



Home Office

Asylum policy instruction

Revocation of refugee status

Version 4.0

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Section 1: Introduction

1.1 Purpose of instruction

This instruction provides guidance to caseworkers on the circumstances in which it may be appropriate to revoke refugee status and explains the policy, process and procedure which must be followed. It replaces the previous asylum policy instruction on cancellation, cessation and revocation of refugee status.

This instruction provides specific guidance on:

- the legal framework governing revocation decisions under the Refugee Convention, European Directives and the relevant provisions of the Immigration Rules
- the circumstances in which those granted refugee status will have their case reviewed to consider whether they still qualify for protection, when such status should be revoked and what that means for the individual

It must be read in conjunction with relevant guidance on asylum decision-making, in particular Assessing credibility and refugee status, Settlement Protection, and Exclusion under Article 1F of the Refugee Convention. Separate guidance is available on revoking or refusing to renew a grant of leave on the basis of Humanitarian Protection. See Humanitarian Protection instruction. It may also be necessary to revoke, curtail or amend any remaining leave, for example to effect removal or place an individual on a more restrictive form of leave, subject to any right of appeal. As such, caseworkers must also refer to guidance on Revocation of Indefinite Leave, Curtailment, Restricted Leave and Discretionary Leave.

1.2 Background

The UK has a proud history of providing protection to those who need it, for as long as it is needed, in accordance with our international obligations under the Refugee Convention. However, refugee status is not necessarily permanent and there are several circumstances in which it will be appropriate to revoke such status. Careful consideration must be given to revoking refugee status and removing or varying any associated leave where:

- it is clear that someone no longer needs protection (cessation)
- evidence emerges that status was obtained by misrepresentation (cancellation)
- someone commits a serious crime or represents a threat to our national security such that they no longer deserve protection (revocation)

Changes to the Immigration Rules, introduced on 19 November 2015, have clarified the definitions used in revocation decision making and aligned the process with the recent changes to the Immigration Act 2014. This means that the broad term of revocation applies to all the circumstances in which refugee status may be withdrawn, including cancellation and cessation. All caseworkers must be familiar with this instruction so that they are able to identify

cases which may fall for revocation action and bring them to the attention of the appropriate team.

1.3 Policy intention

The policy objective is to maintain a fair and efficient immigration system that ensures protection is provided for as long as it is needed; and does not allow those who obtain status by deception, or who commit serious crimes to continue to benefit from refugee status by:

- conducting safe return reviews when someone applies for further leave or settlement and revoking refugee status where protection is no longer necessary or justified – such that individuals will need to apply under other immigration provisions or leave the UK
- revoking refugee status to enable removal action where evidence emerges that refugee status was obtained through misrepresentation so that those who abuse the asylum system do not continue to benefit from such status
- reviewing all cases in which someone with refugee status commits a criminal offence or represents a danger to national security so that revocation action is taken where appropriate and the individual is removed or placed on more restrictive leave to facilitate removal as soon as possible

1.4 Application in respect of children

Section 55 of the Borders, Citizenship and Immigration Act 2009 requires the Home Office 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. Caseworkers must be familiar with the [Every Child Matters - Change for Children](#) guidance.

A child's best interests are not a factor in assessing whether a fear of persecution is well-founded, and as such will not prevent revocation of refugee status where protection is no longer needed, or where it was obtained by misrepresentation. However, any decision to revoke refugee status must have regard to section 55 and the potential impact of the decision on a child, either as an individual or as part of the family unit. The best interests must be carefully considered before any decision to remove is made, even though in most cases, a child's best interests will generally be served by remaining in the family unit and leaving the UK if the family do not otherwise qualify for leave to remain under other immigration provisions.

Best interests cannot override the public interest in denying the benefits of refugee status to those who commit serious crimes or represent a threat to national security. However, any dependants will not normally have their refugee status revoked where there is still a risk of persecution on return to their country of origin, and a parent or child subject to revocation action would not be removed from the UK where they face serious harm on return.

Considering claims from children must be conducted by caseworkers who have completed the requisite training and are qualified to interview and decide them. See the Asylum Instruction,

Processing an asylum application by a child. For further information on the key principles to take into account, see: Section 55 Children's Duty Guidance and Processing Family Cases.

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Section 2: Relevant legislation

2.1 The Refugee Convention

The [1951 Refugee Convention and 1967 Protocol relating to the status of refugees](#) is the primary source of the framework of international refugee protection. The key principle, enshrined in Article 33(1), prevents signatory states from returning ('refouling') individuals to their country of origin where their life or freedom would be threatened on account of their race, religion, nationality, membership of a particular social group or political opinion.

Article 12 provides that the personal status of a refugee is governed by the law of the country of domicile or residence.

Article 1C sets out the circumstances in which the Refugee Convention will cease to apply because an individual no longer needs protection.

