explain why you are scared to go back and who or what you fear.

## **Witness statements or letters of support**

Witness statements or letters from friends, family and current or former partners can support what you say about your sexual orientation, gender identity, gender expression or sex characteristics and, if applicable, anything that has happened to you. Not everybody will have, or need, statements like these.

Witness statements or letters need to be signed and dated. The witness should provide their full name and address and attach a copy of their ID. They should only comment on what they know first-hand, and not speculate on what the risk would be if you returned to your country of origin. If a witness sends a letter from abroad, make sure you keep the envelope.

## **Medical reports**

If, for example, you were attacked in your country of origin or you suffer from a medical condition, a report from a doctor or the hospital where you were treated can be important.

## **Country information**

Information which shows what the situation is in your country of origin for LGBTIQ people, such as human rights reports and press articles, can be useful to show that there is a risk of harm. The Home Office should have access to information about what is happening in every country and has [Country Policy and Information Notes](#) about many countries. The Home Office will analyse the country information and decide if they think the situation in your country means that there is a real risk of serious harm which you fear. It will help your case, however, if you can submit evidence to support your claim that LGBTIQ people in your country are persecuted.

## **Possible outcomes**

The Home Office will make a decision on your claim on the basis of your interviews and evidence. This may take a few days or months. If you don't receive a decision within a reasonable time, your lawyer may challenge the Home Office's delay.

There are six possible decisions or 'outcomes'.

## **Outcome 1: granted refugee status for 5 years**

If you are granted refugee status, you will be entitled to work, study and claim benefits in the UK in the same way as a UK citizen.

At the end of the five years, you can apply for indefinite leave to remain if you are still at risk of persecution. You need to apply before your leave to remain as a refugee expires.

## **Outcome 2: granted humanitarian protection for 5 years**

This is similar to refugee status. It rarely applies to LGBTQI people claiming asylum.

*Read about the difference between refugee status and humanitarian protection in the [Right to Remain toolkit](#).*

## **Outcome 3: granted another form of leave**

The Home Office might give you ‘discretionary’ leave to remain in the UK or leave ‘outside the rules’ for a limited time (usually for two and a half years). This is rare but may be appropriate, for example, if you are in a relationship with a British citizen and there are exceptional circumstances why you cannot go back to your country of origin to apply for a visa to join your partner. You may also be granted discretionary leave to remain for other reasons.

## **Outcome 4: refused – with a right of appeal in the UK**

If the Home Office has refused your application, you will normally have a right of appeal. See [‘Appeals’](#) for more information.

## **Outcome 5: refused – no right of appeal until after removal from the UK**

The Home Office sometimes ‘certifies’ asylum claims as ‘clearly unfounded’. This means they believe the asylum claim will not succeed, and there will not be a right of appeal from within the UK. This can happen if the Home Office believes your country of origin is safe. In extremely rare cases, the Home Office will certify a claim if they think it is extremely unbelievable that the person is LGBTQI . You can apply for a judicial review with the help of a [lawyer](#).

## **Outcome 6: refused – no right of appeal**

In a few cases, the Home Office deny *all* right of appeal against refusal of asylum because there has been a previous appeal or opportunity to explain the asylum claim. You can apply for a judicial review with the help of a [lawyer](#).

Read more about judicial reviews in the [Right to Remain toolkit](#).

## Appeals

If the Home Office refuses your application, you will normally have a right of appeal. You must send your appeal form to the First-tier Tribunal (Immigration and Asylum Chamber) within 14 days of the date of the refusal letter was *sent* to you.

Your appeal will be decided by a judge of the First-tier Tribunal, which is a court of law. The judge is independent of the Home Office. You should prepare your case by responding to reasons why Home Office refused your claim.

You should expect to attend court and ‘give evidence’ by answering questions about your case from a Home Office representative and the judge. Any witnesses you may have should also attend. You will be the ‘appellant’ and the Home Office will be the ‘respondent’.

Read more about appealing to the [First-tier Tribunal](#) and [Upper Tribunal](#) in the *Right to Remain toolkit*. You can also find information on appeals on the [government website](#).

### Confidentiality in appeals

Appeals at Tribunals or other courts in the UK are public and any member of the public may attend. Your appeal will be heard by a judge hearing other appeals on the same day and other people may hear about your case.

The determination of any appeal (the written decision which sets out the detailed reasons) is a public document and will have the names of the appellant and any witnesses recorded in it. It is rare for First-tier Tribunal determinations to become public but Upper Tribunal determinations are normally published.

If you do not want your name made public, you must tell the Tribunal. You should ask for this when you send the appeal form to the Tribunal.

