Home Office

Section 31 Immigration and Asylum Act 1999 - defence against prosecution

This guidance is based on section 31 of the Immigration and Asylum Act 1999 and the 1951 Convention Relating to the Status of Refugees

Section 31 Immigration and Asylum Act 1999 - defence against prosecution

About this guidance

What to do when considering prosecution in asylum cases
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Procedures you must follow in section 31 cases
What to do once an asylum application has been decided

This guidance tells criminal investigation officers in immigration enforcement about the defence against criminal prosecution available to genuine asylum seekers under section 31 of the Immigration and Asylum Act 1999.

It is based on:

- article 31 of the 1951 Convention Relating to the Status of Refugees, and
- section 31 of the Immigration and Asylum Act 1999, which brings the protection provided in article 31 into domestic law for certain specified offences.

It gives information on:

- general advice on prosecution in asylum cases
- referring cases to the Crown Prosecution Service for charging advice in cases where the suspect has also claimed asylum
- the defence section 31 of the Immigration and Asylum Act 1999 provides
- article 31 of the Refugee Convention 1951 on which this defence is based
- the House of Lords judgement in the case of Asfaw, which set out how article 31 and section 31 are to be interpreted, and
- the procedures you must follow when dealing with section 31 cases.

For more information, see related links:

- Section 31 of the Immigration and Asylum Act 1999, and
- UNCHR – Convention Relating to the Status of Refugees.

Changes to this guidance – This page tells you what has changed since the previous version of this guidance.

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	manager can’t answer your question. Information owner – This page tells you about this version of the guidance and who owns it.	

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This page lists changes to the 'Section 31 Immigration and Asylum Act 1999 - defence against prosecution' guidance, with the most recent at the top.

Date of the change	Details of the change
6 December 2013	Six month review by the modernised guidance team: • House of Lords judgment - interpretation of Article 31: ○ new sub-heading 'R v Mateta, 2013' and content • Minor housekeeping changes.
29 July 2013	Completely modernised by the modernised guidance team

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This section tells criminal investigation officers in immigration enforcement what they need to think about when considering prosecution in a case where the suspect claims or has claimed asylum.

The prosecution process you use for a person who has also claimed asylum will be exactly the same as for any other type of case. The only difference is there are likely to be extra actions you will need to consider, for example:

- whether the person is likely to benefit from a defence under section 31 of the Immigration and Asylum Act 1999
- if there is any extra information you need to provide to the Crown Prosecution Service (CPS)
- keeping in touch with the asylum caseworker and monitoring what is happening in the asylum case, and
- if there is any action you will need to take once the asylum claim has been decided.

For more information, see:

- related link: Referring to the Crown Prosecution Service in asylum cases, and
- link on left: Section 31 Immigration and Asylum Act 1999.

Recording a prosecution on CID
Prosecution cases are recorded on the crime database on the national operations database (NOD). It is important you make sure there is reference to the prosecution on CID as well because this will affect how caseworkers deal with an asylum application. This means you must still raise a prosecution case on CID if the suspect is charged with an offence and goes through the court process.

If you have not decided to refer a case for charge yet and are still in the investigation stage, you must:

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	• put a special condition on the case as an ‘unresolved criminal prosecution’ • put your name and telephone number in the additional information box • identify the case owner and tell them there is a potential or actual prosecution, and • monitor the CID case regularly. If you and your supervising officer decide there are no longer grounds to continue with your investigation you must close the special condition flag. This is so case owners know you no longer have an interest and can continue their case as normal.	

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This page tells criminal investigation officers in immigration enforcement about referring an asylum claimant to the Crown Prosecution Service (CPS) for a charging decision.

