# THE REASONS FOR REFUSAL LETTER

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## Helpful Tips

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## Introduction

This section explains how to prepare reasons for refusal letters for asylum and human rights applicants who have been unsuccessful.

## Requirement to Give Reasons For Refusal

Reasons for the refusal **must*** be given when it is decided to refuse a claim for asylum. This is the case even if leave is granted following the refusal.

* A notice given under regulation 4(1) is to include or be accompanied by a statement of the reasons for the decision to which it relates Immigration (Notices) Regulations 2003 Regulation 5(1)(a). Regulation can be found at the Office of Public Sector Information Website: www.opsi.gov.uk/si/si2003/20030658.htm.

* If a decision has been taken to refuse asylum after substantive consideration, the decision-maker will need to draft a reasons for refusal letter. This should clearly set out the reasons why the application is being refused.

## Stock Letters Template

Templates for standard reasons for refusal letters, based on the guidance given in this section, have been created for use by operational staff. There are six different versions available:

- ACD.0015 is the standard RFRL template to be used in most cases and the instructions in this section explain how to use this template.
- ACD.1956 should be used when a reasons for refusal letter is being prepared for applicants entitled to reside in the countries listed in section 94(4) of the Nationality, Immigration and Asylum Act (NIA) 2002 (Non Suspensive Appeal cases) (see Reasons for Refusal Letter where the applicant is entitled to reside in a country listed in section 94(4) of the Nationality, Immigration and Asylum Act (NIA) 2002 (NSA cases) for further guidance on how to use this template).
- ACD.2220 or ACD.2221, as appropriate, should be used when a reasons for refusal letter is being prepared for active review cases
- ACD.1000 or ACD.1005, as appropriate, should be used in cases where the refusal of asylum involves administrative non-compliance.

## Responsibility for Preparing The Reasons For Refusal Letter

An officer trained for the purpose of considering asylum claims must prepare the entire reasons for refusal letter from beginning to end. (Note: This does not apply to Non Suspensive Appeal cases).

# General Principles of Reasons For Refusal Letter

The reasons for refusal letter should be written clearly and concisely. Subject to the need to express legal requirements accurately, decision makers should bear in mind that English may not be the first language of the applicant and therefore should avoid using over-complicated words or sentence structure. The reasons for refusal letter should address every aspect of the asylum claim and set out the decision-maker's consideration of the application. Care needs to be taken in terms of accuracy and clarity of content because the reasons for refusal letter is the document which informs the applicant of the reasons for the decision taken on behalf of the Secretary of State regarding his claim for asylum. Where there is a right of appeal, and this has been exercised, the reasons for refusal letter provides the Case Owner or Presenting Officer with information on which they can base their submission to the Immigration Judge.

## The Karanakaran judgement

When writing a reasons for refusal letter decision makers must apply the principles set out in the Karanakaran judgement*. The judgement requires decision makers to state which aspects of the claim they accept as being true, which they do not, and which are still in doubt, and to give their reasons for their conclusions. For further guidance see*:*

Credibility

*Secretary of State vs. Karanakaran (2000)

## Standard Wordings

Standard wordings are pre-prepared blocks of generic text which have been designed to assist operational staff. They can be inserted within the reasons for refusal letter templates using the standard wordings toolbar button. The standard wordings include both country specific and non country specific paragraphs. Care should be taken when using standard wordings to ensure that they are up to date and appropriate to the claim. They will not necessarily be complete paragraphs and may contain areas of optional or free text that will need to be completed according to the details of each specific case. Where officers have any doubts about using standard wordings, they should consult a senior caseworker.

Standard paragraphs are produced and maintained by senior caseworkers, and are agreed by Legal Advisers Branch (LAB). Where officers identify a need for a new standard paragraph they should raise this with their senior caseworker.

## The Content of The Reasons For Refusal Letter

The reasons for refusal letter must include the following elements:

- Applicant's details
- Basis of claim – asylum, Humanitarian Protection and human rights
- Introductory Consideration Paragraph
- Consideration – Refugee Convention
- Consideration - Humanitarian Protection (in accordance with paragraph 339c of the Immigration Rules)
- Consideration – other human rights (in accordance with the Asylum Instructions on Discretionary Leave)
- Formal Refusal Paragraph(s)

# Recording Applicant's Details on Reasons For Refusal Letters

The following details should be correctly recorded at the beginning of the reasons for refusal letter:

- Applicant's name in full (with surname in capitals)
- Nationality
- Date of birth
- Home Office reference number (Our ref)
- Date of the letter

### Recording the applicant's name

The forenames and surnames of the applicant should be spelt out in the reasons for refusal letter exactly as they appear on the front of the case file where this is not in dispute. The surname of the applicant should be recorded in capitals:

David SMITH

### Where the applicant has asked for a change in the personal details recorded on the case file

Instructions on when changes in an applicant's personal details can be accepted are to be added in due course. Until then, officers with queries should contact their senior caseworker on a case by case basis.