There are two things you can ask the Tribunal to do:

1. Anonymise the appeal by replacing your name with initials or, if there is a strong reason, removing all names from the determination. The names will remain in the copies of the determination sent to you and the Home Office, but names will not be in the public record copy or on the list of cases on the wall outside the hearing room.
2. If there is a very strong reason, hold the hearing in private with no one else allowed in the room.

The Tribunal should tell you in writing, before the hearing, whether they agree to your requests. On the day of the hearing,

before it starts, make sure the Tribunal staff know that a private hearing or anonymity have been ordered.

## Appeal outcomes

There are two possible outcomes from the First-tier Tribunal.

### Outcome 1: appeal allowed

This means you have won. The Home Office should give you refugee status or humanitarian protection, or another type of leave if you win your appeal on a different basis, e.g. your private and family life in the UK.

However, the Home Office has 14 days to apply for permission to appeal against the determination of the First-tier Tribunal if they believe the judge made an 'error of law'. If the Home Office gets permission to appeal, your case will be sent to the Upper Tribunal.

### Outcome 2: appeal dismissed

This means you have lost.

## Applying for permission to appeal to the Upper Tribunal

You can apply for permission to appeal to the Upper Tribunal against the determination of the First-tier Tribunal if you believe that the judge made an 'error of law'. 'An error of law' means that the judge made a mistake in the way they applied the law or considered the evidence and if they hadn't made that mistake, they may have allowed your appeal.

You have to make the application in writing no later than 14 days after the determination was *sent* to you. Your lawyer will advise you whether an application for permission to appeal could be successful. You should send your application for permission to appeal to the First-tier Tribunal.

If the First-tier Tribunal refuses permission to appeal, you can apply to the Upper Tribunal directly. If the Upper Tribunal also refuses permission, you can apply for a judicial review with the help of a [lawyer](#).

## Upper Tribunal hearing

If the First-tier or Upper Tribunal grants you permission to appeal, there will be a hearing in the Upper Tribunal.

At the hearing, the Upper Tribunal will first decide if the First-tier Tribunal made an error of law. If the Upper Tribunal finds that there was an error of law, they will do one of two things:

1. They will send the case back to the First-tier Tribunal to be heard again by a different judge; or
2. They will re-make the decision themselves. If the Upper Tribunal re-makes the decision, it will usually be done after another hearing. If the Upper Tribunal re-makes the decision, they can either allow or dismiss your appeal.

Alternatively, the Upper Tribunal can find that there was no error of law in the decision of the First-tier Tribunal and dismiss your appeal.

Decisions of the Upper Tribunal can be appealed to the Court of Appeal, but this is complicated and you will need a lawyer to help you.

## Making a fresh claim

If your appeal is dismissed and you cannot appeal further, it may be possible to make a 'fresh claim' for asylum but it is a complicated process.

You can make a fresh claim, or 'further submissions', if you can obtain new evidence or if there is a change in the situation of LGBTQI people in your country of origin. You must book an appointment to attend the Further Submissions Unit in Liverpool to submit your new evidence. In some circumstances, you will not be expected to go to Liverpool, e.g. if you are detained or cannot travel due to a medical problem.

You can read about the process making a fresh claim on the [government website](#).

## Finding a lawyer

To find a lawyer, you can contact those listed on our [Find a lawyer page](#), which has lawyers you have to pay and lawyers paid by legal aid.

If you do not have enough money to pay for a lawyer, you may be entitled to legal aid. Legal aid lawyers can be very good because they often have a lot of experience.

Legal aid will pay for:

- your lawyer to prepare your asylum claim
- a professional interpreter to attend appointments with your lawyer
- translation of evidence
- medical or country expert reports if needed
- your lawyer to prepare your appeal
- your lawyer or a barrister to represent you at the Tribunal hearing.

Legal aid usually cannot pay for a lawyer to call the Home Office to register an asylum claim on your behalf, or to attend your asylum interview with you unless you are in detention. It cannot pay for work on asylum appeals that are unlikely to be successful.

Legal aid will allow a change to a new legal aid lawyer only if there is a very strong reason.

If you are detained by the Home Office and need a legal aid lawyer, ask the Welfare Office to sign you up for a legal surgery.

Make sure you work hard with your lawyer to prepare your case. Ask questions if you think more should be done. If you are worried about the work done on your case, we might be able to help – please [contact us](#).

There are not enough legal aid lawyers for everyone who needs one. Rainbow Migration can sometimes help people who have not been able to find a lawyer themselves.

*Check if you can [get legal aid](#) and see more [legal aid lawyers](#) on the *Legal Aid Agency website*.*

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