In all asylum cases you refer to the CPS you must give them as much information as possible which may mean making some extra enquiries. You must:

- Give the CPS as much information as you can about the person's status in the UK when you make your initial referral.
- Tell the CPS about the person's personal circumstances, for example:
  - Their age, whether young or old and, in the case of age dispute cases, details of the Merton compliant age assessment. For more information, see related link: Assessing age. And
  - Details of any known or claimed medical, physical or psychological conditions.
- Find out the expected timescale for the asylum decision, once you know who the case owner is, and tell CPS straightaway.
- Make regular checks on what is happening in the asylum case by:
  - checking CID, and
  - keeping in touch with the asylum case owner.
- Update the CPS. Especially important in cases where the offender is detained or remanded in custody, if:
  - there are any changes to their status, or
  - they make any other applications.
- Give the CPS information and advice about the removability of the offender and the country they come from, for example whether there are any:
  - documentation issues, or
  - returnability issues.
- Check the country of origin information for the latest processes for documentation, timescales and issues. For more information, see related link: Country of origin information (COI) service.

Related links
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	If you are not sure what advice to give CPS: • ask your supervisor for guidance • do not give advice unless you know it is correct as you could be called to court to explain it, and • do not give advice you are not qualified to give. If you give this information to the CPS at the earliest opportunity it will help them to decide if a charge is to be brought, or in some circumstances, if a prosecution should continue. Although these checks are for asylum cases it is a good idea for you to make similar checks for any prosecution case you are dealing with.	

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This section tells criminal investigation officers in immigration enforcement about section 31 of the Immigration and Asylum Act 1999 and gives a brief description of what each sub section covers.

This is how the UK government put legislation in place to make sure it meets it's obligations under article 31 of the 1951 Convention Relating to the Status of Refugees. Section 31 of the act applies to certain specified offences. It tells you about the defence available to some genuine asylum seekers who have committed these offences when entering the UK.

It tells you the:

- exact nature of the criminal defence and who can benefit from it
- circumstances in which they can benefit, and
- offences to which the defence applies.

To see the exact wording of the act or article 31 of the 1951 convention, see related links:

- Section 31 of the Immigration and Asylum Act 1999, and
- UNCHR – Convention Relating to the Status of Refugees.

Section 31 (1) states there is a defence against prosecution for a refugee who:

- has come to the UK directly from a country where their life or freedom was threatened (as defined in the 1951 Convention Relating to the Status of Refugees), and
- is charged with an offence section 31 applies to

if they can show they:

- presented themselves to the UK authorities as soon as possible
- showed good cause for their illegal entry or presence, and

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Article 31 of the 1951 Convention Relating to the Status of Refugees

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- claimed asylum as soon as was reasonably practical after arriving in the UK.

Section 31 (2) states sub section (1) only applies to refugees who have travelled to the UK through another country, if they can show they could not reasonably have expected to be given protection under the 1951 convention in that country.

Section 31 (3) (England, Wales and Northern Ireland) tells you which offences benefit from a defence under section 31 in England, Wales and Northern Ireland. This applies to offences that are actually committed and ones that are attempted. The offences are:

Legislation	**The offence**
Part 1 of the Forgery and Counterfeiting Act 1981	Forgery and connected offences.
Section 24A of the Immigration Act 1971	Seeking to obtain or obtaining leave to enter the UK, by deception. Making sure they avoid, postpone or revoke (stop) any enforcement action, by deception.
Section 26(1)(d) of the Immigration Act 1971	Possessing false, or making alterations to genuine leave documents.
Sections 25(1) and (5) the Identity Card Act 2006 for offences committed up until 21st January 2011. and Sections 4 (1) and 6 (1) of the Identity Documents Act 2010 for offences committed after 21st January 2011.	Possessing false identity documents: • with improper intention, or • without reasonable excuse.

To read the acts, see related links.

Section 31(4) (Scotland) tells you which offences benefit from a defence under section 31 in

Scotland. This applies to offences actually committed and ones that are attempted. The offences are:

- fraud
- uttering (presenting) a forged document
- seeking to obtain or obtaining leave to enter the UK, or seeking to make sure they avoid, postpone or revoke (stop) any enforcement action, by deception, section 24A of the Immigration Act 1971, and
- possessing false, or making alterations to genuine leave documents, section 26(1)(d) of the Immigration Act 1971.