### Applicant known by more than one name

Aliases or other names by which the applicant is currently known (e.g. where a married woman uses both her maiden name and her married name) should be indicated on the reasons for refusal letter thus:

Sandra SMITH

Sandra DUNCAN (Also known as)

False names used by the applicant, for example, on documents used to gain entry to the United Kingdom should not be recorded on the reasons for refusal letter. However, where an applicant has made a previous claim in another identity (multiple applications), the name accepted as genuine should be recorded thus:

John SMITH (genuine identity)

Below the nationality and date of the letter, details of all false identities should be listed as follows:

AKA

John MARK (False identity)

2nd February 1985

BRITISH

### Recording the applicant's nationality

Officers should use the correct term for the applicant's nationality. If they are unsure of the correct term, they should seek the advice of a senior caseworker.

### Applicant has dual nationality

Where it is accepted that the applicant has dual nationality, this should be recorded as shown below:

***NATIONAL OF THE UNITED KINGDOM AND THE REPUBLIC OF IRELAND***

### Where the applicant's nationality is doubtful

Where the nationality of the applicant is doubtful, '(Claims to be)' should be added after the nationality is recorded in the applicant's details, as shown below:

BRITISH (Claims to be)

(See also 'Nationality Doubtful' Cases)

### Where there is strong evidence that the applicant holds a nationality other than the one claimed

Where the decision-maker has concluded that the applicant is not of the claimed nationality and there is strong evidence that they hold another nationality (e.g. they claim to be Zimbabwean but are in possession of a valid South African passport) the applicant's nationality should be recorded as shown below:

ENGLISH (Claims to be)

SCOTTISH (Believed to be)

### Where the applicant's age is disputed

Where the applicant's age has been disputed, '(Disputed)' should be added after the claimed date of birth in the applicant's details as follows:

22 November 1988 (Disputed)

(See Age Disputed Cases)

### Dependants

Details about a applicant's dependants (i.e. name, address, date of birth), should not be recorded in reasons for refusal letters (Note: this instruction does not apply to NSA cases – see Reasons for Refusal Letter where the applicant is entitled to reside in a country listed in section 94(4) of the Nationality, Immigration and Asylum Act (NIA) 2002 (NSA cases).

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For information on how to deal with dependants see APM Dependants and AI Dependants.

### Numbering of paragraphs

Each paragraph throughout the reasons for refusal letter should be numbered.

## Standard Opening Paragraphs

The reasons for refusal letter should always begin with specific standard opening paragraphs which record the claim that has been made and set out how this will be considered. The wordings should be the same in every refusal of asylum. For ease of use by operational staff, standard wordings automatically appear each time the template is opened. The last paragraph of this section of the letter is optional, and officers should ensure that it is deleted in all cases where Humanitarian Protection is being granted.

### Opening Paragraphs of the Reasons for Refusal Letter

You have applied for asylum in the United Kingdom and asked to be recognised as a refugee under the 1951 Convention relating to the Status of Refugees (Geneva Convention) on the basis that it would be contrary to the United Kingdom's obligations under the Geneva Convention for you to be removed from or required to leave the United Kingdom. You claim to have on the grounds that you have a well-founded fear of persecution in country. A person is a refugee where owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, that person is outside the country of his nationality and is unable or, owing to such a fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence is unable, or owing to such a fear, is unwilling to return to it and is not excluded from the protection of the Geneva Convention.

Your application has not been considered by the Secretary of State personally, but by an official acting on his behalf.

