

# Factsheet: Fresh Claims

This factsheet is intended to assist non-lawyers to understand fresh claims and the process for further submissions / fresh claims.

## The Immigration Rules

A fresh claim for asylum is defined in the Immigration Rules at paragraph 353:

<https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-12-procedure-and-rights-of-appeal>

When a human rights or protection claim has been refused or withdrawn or treated as withdrawn under paragraph 333C of these Rules and any appeal relating to that claim is no longer pending, the decision maker will consider any further submissions and, if rejected, will then determine whether they amount to a fresh claim. The submissions will amount to a fresh claim if they are significantly different from the material that has previously been considered. The submissions will only be significantly different if the content:

(i) had not already been considered; and

(ii) taken together with the previously considered material, created a realistic prospect of success, notwithstanding its rejection.

## Criteria for a fresh claim

There is new evidence or a change in circumstances NOT previously considered by the Home Office.



The new evidence or change in circumstances will make a difference to the outcome of the case.

Once you have information and / or evidence that you think amounts to a fresh claim, you should seek legal advice. It is important to prepare and submit any fresh claim as soon as possible given that, as a failed asylum seeker, you are potentially liable to detention and removal unless a fresh claim has been submitted. Legal Aid is available for advice and representation in relation to fresh asylum claims. If you have had a Legal Aid lawyer before, you should approach them for further advice and assistance. If you have not had a Legal Aid lawyer previously or they are unable to help, you can find a Legal Aid lawyer through the Law Society's website: <http://solicitors.lawsociety.org.uk/>

## Reasons to make a fresh claim

- **New documents:** if an asylum seeker has received important documents from their country of origin, such as arrest warrants or summons, since their asylum claim was decided, these may be relied upon in a fresh claim. It is important to keep any evidence of postage, such as the envelope the documents were sent in. It is likely to be necessary for any documents to be shown to an expert to be confirmed as authentic before they are submitted to the Home Office.
  - **Medical evidence:** if an asylum seeker was ill-treated in their country of origin, but no medical evidence was provided and this fact was not believed by the Home Office or the Immigration Judge in their previous asylum claim, it may be possible to rely on medical evidence for a fresh claim. Medical evidence will also be relevant if they have been diagnosed with a serious health condition, mental or physical, and they would not be able to obtain the treatment they need in their country of origin. If the medical condition was not considered in their previous claim, for example, because it was not diagnosed at the time, it may be relied upon in a fresh claim. It is important to be aware that it is very difficult to succeed on a fresh claim on medical grounds.
  - **Disclosure:** if an asylum seeker has not been able to disclose information about experiences that they had in their country of origin before, for example, because they found it too difficult to talk about, it may be possible for them to explain this fact and rely on the information in a fresh claim. It is, however, likely that medical evidence will be required for this sort of claim, particularly if the Home Office or the Immigration Judge did not believe they were telling the truth in their previous asylum claim.
  - **Sexuality:** if an asylum seeker has 'come out' as gay since their previous asylum claim was refused and they would be at risk in their country of origin because of their sexuality, then this may be relied upon in a fresh claim. It is likely that they will be expected to explain why they did not mention their sexuality in their asylum claim previously and it will be important to provide statements from current or previous partners or people who know them to support a fresh claim based on their sexuality.
  - **Activities in the UK:** if an asylum seeker has become involved in politics in the UK and the authorities of their country are likely to know about their activities and they would be at risk as a result, they may be able to rely on this information in a fresh claim. It will be important to obtain evidence, such as a letter from any party confirming their involvement and / or any photographs of them attending demonstrations and / or any newspaper articles referring to their activities.
  - **Religious conversion:** if an asylum seeker has converted to a different religion since entering the UK and this would mean they would be at risk in their country of origin, they may be able to rely on this fact in a fresh claim. It will be important to obtain evidence of their conversion, for example, a letter from the leader of their religious group or a certificate of conversion / baptism.
  - **Change in the law:** if there has been a change in the law in the UK, for example, a Country Guidance case relating to an asylum seeker's country, which indicates that they are likely to be at risk on return, they may be able to rely on this in a fresh claim.
  - **Change of conditions in country of origin:** if there has been a change in the situation in an asylum seeker's country of origin, for example, there has been a crackdown on those politically opposed to the government, and the change means that they would be at risk, they may be able to rely on this in any fresh claim.
  - **Family life:** if an asylum seeker has developed family life in the UK and their partner and/or children are settled in the UK and cannot be expected to follow them to their country of origin, then they may be able to argue that to remove them from the UK would breach their rights under Article 8 ECHR.
- Note: Legal Aid is not available for further submissions / fresh claims based on Article 8 unless they can obtain Exceptional Case Funding (please see our leaflet on Legal Aid for more details).**

## Procedure

To make further submissions (a Fresh Claim), you must attend the Further Submissions Unit (FSU) of the Home Office by following the steps below:

- 1) **Telephone call:** to arrange an appointment, call the Home Office on 0151 213 2411 (Monday to Friday, 9am to 4pm)
- 2) **Submissions form:** download and fill in the further submissions form from the Home Office website: <https://www.gov.uk/government/publications/further-submissions-asylum-humanitarian-protection-discretionary-leave>
- 3) **Appointment at the FSU:** you must take - the completed further submissions form, 4 unseparated passport photographs (of you and any dependents), ARC card, any identity documents (if you have them) and any documents in support of your fresh claim

**Note:** if you are an unaccompanied minor; you are in detention; or you are unable to attend the FSU due to a disability or severe illness you can ask the FSU to waive the requirement you attend and accept your fresh claim by post. You will need evidence of any disability or illness.

**Note:** when deciding any fresh claim, the Home Office and any Judge will consider any new information and evidence together with the information put forward in the previous asylum claim and any findings of the Immigration Judge in the case. This means that, unless the fresh claim is put forward on a different basis, such as religious conversion, political activity in the UK or sexuality, then the Home Office and any Judge will consider the further evidence in the context of the previous asylum claim.

If the Home Office and the Immigration Judge in your previous asylum claim did not believe what you said, it will be necessary to provide evidence from an independent source wherever possible to support what you are saying about your fresh claim.

## Possible Outcomes