Section 31(5) states a refugee who has claimed asylum is not entitled to this defence if they committed the offence after claiming asylum.

Section 31 (6) says the term ‘refugee’ has the same meaning as in the 1951 convention.

Section 31 (7) states if the Secretary of State refuses an asylum claim, that person is not to be regarded as a refugee unless they can show they are. The effect of this is the burden of proving to the court they are a refugee shifts onto the defendant.

Sections 31 (8) and (9) relate to people who have been convicted of any offence in England, Wales, Scotland or Northern Ireland, to which section 31 applies.

It allows the person to apply for a review to:

- the Criminal Cases Review Commission (England, Wales and Northern Ireland), or
- the Scottish Criminal Cases Review Commission

and to request them to make a referral to:

- the Court of Appeal, (England, Wales or Northern Ireland), or
- the High Court of Justiciary (Scotland).

The person can only do this if they:

	• were convicted of the offence before section 31 came into operation • did not argue that they were entitled to a defence under article 31 of the 1951 Convention Relating to the Status of Refugees at any time during the proceedings, and • would therefore have had a defence under section 31 of the Immigration and Asylum Act 1999 if it had been in force at the material (relevant) time. Section 31 (10) and (11) deal with the procedure to follow when new offences are to be included within the scope of section 31 in England, Wales, and Scotland.	

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This page tells criminal investigation officers in immigration enforcement about what being a signatory to the 1951 Convention Relating to the Status of Refugees means, and specifically what article 31 means.

The 1951 Convention Relating to the Status of Refugees is the main legal document defining:

- what a refugee is
- what their rights are, and
- the legal obligations of states that have signed up to the convention.

As a signatory to the convention the UK has a duty to protect refugees who are in the UK, in line with the terms of the convention.

The convention was originally intended to deal with the situation after the end of the second world war. It was limited to people fleeing persecution from events that happened in Europe before 1 January 1951.

The only change to the convention since it was introduced is a protocol in 1967 which removed these restrictions so it applies to:

- events that have occurred at any time, and
- in any country.

Article 31
Article 31 of the convention deals with refugees who have entered or are present illegally in a country of safety.

Article 31 (1) says the contracting state (the state that has signed up to the convention) will not impose penalties on refugees due to their illegal presence or entry, if they:

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- have come directly from a territory where their freedom or life was threatened in the sense of article 1, which is, they:
  - have a well founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion
  - are outside their country of nationality or have no nationality, and are outside their usual country of residence, and
  - are unwilling to return to that country because of their fear, and
- have entered or are present in the country of safety without authorisation (illegally)

providing they:

- presented themselves to the authorities as soon as possible, and
- showed good cause for their illegal entry or presence.

Article 31 (2) also says the contracting state will:

- not restrict the movements of such refugees unless it is necessary
- only apply restrictions until:
  - their status has been regularised (decided), or
  - they have obtained admission to another country, and
- allow refugees reasonable time and all necessary facilities to be given admission to another country.

As an investigator, you must:

- be aware this defence is available for refugees who enter or are present in the UK illegally, if they can show they have met the requirements of article 31 (1), and
- only restrict their movements if it is necessary, and then only for as long as necessary in line with article 31(2).

For the exact wording used in the convention and the offences to which this defence applies, see related links:

- Section 31 of the Immigration and Asylum Act 1999

	• UNCHR – Convention Relating to the Status of Refugees.	

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This page tells criminal investigation officers in immigration enforcement about a significant court case that affects the way they must interpret article 31 of the refugee convention, and a second judgment they need to be aware of.

The court case affects how the Home Office approaches decisions to investigate criminal offences when the section 31 defence applies. The case ruled the protection available under section 31 is to be interpreted generously.