Consideration has also been given to whether or not you qualify for a grant of Humanitarian Protection in accordance with paragraph 339C of the Immigration Rules. A person will be granted Humanitarian Protection in the United Kingdom if the Secretary of State is satisfied that:

- substantial grounds have been shown for believing that the person concerned, if the person returned to the country of return, would face a real risk of suffering serious harm and is unable, or, owing to such risk, unwilling to avail him or herself of the protection of that country; and
- the person is not excluded from a grant of Humanitarian Protection

## Basis of Claim

The basis of claim comprises three elements:

- Basis of claim - Asylum
- Basis of claim – Humanitarian Protection issues raised
- Basis of claim - human rights other than Humanitarian Protection (and any truly compelling circumstances raised; see the API on Discretionary Leave).

These elements should be set out as the opening to the main body of the reasons for refusal letter. The basis of claim should begin with the standard opening wordings shown below. These standard wordings must be used in the order in which they are set out below:

Your claim for asylum is based upon your fear that if returned to country, you would face mistreatment due to your race and due to your religion and due to your nationality and due to your membership of a particular social group and due to your political opinion and due to a reason not covered by the Geneva Convention. Your claim for Humanitarian Protection is based upon your fear that if returned you would face a real risk of the death penalty or execution and unlawful killing and torture or inhuman or degrading treatment or punishment in the country of return and serious and individual threat to your life or person by reason of indiscriminate violence in a situation of international or internal armed conflict.

*Delete option 2 if not applicable*
*Option 2 – Other ECHR article raised*
**You also claim that your removal to country would be a breach of free text (any other Article(s) raised by applicant not already mentioned above) of the ECHR.**
**Free text for BASIS OF CLAIM**

Decision makers should ensure that they delete the options in the standard text above that do not apply. Where the applicant fears persecution for a non convention reason the phrase 'a reason not covered by the Geneva Convention' should be deleted and the specific reason advanced added (e.g. 'because your business partners have threatened to kill you because they say you owe them money').

Decision makers should ensure that they select the relevant options for each case to complete the paragraphs above. For further guidance on drafting the basis of claim, see SCWU BEST PRACTICE - THE BASIS OF CLAIM

### Basis of claim - Synopsis

Decision makers should then set out the basis of the applicant's case. This section should be a concise, but complete summary of past events. It does not need to be overly detailed since the relevant events will be covered in more detail in later sections in the letter. In some circumstances it may be useful to include a brief summary of the applicant's immigration history, where it has been considered to be relevant to the consideration of the claim. The synopsis should end with a reference to who the applicant fears in their country of nationality, and what they fear will happen if they return there. Decision makers should ensure that anything they comment on later in the letter is included in the basis of claim synopsis. For further guidance on drafting the basis of claim, see SCWU BEST PRACTICE - THE BASIS OF CLAIM.

# Introductory Consideration Paragraph

The Introductory Consideration paragraph explains that the claim has been considered and sets out the decision that has been reached. The paragraph should be included in the letter at this stage. For ease of use by operational staff, standard wordings for the paragraph have been prepared, depending on the case outcome, and are shown below. Decision makers should ensure that they use the wording applicable to the case.

### Outright refusal

Where the decision is outright refusal, the following paragraph should be used:

> Your claim has been considered, but for the reasons given below it has been concluded that you do not qualify for asylum or Humanitarian Protection. It has also been concluded for the reasons given below that you do not qualify for limited leave to enter or remain in the United Kingdom in accordance with the published Home Office Asylum Policy Instruction on Discretionary Leave.

### Refusing asylum but granting Humanitarian Protection

When refusing asylum but granting Humanitarian Protection, the following paragraph should be used:

> Your claim has been considered but for the reasons given below it has been concluded that you do not qualify for asylum. However, it has been decided to grant you Humanitarian Protection and limited leave to enter/remain in the United Kingdom in accordance with paragraph 339E of the Immigration Rules. This is because free text (to explain reason).

### Refusing asylum and Humanitarian Protection but granting Discretionary Leave

When refusing asylum and Humanitarian Protection but granting Discretionary Leave, the following paragraph should be used:

> Your claim has been considered but for the reasons given below it has been concluded that you do not qualify for asylum or Humanitarian Protection. However, it has been decided to exercise discretion in your favour and grant you limited leave to enter/remain in the United Kingdom in accordance with the published Home Office Asylum Policy Instruction on Discretionary Leave because (Article 8) of your family life/(Article 3 medical) of your medical condition/(Article 3 other) of severe humanitarian issues in your country/(UASCs) you are an unaccompanied child for whom we are not satisfied that adequate reception arrangements in your own country are available/ xxxx (other reason).

Officers should amend the text as appropriate to the applicant's case.

