

Asylum Support Policy Bulletin 31

DISPERSAL GUIDELINES

1. SCOPE OF THE DOCUMENT

- 1.1 This document provides guidelines to help asylum support caseworkers deal with requests, made by asylum seekers, to be allocated accommodation in London or other particular areas.
- 1.2 **Please note that these are guidelines for the assistance of caseworkers. They do not prevent caseworkers exercising discretion where compelling or exceptional circumstances exist.**
- 1.3 **Section 55 of the Borders, Citizenship and Immigration Act 2009 requires the UK Border Agency to carry out its existing functions in a way that takes into account the need to safeguard and promote the welfare of children in the UK. It does not impose any new functions, or override existing functions.**

Officers must not apply the actions set out in this instruction either to children or to those with children without having due regard to Section 55. The UK Border Agency instruction 'Arrangements to Safeguard and Promote Children's Welfare in the United Kingdom Border Agency' sets out the key principles to take into account in all Agency activities.

Our statutory duty to children includes the need to demonstrate:

- **Fair treatment which meets the same standard a British child would receive;**
- **The child's interests being made a primary, although not the only consideration;**
- **No discrimination of any kind;**
- **Asylum applications are dealt with in a timely fashion;**
- **Identification of those that might be at risk from harm.**

2. DUE REGARD TO AREAS WITH A READY SUPPLY OF ACCOMMODATION

- 2.1 Under the provisions of section 97 of the Immigration and Asylum Act 1999 caseworkers must have regard to the desirability, in general, of providing accommodation in areas in which there is a ready supply of accommodation.
- 2.2 This means that, as a general rule, caseworkers should allocate accommodation in areas outside London and the South East.
- 2.3 However, asylum seekers may ask to be allocated accommodation in London or the South East. When this happens, caseworkers should assess:
- whether it is reasonable to allocate accommodation in a dispersal area (i.e. outside London or the South East) ;
 - whether an allocation of accommodation will meet the person's accommodation needs;
 - whether the decision to disperse is compatible with our obligations under Human Rights legislation, and in cases involving families with children that dispersal is in line with UKBA's obligation to take into account the need to safeguard and promote the welfare of children in the UK. It is important for both of these reasons that any children affected are treated as individuals and all information about them that is reasonably available is considered.

This assessment should be based on the information available on the application form and any other information submitted with the application.

- 2.4 There may also be occasions when caseworkers will need to obtain further information, for example from the reception assistant or from the Asylum Support Medical Adviser, to inform their decision.
- 2.5 Each application should be considered on its own merits, and any child named in the application should be given individual consideration. When deciding whether it is reasonable to allocate dispersed accommodation particular attention should be given to the following: (More information on each of these areas can be found in the remainder of this guidance):
- **Medical treatment;**
 - **Unaccompanied asylum seeking children who are leaving care;**
 - **Family ties;**
 - **Education;**
 - **Ethnic group;**
 - **Religion;**
 - **Employment;**
 - **Legal advice.**

- 2.6 If an applicant states on their application form that they want to stay in a particular area and it is decided to allocate accommodation elsewhere, caseworkers should give written reasons for their decision. Where the decision to deny the families request affects children the reasons should include evidence that the need to safeguard and promote their welfare has been considered. If a caseworker has reason to believe that children or their primary carers have needs arising above and beyond that which the UK Border Agency can provide, they may wish to initiate contact or liaise with other agencies (e.g. Local Authorities, the Local Safeguarding Children Board, Department of Health and/or other UKBA departments) where necessary in order to secure the most appropriate action for the child's needs.

3. MEDICAL TREATMENT

- 3.1 In general, caseworkers should assess whether it is reasonable to allocate dispersed accommodation in the light of evidence that medical treatment is required (see asylum support instruction – Healthcare Needs and Pregnancy Dispersal Guidance). If medical treatment is available in the dispersal area, then in the absence of other exceptional circumstances, dispersal is likely to be appropriate.
- 3.2 Cases which involve families with children should be considered in line with Section 55 of the Borders, Citizenship and Immigration Act 2009. Caseworkers should bear in mind the additional vulnerabilities of children with disabilities and or serious health problems and seek further information from child welfare agencies before deciding whether or not to disperse a family. If the decision is that dispersal should go ahead the statutory welfare agencies should be alerted to make appropriate arrangements with the services in the dispersal area.