R v Asfaw, 2008
This case concerned an Ethiopian refugee who had fled Ethiopia, where her life was being threatened. She intended to go to the United States and claim asylum. She:

- used a false passport and was in the company of an agent
- travelled through the Middle East, with a three hour stopover, and
- sought to transit through the UK, where she was arrested for presenting a false passport to the authorities when attempting to leave.

She was charged with two offences:

- Using a false instrument with intent, contrary to the Forgery and Counterfeiting Act 1981.
- Attempting to obtain services by deception, contrary to the Criminal Attempts Act 1981.

She was acquitted of the first offence, but pleaded guilty to the second and received a nine month custodial sentence.

Following appeal the House of Lords quashed the conviction. This was on the basis it had been an abuse of process to bring two charges against her for what appeared to be identical conduct in the first place. The abuse related to the fact that the prosecution for the second charge (which unlike the first charge was not for an offence covered by section 31) deprived

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R v Mateta

the appellant of the defence she would have been entitled to.

Principles set down in the ruling in the case of Asfaw
The ruling in the case of Asfaw set down the following principles:

- A refugee has some choice as to where they claim asylum.
- Even where the offences are committed during a 'short term stopover' to an intended place of sanctuary (safety) they may be covered by the defence provided in section 31. This means a refugee who arrives in the UK in transit and who commits an offence on leaving may be able to benefit from the defence under section 31.
- The Crown Prosecution Service (CPS) guidance states a person may actually travel through several countries until they eventually apply for asylum. For more information, see related link: Statutory defences.
- Any exclusion from protection depends on:
  - the length of stay in the transit country, and
  - reasons for delaying there, regardless of whether protection could be looked for or found in that country.
- That presenting themselves 'without delay' to the authorities includes 'within a short time of arrival'.

The Secretary of State conceded article 31 applied equally to people attempting to leave the country as well as those seeking entry to or being present in the UK.

The offence of attempting to obtain (get) services by deception, is included in article 31, but was not listed in section 31. The court concluded this must be regarded as an oversight, not a deliberate omission. This means section 31 can be extended to give protection to people attempting to obtain (get) services by deception, namely travel tickets, where this is directly linked to their attempt to flee.

There are no clear guidelines about what constitutes:

- 'within a short time of arrival', or
- a 'short term stopover'.

	You must consider each case on an individual basis. For more information, see related links: • R v Asfaw • Section 31 of the Immigration and Asylum Act 1999, and • UNCHR – Convention Relating to the Status of Refugees. **R v Mateta, 2013** Mateta was encountered leaving the UK on a false passport. He: • claimed asylum • was arrested and interviewed by police because there was evidence he had committed an offence, and • was charged with the offence after his asylum application was refused. On the advice of his legal representative he pleaded guilty after being charged and was convicted of a document offence. He appealed against the refusal of asylum and won, and was then granted refugee status. His conviction was sent for review by the Criminal Cases Review Commission. At the review the lords justice's criticised the defence lawyer, CPS and Court of Appeal for failing to identify that he had a potential defence against prosecution under section 31. The decision to prosecute always lies with the CPS. However, it is essential that you, as an investigator, try to identify any potential defences and tell them immediately. The CPS may decide not to pursue prosecution in light of what you tell them. This helps to avoid any criticism of the Home Office if challenges arise later on. To read the judgement, see related link: R v Mateta.	

Procedures you must follow in section 31 cases

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This section tells criminal investigation officers in immigration enforcement about their roles and responsibilities and the procedures they must follow when dealing with an offender who could later rely on the section 31 defence.

Your role as an investigator or as a member of a criminal investigation team is restricted to:

- investigating the offence
- considering whether they meet the criteria at section 31(1) and (2) of the defence, and
- where appropriate, providing evidence and information to the Crown Prosecution Service (CPS) to help them:
  - decide if there is a defence under section 31, and
  - whether a charge should be brought.

To read the CPS guidance, see related links:

- Statutory defences, and
- CPS flowchart.