## Age Disputed Cases

In cases where an applicant's age has been disputed officers should insert the following paragraph into the letter:

> When you made your application for asylum/human rights, you claimed that your date of birth is date. However, you have failed to produce any satisfactory evidence to substantiate this claim. Although you claimed to be a child your physical appearance/xxxx (other reasons) before the screening officer suggested that you were over eighteen. In the absence of any satisfactory evidence to the contrary, it is not accepted you are a child for the purposes of paragraph 349 of the of HC 395 (as amended).

This paragraph should be inserted after the Introductory Consideration paragraph (for further guidance on identifying and processing applications from applicants whose age has been disputed see Disputed Age Cases).

## Unaccompanied Asylum Seeking Children

Where an application from a child applicant, who was not required to attend a substantive asylum interview, has been refused, the following wording should be used in the reasons for refusal letter:

> As it was possible to obtain by written enquiries, or from other sources, sufficient information properly to determine your claim, it has been decided that, in the light of paragraph 352 of HC 395 (as amended), it would not be appropriate to interview you about the substance of your claim.

If applicable, this paragraph should be inserted into the reasons for refusal letter after the Introductory Consideration paragraph.

## Nationality Doubtful' Cases

For guidance on processing applications where the applicant's nationality is doubted see Nationality Doubtful Cases Guidance (When available).

## Consideration of the Claim (Asylum)

The next part of the reasons for refusal letter should be the consideration of the claim. The elements below must be incorporated at this stage in the letter:

- Convention aspects
- Credibility (asylum and human rights)
- Immigration issues (if applicable)
- Incidents of Non Compliance (if applicable)

### Where the applicant has dual nationality

For processing cases where the applicant has dual nationality see Nationality Doubtful cases when published.

### Asylum Convention/ Non Convention aspects

The asylum convention section should begin by setting out whether or not the applicant's fear of persecution brings them within the scope of one or more of the five Convention reasons and if so, which Convention reason(s). It should then go on to set out the reasons why the United Kingdom's obligations under the Refugee Convention have not been engaged (for information on the five Refugee Convention reasons see Asylum Instruction on Considering The Asylum claim).

### Non Convention reason

In cases where the applicant's fear of persecution does not bring him within the scope of the Convention, the reasons why should be set out in full, beginning with the following wording:

> The reason you have given for claiming a well founded fear of persecution under the terms of the 1951 United Nations Convention relating to the Status of Refugees, is not one that engages the United Kingdom's obligations under the Convention. Your claim is not based upon a fear of persecution in country because of race, religion, nationality, membership of a particular social group or political opinion.

### Credibility

(Note: The following does not apply to reasons for refusal letters being prepared for use in Non Suspensive Appeal (NSA) cases. See Reasons for Refusal Letter where the applicant is entitled to reside in a country listed in section 94(4) of the Nationality, Immigration and Asylum Act (NIA) 2002 (NSA cases) for further information on NSA cases)

Next in the letter, decision makers should set out their consideration of the credibility of the claim, ensuring that all significant credibility issues that led to the decision to refuse asylum are included. This section of the letter should begin with the strongest credibility points and focus in most depth on those that are specific to the applicant or claim in question. More general credibility points, such as a delay in leaving the country or failure to claim asylum when travelling

through a third country, should be added towards the end of the credibility section. In most cases, it will be appropriate to address all credibility issues identified in the reasons for refusal letter. However, decision makers should consider whether, where refusal is based on strong credibility issues, there is any value in including minor credibility points, particularly if they are general, rather than specific to the applicant.

If applicable any free text options within standard wordings which are used here should be completed.

Where decision makers are using answers to specific questions posed at the screening or substantive interview as part of the credibility section, the number of any question being referred to and the page of the interview on which it appears should be quoted in the reasons for refusal letter. When addressing credibility, officers should bear in mind the Karanakaran judgement referred to in The Karanakaran judgement and state clearly whether each aspect is accepted, not believed or is doubted. Officers must ensure therefore that after they have outlined each credibility point, their conclusions are explicitly stated. Some example wordings are below:

> '...It is concluded therefore that you were not detained as you claim.'
>
> '...It is not accepted that it would have been possible for you to escape from your alleged attackers in the way you have described'
>
> '...Your claim to have been tortured is therefore rejected'

## Disclosure in the credibility section

Decision makers should state the source of any objective evidence used in the Reasons for Refusal letter. This includes information or documents that are obtained from sources such as Home Office Country Reports, Operational Guidance Notes (OGNs), or US State Department Reports, and which were subsequently used to test an applicant's credibility in the reasons for refusal letter. This is helpful to the Presenting Officer and Immigration Judge at the appeal stage. However, any information marked as 'Restricted' or 'Not for disclosure outside UK Border Agency' cannot be used in any reasons for refusal letter.