4. UNACCOMPANIED ASYLUM SEEKING CHILDREN WHO ARE LEAVING CARE

- 4.1 Ministers agreed with effect from 1 October 2001, that young people who reach the age of 18 without a final decision being reached on their asylum claim would not be dispersed if they have been accommodated by the local authority under section 20 of the Children Act 1989 **and** qualify as 'former relevant children' under section 23C of the Children (Leaving Care) Act 2000. When dealing with such a case, caseworkers must refer to Policy Bulletin 29 - Transition at Age 18.

5. FAMILY TIES

5.1 Many asylum seekers state that they wish to be allocated accommodation near, or with, relatives or friends. When considering such matters, caseworkers should have regard to Article 8 of the European Convention on Human Rights.

5.2 Article 8:

"Right to respect for Private and Family Life:

1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others".

5.3 Cases involving the family rights of children should be considered on their merits on a case by case basis, caseworkers should seek to establish a cooperative working relationship with parents, legal guardians and families, in order to give due regard to the need to safeguard and promote the welfare of children in the UK. A child's family life is best secured by living with their parent or legal guardian unless there is evidence that this would cause the child significant harm.

5.4 An asylum seeker may request accommodation in London or the South East because they have a relative there. The person's individual circumstances and the nature of the relationship with that relative should always be carefully taken into account. But in the absence of exceptional circumstances, dispersal will generally be appropriate.

5.5 For example, if a person asked to be housed in London because they have an adult son there, then this would not normally be entertained. Likewise, if other extended relatives such as a cousin or uncle, are living in London, then this would not normally be entertained as a reason for placing the applicant in that area.

5.6 Caseworkers should be alert to exceptional circumstances of individual cases where it might be appropriate to depart from these general guidelines. Such cases should be referred to HEO level and be accompanied by a written proposal. Where such exceptional circumstances affect a child, caseworkers should consider whether a

referral to a local authority children's services department is required.

6. EDUCATION

- 6.1 Asylum seekers may ask to remain in London or the South East because they are attending school or an education course.
- 6.2 Caseworkers should have regard to Article 2 of The First Protocol of the European Convention on Human Rights which provides that:
- "No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions".
- 6.3 In addition, caseworkers should also ensure that any decision to disperse families has regard to the need to safeguard and promote the welfare of children in the UK. Officers should have regard to the statutory guidance in the Arrangements to Safeguard and Promote Children's Welfare in the United Kingdom instruction.
- 6.4 Case workers must apply well reasoned consideration, on a **case by case** basis, as to whether the decision to disperse will have a seriously adverse effect on a child's educational opportunities, for example equivalent education is not reasonably available in the designated dispersal area. Where case workers are unsure they should seek advice from their senior caseworker. Full reasoning behind decisions should be given to the main applicant in the relevant correspondence, including any relevant reference(s) to the child and their welfare.
- 6.5 In general asylum seekers education needs will be met in the area to which they will be dispersed. However, as a matter of policy, dispersal will be temporarily deferred where an asylum seeker has a dependant child in their household who has started the final school or college year leading up to their GCSE, AS or A-level exams (or their equivalents), provided they have been enrolled at that school or college for a significant part of the previous school or college year. Absent exceptional circumstances, a significant part of a school year will be taken to be a school term.
- 6.6 However, families will not benefit from this concession if they have been uncooperative (for example if they have failed to travel to dispersal accommodation without reasonable excuse) or have switched the type of

their asylum support application without good reason, and this has resulted in their dispersal being delayed until their child is in the final school year leading to their GCSE, AS or A Level exam.