You cannot decide whether an individual is a refugee or if a section 31 defence exists. You will, however, have to consider, whether a section 31 defence might be relied upon later in criminal proceedings. This will help you to decide whether, and at what stage, it is appropriate for you to refer the matter to the CPS.

The benefits of following the processes described in this section are:

- all cases enter the investigation process in some way and risk prosecution if there is no evidence of a section 31 defence
- criminal investigation officers are restricted to establishing if statutory section 31 criteria are met, and are not expected to make consideration of, or judgement about, the merits of any outstanding asylum applications

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	• cases are assessed by the CPS, who can:
	  ○ put them on hold or refuse charge at that stage if they decide a section 31 defence might be available to the offender, and/or
	  ○ a decision in respect of their asylum claim is unlikely to be reached within a reasonable period of time, and
	• offenders are not put into custody or detention unnecessarily.	

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This page tells criminal investigation officers in immigration enforcement how to deal with section 31 referrals.

The general rule to follow
Any person who claims asylum and is suspected of committing a criminal offence where this defence applies must be referred to the local criminal investigation team using local referral procedures.

Referrals will nearly always be made by Border Force officers as this is usually where these offences are committed and detected. If the offender has immediately indicated to the officers that they intend to claim asylum, the referral will usually be done once the asylum screening has been completed.

For a list of offences that apply, see link on left: Section 31 Immigration and Asylum Act 1999.

At this stage the offender will probably not be under arrest.

What the criminal investigation team have to consider
All cases referred to the criminal investigation team by Border Force officers must be adopted. However, if you take a referral, you will need to decide if:

- you need to arrange to arrest the individual immediately, and
- any further investigation is appropriate.

You must consider if the basic evidential standard for investigation has been met (that there is evidence of an offence having been committed).

If there is, you must then consider if you think the section 31 defence does not apply, even if the offender was later granted asylum. This means, even if they were later found to be a refugee, you must consider whether you think they have met the additional statutory criteria

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in section 31(1) and (2).

You must consider the following questions:

- Is the offending behaviour connected to the fact the person was fleeing persecution?
- Did the offender:
  - ‘Come directly’ to the UK from their country of claimed persecution?
  - Express an intention to claim asylum as soon as was reasonably practical?
  - Present themselves to the authorities within a short time of their arrival into the UK?
- Were they present in the UK only for a short stopover period with an intention to travel onwards and later claim asylum in another country?

If you think the answer to any of them is ‘no’ you can conclude the section 31 defence does not apply, even if they may later be granted asylum. You must not consider whether their claim for asylum is credible. Only the asylum case owner responsible for their application can do this.

If you are the officer considering a referral, you must:

- Refer the case to your:
  - supervising officer or chief immigration officer (CIO) to help you decide on the appropriate course of action, or
  - local on-call CIO, supervising officer or inspector if you are working out of office hours.
- Always make the decision with your supervising officer or CIO on whether you think a section 31 defence might apply, regardless of whether that person is, or is likely to be found to be, a refugee. Never make this judgement on your own.
- Make a full record of the reasons for your recommendation in the record of investigation. You must:
  - confirm you have taken this guidance into account, and
  - include the name of the senior officer authorising the decision.

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If you consider the section 31 defence does not apply, even if that person has already been, or is later likely to be, granted asylum, you must progress your investigation as normal by:

- arresting the suspected offender
- booking them into custody
- interviewing them under caution, and
- referring the case to the Crown Prosecution Service (CPS) for a charging decision, for more information, see related links:
  - Statutory defences, and
  - CPS flowchart.

You must give the CPS full information:

- About the asylum application, whatever stage it is at.
- Reasons why you think the section 31 defence does not apply even if the offender has been, or may later be, successful in that application:
  - You must include these reasons, in full, when you send your MG03 report to the CPS for charging advice. See related link: MG03: Report to CPS for a charging decision, decision log and action plan.