## External sources

Where information from outside sources has been used to create questions designed to test a applicant's credibility, the source of such information should be recorded in the reasons for refusal letter. A minute for the attention of the Presenting Officer should be attached to the right hand side of the case file, and a copy of the relevant document annexed to the PF1. Similarly, where officers have consulted a Senior Caseworker, any information which they provide, and which is used as the basis of questions to test a applicant's credibility, must be sourced, and a copy of the advice sought and received placed on the case file and minuted for the attention of the Presenting Officer.

## Section 8 and Credibility

Under section 8 of The Asylum and Immigration (Treatment of Claimants, etc) Act 2004 decision makers are required to take into account as damaging to the applicant's credibility any behaviour by the applicant they think is designed or likely to conceal information, mislead, or obstruct or delay a decision. The API on Credibility provides further information.

Decision makers should ensure that the reasons for refusal letters contain the relevant section 8 paragraphs. There is no requirement to place the paragraphs in a particular place in the letter

and the officer should include the paragraphs in a place which they think fits the best.

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## Immigration Issues

Immigration issues should only be included in any reasons for refusal letter if they were material to the officer's consideration of the case and their decision. Immigration issues may include the following elements:

- Journey details
- Events on and after arrival in the United Kingdom

### Journey details

Officers should set out their consideration of any aspects of the applicant's journey to the United Kingdom that they deemed relevant to their consideration and subsequent decision to refuse asylum.

### Events on and after arrival in the United Kingdom

If applicable, officers should set out their consideration of any relevant events which happened either at immigration control upon arrival in the United Kingdom or after they entered, and which were relevant to their consideration and subsequent decision to refuse asylum.

## Incidents of Non-Compliance

Where the decision is to refuse asylum and;

- the applicant has been issued with a Statement of Evidence Form (SEF) and has returned it;
- **but** has subsequently failed, without agreement or acceptable reason, to attend for a substantive interview;

the reasons for refusal letter should be prepared in accordance with the instructions in this section, setting out the consideration of any information on the case file. After the consideration of the claim has been recorded, the following wording should also be included in the letter:

> You were asked to attend for an interview on date and time in connection with your claim for asylum in the United Kingdom. However, you did not attend at the date and time requested and no satisfactory explanation has been given. You have therefore taken an unreasonable time to provide evidence required to establish your claim under the asylum rules.

## What Not to Include in The Reasons For Refusal Letter

Although decision-makers can refer indirectly to information contained in documents which cannot be annexed, the source of such information **must not** be revealed. A definitive list of documents which cannot be annexed, and therefore whose source cannot be directly referred to in the reasons for refusal letter, can be found in the Asylum Instruction on The PF1 If the decision maker uses information from one of the documents which cannot be annexed they should minute the case file, for the attention of the Presenting Officer, informing him/her where the document containing the relevant information appears on the case file.

**Information marked 'Not for Disclosure outside UK Border Agency'**

Officers must not include information from sources marked as 'Not for Disclosure Outside UK Border Agency' in the reasons for refusal letter.

**Information marked as 'Restricted'**

Decision-makers must not use information from sources marked 'Restricted' in the reasons for refusal letter.

## Consideration of Humanitarian Protection

Following the consideration of the asylum aspects of the claim decision makers should set out in the reasons for refusal letter, their consideration of any Humanitarian Protection aspects of the claim against paragraph 339C of the Immigration Rules (as explained in the API on Humanitarian Protection). Where Humanitarian Protection is being refused the reasons why should be set out.

## Consideration of Discretionary Leave

Where Humanitarian Protection is being refused, following the consideration of the Humanitarian Protection related aspects of the claim decision makers should set out in the reasons for refusal letter, their consideration of any Discretionary Leave aspects of the claim against the published policy in the Asylum Instruction on Discretionary Leave. Where Discretionary Leave is being refused, the reasons why should be briefly set out. As above each aspect considered should be addressed in a separate paragraph.