- 6.7 Families with children who are in the school year leading to Statutory Assessment Tasks (SATs) will not benefit from the concession.
- 6.8 If a family has a child with special educational needs who has gained entry to an appropriate school, dispersal will normally be postponed until arrangements are in place for the child to transfer to a suitable school in the dispersal area.
- 6.9 Although many former unaccompanied asylum seeking children (UASC) will not be eligible for dispersal (see paragraph 4.1 above) - if a former UASC is eligible for asylum support (Policy Bulletin 29) and is not a former relevant child and he/she is in full time education when they reach the age of 18, and is about to take his/her final school examinations (e.g. A levels), sympathetic consideration will be given to deferring dispersal temporarily until they have completed their exams. In these circumstances, caseworkers should consider whether it is possible to continue to support them in their current accommodation. If this is not possible, then accommodation near to their current address and within reasonable travelling distance of their school/college should be recommended. Where this concession applies there will be a 'change of circumstance' as soon as the exams are over. The case must be reassessed, and dispersal considered in the usual way (see Policy Bulletin 29 Transition at Age 18).

7. ETHNIC GROUP

- 7.1 Asylum seekers may ask to be accommodated in London or the South East because the area has an ethnic community there, which does not exist in other areas. Each case should be examined on its own merits, but this would not normally be accepted as sufficient reason to depart from the dispersal policy. Asylum dispersal accommodation is provided in areas which either have an established ethnic minority community or are able to sustain a new ethnic group and voluntary and community infrastructures are in place or can be developed.

8. RELIGION

- 8.1 When considering whether it is appropriate to allocate dispersed accommodation caseworkers should give consideration to Article 9 of the European Convention on Human Rights which provides that everyone has

the right to freedom of thought, conscience and religion. This right includes freedom to change religion or belief and freedom, either alone or in community with others and in public or private, to manifest his/her religion or belief in worship, teaching, practice and observance.

- 8.2 Caseworkers should therefore examine each case on its own merits. If an applicant states, and it is accepted, that they should be allocated accommodation in a certain area because it is the only place they can worship, then the request may be granted (subject to due regard to cost of accommodation in the area). Such cases, which are likely to be very rare, should be referred to HEO level with a written proposal.
- 8.3 If there is only one place of worship, and asylum seekers of the same religion have already been dispersed, it is likely to be possible for a new asylum support applicant to be able to practise their religion with others in the dispersal area.
- 8.4 Further investigation may be required. It may be necessary for the caseworker to write to the applicant for further details about the religious group or the place of worship.

9. EMPLOYMENT

- 9.1 Although the employment concession was abolished on 23 July 2002, a small minority of asylum seekers may still have permission to work (Policy Bulletin 72). This means that some asylum seekers who apply for support may be in gainful employment and may assert that dispersal would mean that they would lose their job.
- 9.2 Although each case should be examined on its own merits, in such circumstances, as a general rule, it would not be unreasonable to allocate accommodation in a dispersal area. If the applicant has permission to work then it is not unreasonable to expect the person to seek employment in the dispersal area.

10. LEGAL ADVICE

- 10.1 Asylum seekers may assert that they should not be dispersed away from an area because they have legal advisors in that area. Legal advice and legal aid is available in other areas so this should not be accepted as a reason to preclude dispersal unless truly exceptional reasons are advanced.

11. APPLICANTS APPLYING FOR SUPPORT FROM OUTSIDE THEIR CASE OWNING REGION

- 11.1 Where an applicant granted support applied for that support from a region that is different to their case owning region, with the exception of cases owned by the London and South East region, the applicant should be dispersed back to the holding region unless there are compelling or exceptional circumstances which would make this inappropriate. For ascertaining whether there are compelling or exceptional which would justify the provision of accommodation outside the holding region, the guidance within this instruction should be applied.
- 11.2 If dispersal is to a region different to the applicant's case owning region, Case Owners should refer to the [Transferring asylum cases between regions AI](#) for guidance on when it would be appropriate to transfer case ownership between regions.

Document Control

Change Record

Version	Authors	Date	Change Reference
4.0	BF	12/11/08	Update branding only
5.0	MM	29/10/09	Amended to take in to account Section 55 of the Borders, Citizenship and Immigration Act 2009
6.0	SM	18/10/11	Guidance inserted on applications submitted outside case owning region
7.0	GJB	22/08/12	Reference to Policy Bulletin 85 replaced by new Asylum Instruction - Healthcare Needs and Pregnancy Dispersal Guidance.