For more information, see related link: Referring to the Crown Prosecution Service in asylum cases.

The CPS will decide if a defence exists and if the offender is to be charged at that time. If they advise you there could be a defence under section 31 or they do not yet have enough evidence to make a charging decision you must follow the instructions in the 'What to do if

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	the section 31 defence does or may apply' section. For more information, see related link. If the CPS authorises charges it is for them and the police to decide if the offender will initially be remanded in police custody or bailed, pending their first court appearance. The court then decides if any adjournments are appropriate pending the outcome of the asylum application. You must maintain regular contact with the asylum case owner throughout the prosecution process to identify any changes you need to be aware of. You must advise the CPS immediately if at any stage during your investigation or during any criminal proceedings, you: • Discover evidence suggesting the offender might be entitled to protection under section 31. Or • Receive an update or decision on the asylum application. If there is a grant of leave, the CPS considers if it is in the public interest to continue with the prosecution.	

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This page tells criminal investigation officers in immigration enforcement what to do if they think an offender does, or may have, a defence under section 31, if they have been, or may later be, granted asylum.

If you believe a section 31 defence does or might apply you must put the criminal investigation on hold and wait for the outcome of the asylum claim. If this happens you do not, at this point, need to:

- arrest
- take into custody, or
- interview the offender.

You must take witness statements from all relevant people because a prosecution may take place at some considerable time in the future. It is best to take statements as soon as possible so witnesses do not forget what happened. You must take statements from:

- the officer who initially encountered the person
- a forgery officer if a document was examined
- yourself, and
- anyone else who is a potential witness.

As with all investigations you must not take a witness statement from the suspect. Before you can speak to a suspect about an offence you must arrest and caution them on suspicion of the offence. Once in the police custody suite the custody sergeant must give them their legal rights before you can conduct a formal interview under caution. It is not appropriate to do this at this stage because you are not arresting them.

However, if the offender has made a significant statement at any time before they are released, the person they made it to must include this in their witness statement. A significant statement is ‘one which appears capable of being used in evidence against the

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suspect, in particular a direct admission of guilt'.

For more information, see related link: Types of witness statement.

Make sure you securely store, for future use, copies of any:

- notebook entries from the officers involved in the investigation, and
- statements that have been taken.

If the offender has any documents, for example forged or genuine passports, or birth certificates, you may need to keep them.

You can keep documents, before arrest, which have been produced during examination under schedule 2 of the Immigration Act 1971. See related link: Information and documents.

You can detain (keep) a document:

- to examine it for a period no longer than seven days, or
- for any purpose where a decision needs to be made on the person's immigration status, until the person the document relates to is:
  - granted leave to enter the UK
  - about to depart or be removed from the UK after they have been refused leave to enter the UK, or
  - given the decision they do not require leave to enter the UK.

For cases where a decision needs to be made you can only keep a document after the time it takes to make the appropriate decision if the document might be needed for an appeal or in relation to an offence.

If a document is produced during a different immigration function, for example a premises search, you can only keep it if it would assist the offender's removal from the UK if their asylum application was refused.

It is important that officers and case owners always store any documents securely and there

	is an audit trail on the document section of CID. You must also make a note on the record of investigation.
	
	You must tell the applicant:
	
	• they are not under arrest at this stage, but
	• prosecution remains an option pending the outcome of their asylum claim.
	
	You must also update your record of investigation with:
	
	• a note of the decision and your reasons for it
	• confirmation you have informed the offender of their potential liability to prosecution
	• the name of the officer authorising the decision, and
	• the details of the offender in question, which must include where possible, their:
	  ○ name, date of birth, address, and
	  ○ port reference if one has been issued.
	
	If you are the criminal investigation case officer, you must:
	
	• Complete the crime database section of the national operations database (NOD).
	• Update the CID case. For what to include, see link on left: What to do when considering prosecution in asylum cases.
	• Keep the record of investigation updated.
	• Set review dates on NOD, which must be at least monthly, so you do not lose sight of the investigation while the asylum claim is being considered. And
	• Regularly communicate with the asylum case owner about the progress of the asylum claim.	