The consideration of Discretionary Leave should include consideration of any ECHR aspects of the claim that have not been covered in the reasons for refusing Humanitarian Protection. The most common categories are Article 8 (private and family life) and Article 3 (medical claims where there is no need for protection as such).

If it is considered that there is a clear Convention right to be addressed, but that it falls to be refused, reasons should be recorded in the reasons for refusal letter. Any such articles should be addressed using the paragraphs contained in the Asylum Instruction on Considering Human Rights. If no further specific ECHR Articles are mentioned or clearly raised on the facts of the case, it is not necessary to address all the issues that might conceivably apply.

# The Formal Refusal Paragraphs

## Asylum and Humanitarian Protection

The main body of the reasons for refusal letter should always conclude with the formal refusal of the asylum claim thus:

> In the light of all the evidence available, it has been concluded that you have not established a well-founded fear of persecution and that you do not qualify for asylum. Your asylum claim is therefore refused under paragraph 336 of HC395 (as amended). It has also been concluded that you have not shown that there are substantial grounds for believing that you face a real risk of suffering serious harm on return from the UK and that you do not qualify for Humanitarian Protection. Therefore your application has also been refused under paragraph 339F of the Immigration Rules. Your application has been recorded as determined on date.

## Where refusal includes non-compliance

In cases where refusal involves non-compliance officers must add that the applicant has also been refused under paragraph 339M of the Immigration Rules (HC 395) to the Formal Refusal paragraph in the letter.

> In the light of all the evidence available it has been concluded that you have not established a well-founded fear of persecution and that you do not qualify for asylum. Your asylum claim is therefore refused under paragraphs 336 and 339M of HC 395 (as amended). It has also been concluded that you have not shown that there are substantial grounds for believing that you face a real risk of suffering serious harm on return from the UK and that you do not qualify for Humanitarian Protection. Therefore your application has also been refused under paragraph 339F and 339M of the Immigration Rules. Your application has been recorded as determined on date.

## Formal rejection of Human Rights claim

Where any human rights claims have not been accepted the following paragraph should be inserted after the formal refusal of the asylum claim:

> On the basis of the information you have provided, it has been concluded that your removal would not be contrary to the United Kingdom's obligations under the ECHR.

# Proofreading RFRLs

## Requirement to proofread

Careless drafting errors in reasons for refusal letters (RFRLs) and other decision documents, such as incorrect details for the applicant and references to the wrong country or nationality, can significantly damage the credibility of the Home Office in the eyes of applicants, Ministers, MPs, representatives, stakeholders and the public, and can adversely influence our case before an Adjudicator at appeal. Such errors can give the impression that full care and individual consideration has not been given to the case. In order to prevent this, and bearing in mind that it can be more difficult to spot errors in one's own work, RFRLs and other decision documents should be proofread by another person to identify any simple errors for correction before they are dispatched.

## Who should proofread the RFRL?

After the RFRL has been drafted to the satisfaction of the officer, it should be passed to a colleague of Executive Officer (EO) level or above for proofreading.

## What should the proofread involve?

The proofread is intended to be a quick check involving one read through. The purpose is **not** to review the decision but only to identify any immediately apparent and simple errors in the reasons for refusal letter. The member of staff proofreading the letter should look out for the following types of basic error:

- Errors in the applicant's personal details (i.e. name, gender, nationality, date of birth)
- Missing or incorrect Home Office reference number
- Incorrect references to the applicant's country or nationality
- Standard paragraphs that obviously do not relate to the applicant's country or nationality, or 'free text' fields in standard paragraphs that have not been completed.
- Obvious typing or grammatical errors.

The officer responsible for drafting the RFRL should be notified of any errors of this kind and they should then make the necessary corrections before arranging for it to be dispatched.

## Recording that the letter has been proofread

The member of staff who proofreads the letter should record their name and sign, and date the relevant part of the 'Proofreading' section of the standard implementation minute sheet on file after they have done so.

If a standard implementation minute sheet has not been used, the member of staff who has proofread the letter should add the following sentence to, and sign their name on, the minute sheet on the left hand side of the file:

> The reasons for refusal letter and other decision documents were proofread by name on date.

# Signing the Reasons For Refusal Letter and Placing On File

The reasons for refusal letter must always be signed by the officer who drafted it.

Letters **must** be signed by the decision-maker 'acting on behalf of the Secretary of State'*. The form of text given below **must** be used: no variation is permissible.