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This page tells criminal investigation officers in immigration enforcement what to do once an asylum claim has been decided and there is a potential criminal prosecution being considered.

If you have put an investigation on hold waiting for the asylum application decision the asylum case owner is required to contact you to let you know the outcome of the case.

Many of these potential prosecutions will be discontinued because they are granted asylum or some other form of leave to remain. But even if the offender is granted asylum they may still be liable to arrest and prosecution, if you show they do not qualify for a section 31 defence in any event.

Whatever the outcome of the asylum claim you must review the case and reconsider whether you think the case meets the statutory criteria at section 31(1) and (2). For more information, see link on left: Section 31 Immigration and Asylum Act 1999.

What you do next depends on the outcome of the asylum claim.

If the offender is granted asylum
If you think the offender has met the criteria and section 31 applies you do not need to take any further action and can close your investigation case.

If you consider they have met some, but not all, of the statutory criteria, you can refer to the Crown Prosecution Service (CPS) for advice before arresting and interviewing them.

If you consider they do not meet any of the statutory criteria you must arrest and interview them before referring to the CPS for charging advice.

If the offender is granted other leave
If the offender is granted other leave to remain in the UK, for example, discretionary leave, you must refer the case to the CPS. You can do this before arrest.

Related links
Links to staff intranet removed

External links
Section 31 of the Immigration and Asylum Act 1999

The CPS consider whether it is in the public interest to charge the offender.

If the offender is refused asylum
The asylum case owner contacts you to tell you:

- when the asylum application has been refused, and
- to confirm when they have exhausted all appeal rights.

It is only at this stage you can take any action. You must refer all refused cases to the CPS.

If the offender is liable to removal from the UK and can be removed quickly you can refer to the CPS before arrest. The CPS decides if:

- it is in the public interest to continue with a prosecution, or
- a conditional caution or removal may be more appropriate.

You cannot make this decision yourself.

For more information on conditional cautions, see related link: Conditional cautions with foreign offender conditions.

If the offender has been refused asylum but cannot be removed quickly you must arrest, interview them under caution and refer them to the CPS for charging advice. But if it has taken more than six months for the asylum claim to be decided you can refer to the CPS before arresting.

Contact

About this guidance
What to do when considering prosecution in asylum cases
Section 31 Immigration and Asylum Act 1999
Procedures you must follow in section 31 cases
What to do once an asylum application has been decided

This page tells you who to contact if you need more help with a question about 'Section 31 Immigration and Asylum Act 1999 - defence against prosecution' guidance.

If you have read this guidance and still need more help, you must first ask your line manager. If you need further help you may contact:

Restricted – do not disclose – start of section

The information in this page has been removed as it is restricted for internal Home Office use only.

Restricted – do not disclose – end of section

Changes to this guidance can only be made by the modernised guidance team (MGT). If you think the policy content needs amending you must contact the policy team, using the related link: Email: Criminal investigation operational guidance, who will ask the MGT to update the guidance, if appropriate.

The MGT will accept direct feedback on broken links, missing information or the format, style and navigability of this guidance. You can send these using the link: Email: Modernised guidance team.

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Section 31 Immigration and Asylum Act 1999 - defence against prosecution

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This page tells you about this version of the 'Section 31 Immigration and Asylum Act 1999 - defence against prosecution' guidance and who owns it.

Version	2.0
Valid from date	6 December 2013
Guidance owner	Aidan Kiely
Cleared for publication by	David Pennant Sonia Dower
Director's role	Director – Crime directorate Director – Operational policy and rules unit
Clearance date	24 July 2013
This version approved for publication by	Aidan Kiely
Approver's role	Assistant director, immigration enforcement, criminal investigation
Approval date	18 November 2013

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Contact

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