> [manuscript signature]
>
> name of decision maker in (typescript)
>
> Asylum Casework Directorate/New Asylum Model
> *acting on behalf of the Secretary of State*

### How many copies of the letter should be prepared

Six original copies of the reasons for refusal letter should be prepared. All six copies must be signed and dated by the officer who wrote it. One copy should be hole punched and attached to the right hand side of the case file, while the other five copies should be attached to the left side of the case file with paper clips.

### Where the decision-maker has written the letter but not signed it

If the decision-maker who wrote the reasons for refusal letter has not signed the letter or any of the copies, and it is not possible for them to do so, another officer may sign all copies of the letter.

### Where the decision-maker has written the letter but signed only one copy

If the officer who wrote the reasons for refusal letter has signed only one copy, and is unable to sign the other copies, e.g. they are no longer working in the Unit, the signed copy of the letter should be destroyed and another blank copy produced. All six blank copies can then be signed by another officer. The original signed copy should not be kept on file and the other five copies merely signed by another officer as all six copies of the letter should all be exact copies of one another.

# Further Information

## The RFRL Crib Sheet and Appendices

A crib sheet and appendices, which refer specifically to the various sections and the order of preparation of the reasons for refusal letter will be released in due course. This is specifically designed to be used, when completing the reasons for refusal letter, in conjunction with the template. Decision-makers will be informed when this is available.

# Reasons for Refusal Letter Where the Applicant is Entitled to Reside in a Country Listed in Section 94(4) of the Nationality, Immigration and Asylum Act (NIA) 2002 (NSA Cases)

The reasons for refusal letter in NSA cases differs in certain respects from the guidance above. The appropriate template to use is ACD.1956. The following should be noted in particular:

## Letter Heading

Details of the dependants should be recorded at the beginning of the reasons for refusal letter, below the applicant's details.

## Basis of claim

The section of the letter giving the basis of claim should set out full details of the events and issues outlined by the applicant in a logical order. Full reference to the interview as well as statement of evidence form submitted should be made, using the applicant's own words where possible. References to question and page numbers should be included where appropriate.

## Credibility

Consideration of the claim will be on the basis of the availability of national protection and the possibility of internal flight. Credibility issues will rarely be relevant. The body of the letter should therefore set out the officer's consideration of these aspects, using objective country information and standard wordings where appropriate.

## Certification

Where the officer has concluded that the claim for asylum should be certified as clearly unfounded, the following paragraph should be included after the paragraph formally refusing the asylum claim, and before the paragraph formally rejecting any human rights claim:

> In addition, your asylum claim is one to which section 94(3) of the Nationality, Immigration and Asylum Act 2002 applies. This requires the Secretary of State to certify that your claim is clearly unfounded unless he is satisfied that it is not clearly unfounded. After consideration of all the evidence available, it has been decided that your claim is clearly unfounded. Therefore, it is hereby certified under section 94(2) of the Nationality, Immigration and Asylum Act 2002 that your claim is clearly unfounded.

Where a human rights claim has been rejected the claim should also be certified.

# SCWU Best Practice - the Basis of Claim

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This section is intended to act as an aide memoire to decision makers drafting a applicant's basis of claim in the reasons for refusal letter. It should be read in conjunction with the main text.

## The purpose of the basis of claim

The purpose of the basis of claim is two-fold:

- It serves as an introduction to the RFRL or grant minute.
- It demonstrates to the applicant, his representatives and to the AIT Judge(s), that when making a decision, on behalf of the Secretary of State, the decision-maker was aware of all significant aspects of the applicant's claim and considered the particular circumstances of the applicant in full.

## The structure and contents of the 'basis of claim' section

The basis of claim is set out in four parts, identifying:

1. The 1951 Convention and non-Convention reasons for claiming asylum;
2. Any Humanitarian Protection issues raised.
3. Any other ECHR articles raised by the applicant (i.e. articles not falling within the scope of Humanitarian Protection; and,
4. The events or incidents and reasons that led to the applicant leaving his / her country and seeking international protection in this country, and explains what the applicant fears will happen if he/she returns.

Below are the standard opening words for the basis of claim as they appear in the RFRL template:

*Part B. Basis of Claim*
*The basis of claim must always begin with the following standard wording: (delete phrases as applicable).*
Your claim for asylum/Humanitarian Protection is based upon your fear that if returned to country, you would face mistreatment due to your race and due to your religion and due to your nationality and due to your membership of a particular social group and due to your political opinion and due to a reason not covered by the Geneva Convention. Your claim for Humanitarian Protection is based upon your fear that if returned you would face a real risk of the death penalty or execution and unlawful killing and torture or inhuman or degrading treatment or punishment in the country of return and serious and individual threat to your life or person by reason of indiscriminate violence in a situation of international or internal armed conflict.

*Delete option 2 if not applicable*
*Option 2 – Other ECHR article raised*
You also claim that your removal to country would be a breach of free text (any other Article(s) raised by applicant not already mentioned above) of the ECHR.
Free text for BASIS OF CLAIM

Decision makers should ensure that the basis of claim clearly sets out the reasons why the applicant is seeking international protection using the following structure:

1. Set out any 1951 Convention/ non-Convention reasons;
2. Set out any reasons for claiming Humanitarian Protection;
3. Set out any claims under ECHR Articles that are not covered by a Humanitarian Protection claim, using the '*Option 2'* standard paragraph (above), if no other Articles are

raised, either directly or by clear implication, then delete the '*Option 2'* standard paragraph;

In the '*free text'* section decision-makers should cite page, question and paragraph numbers from interviews and SEFs or statements, ensuring that:

1. All perceived agents of persecution (i.e. both State and non-State) raised by the applicant are identified;
2. All past events or incidents relevant to the fears of persecution mentioned by the applicant are summarised (who? what? when? where? and why?) preferably in chronological order and citing the dates the claimed incidents occurred;
3. All fears mentioned by the applicant regarding possible return to country of nationality or habitual residence are identified;

If there are significant differences between the claim as set out in the SEF (if applicable) and at the interview, then decision makers should set out the basis of claim in the same way as mentioned above, but by using two different paragraphs in the '*free text'* section, opening as:

- *'In your SEF your claim for international protection is based on…'* and
- *'In your interview your claim for international protection is based on…'*

Alternatively, decision makers may set out the information given in the SEF and separately record additional (and relevant) information or clarifications provided at the interview, or where relevant, the applicant's inability to provide such clarifications.

## The length of the basis of claim

Decision makers will not be marked down on account of the length of a basis of claim. The basis of claim should be *'as long as it needs to be.'* What is important is that the basis of claim is comprehensive, logical, concise, and clearly set out.

## Helpful Tips

- Decision makers are encouraged to use bullet points or sub-paragraphs in the basis of claim, as this is a good way to list or summarise events concisely and prevents irritating repetition of 'You claimed that' 'You stated that'. For example;

"You claimed in your Screening Interview dated and your Statement of Evidence Form dated

and your Asylum Interview Record dated that:

a.) You were born in x on date y in and are of z ethnicity (Screening page, SEF page).
b.) In 199x when you were y years old your family fled to country because your father was a member of z Party and was wanted by the country Security forces (SEF page, AIR Q)
c.) …SEF page, AIR Q"

- Decision makers should always cite document, page, paragraph or Question numbers when referring to the applicant's evidence;
- Where the basis of claim is lengthy, splitting it into two or more paragraphs is likely to improve clarity;
- The basis of claim should not contain any analysis of the facts claimed, as this will be addressed in the *'consideration of the claim'* section of the letter;
- Any event or incident that is addressed in the bulk of the RFRL or grant minute should be mentioned in the basis of claim;

- If the name of a political party (or any other term that can be abbreviated) forms part the basis of claim, the full title of the party should be given in the first instance, with any abbreviation included in brackets. E.g. "you stated you were a member of the Movement of Democratic Change (MDC)" Subsequent references to the political party may then be abbreviated, e.g. "You claimed that as a result of your membership of the MDC….";
- Decision makers should not copy directly from the applicant's statement or SEF when drafting the basis of claim. (E.g. decision makers should not replicate in the RFRL the poor grammar or misuse of language employed by the applicant or their representative in the original SEF/ statement);
- Emotive words should not be used;
- While the claimed incidents must be identified in the basis of claim section, it is not necessary to go into a great deal of detail; and,
- Adverse credibility inferences under Section 8 should not be mentioned in the basis of claim.

# Document Control

## Change Record

| Version | Authors | Date | Change Reference |
|---|---|---|---|
| 1.0 | DD | 05/03/07 | New format Implemented |
| 2.0 | SK | 07/11/08 | Update branding only |