There is provision to exclude individuals from the Refugee Convention under **Article 1F** where there are serious reasons for considering that the person has:

- committed a crime against peace or humanity or a war crime, as defined in international instruments
- committed a serious non-political crime outside the country of refuge prior to their admission as a refugee
- been guilty of acts contrary to the purposes and principles of the United Nations

Article 32 states that a refugee shall not be expelled from a country where they are lawfully present except on grounds of national security or public order; and **Article 33(2)** permits the return (refoulement) of a refugee where either:

- there are reasonable grounds for regarding them as a danger to national security
- having been convicted by a final judgment of a particularly serious crime, they constitute a danger to the community

Both articles apply to those who are still 'refugees' under the Refugee Convention, who are not (or cannot) be excluded under Article 1F.

2.2 European Law

[Council Directive 2004/83/EC](#) of 29 April 2004 (the Qualification Directive (QD)) lays down minimum standards for the qualification and status of third country nationals or stateless persons as refugees and makes provision for the content of the protection granted. [Council Directive 2005/85/EC](#) of 1 December 2005 (the Procedures Directive (PD)) lays down minimum standards on procedures in Member States for granting and withdrawing refugee status. The following articles are particularly relevant to this instruction.

Article 2(d) of the QD defines ‘refugee status’ as the recognition of a refugee by a Member State; and **Article 13** states that Member States shall grant refugee status to persons who qualify as a refugee under the provisions of the Directive.

Article 14 of the QD allows Member States to revoke, end or refuse to renew refugee status in certain circumstances. **Article 14(1)** provides for such action where an individual ceases to be a refugee in accordance with **Article 11**, which replicates the cessation provisions set out in Article 1C of the Refugee Convention.

Article 14(3) of the QD states that Member States shall revoke, end or refuse to renew refugee status if the person should be (or should have been) excluded from such status in accordance with **Article 12**, or if the person’s misrepresentation or omission of facts, including use of false documents, were decisive for the grant of refugee status. **Article 12** replicates (among other provisions) the exclusion provisions set out in Article 1F of the Refugee Convention.

Article 14(4) of the QD states that Member States may revoke, end or refuse to renew refugee status where there are reasonable grounds for regarding the person as a danger to the security of that Member State; or if, having been convicted by final judgment of a particularly serious crime, they constitute a danger to the community. This replicates Article 33(2) of the Refugee Convention.

Article 37 of the PD states that Member States shall review refugee status when new elements or findings indicate that there are reasons to reconsider the validity of that status; whilst **Article 38** requires Member States to notify the person in writing of their intention to consider withdrawing refugee status and the reasons for it, to provide an opportunity for them to respond.

Article 39(1) of the PD states that Member States shall ensure the right to an effective remedy against a revocation decision. Under **Article 39(3)** Member States may provide that this remedy shall not permit the person to remain in their territory pending its outcome.

Article 2(j) of the QD defines ‘residence permit’ and **Article 24** requires Member States to issue a residence permit to those with refugee or subsidiary protection status, valid for at least 3 years and renewable, unless compelling reasons of national security or public order require shorter grants of leave. This is a similar test to that set out in Article 32 of the Refugee Convention.

2.3 Domestic Legislation: Refugee Status

Most of the provisions of the Refugee Convention, the Qualification and Procedures Directives have been transposed into law in the UK through primary and secondary legislation and the Immigration Rules.

Regulations 2 to 6 of the [Refugee or Person in need of International Protection \(Qualification\) Regulations 2006](#) define the circumstances in which a person is considered to be persecuted.

Regulation 7 clarifies the definition of a 'serious non-political crime' and the timing of a person's admission to the country of refuge in Article 1F(b) of the Refugee Convention. It also states that Article 1F(a) and (b) of the Refugee Convention will apply to a person who initiates or otherwise participates in the commission of the crimes or acts specified in those provisions. [See Immigration Rules section.](#)

Section 10 of the Immigration and Asylum Act 1999 (as amended by the [Immigration Act 2014](#)) provides a single power of removal for those who require but do not have leave to enter or remain. A separate removal decision is no longer necessary. Those who are in breach of the conditions of their leave, or obtained leave by deception, may be removed under this power but any extant leave must be brought to an end first (curtailed). All persons removed under this power must still be given notice of removal. See also [Section 5\(1\) of the Immigration Act 1971](#) for automatic deportation cases.

Section 54 of the [Immigration, Asylum and Nationality Act 2006](#) provides a definition of acts contrary to the purposes and principles of the United Nations falling within Article 1F(c).

Section 72 of the [Nationality, Immigration and Asylum Act 2002](#) provides that, for the purposes of [Article 33\(2\)](#) of the Refugee Convention, an individual is presumed to have committed a particularly serious crime and be a danger to the community if sentenced to imprisonment of at least 2 years or the offence is one specified by Order of the Secretary of State. It must be a single crime and cannot be an aggregate sentence and must relate to an ongoing danger. The presumption that a person constitutes a danger to the community is rebuttable by that person.

Section 76 of the 2002 Act provides the power to revoke indefinite leave to enter or remain in certain circumstances. **Section 76(1)** applies where someone is liable to deportation but cannot be deported for legal reasons; **76(2)** applies where the leave was obtained by deception. These sections apply to anyone with indefinite leave regardless of the reason why it was originally granted. **Section 76(3)** applies where someone has ceased to be a refugee as a result of voluntary actions that mean they no longer need protection. This only applies to a refugee and will most likely accompany a decision to revoke that status.

Section 82 of the 2002 Act (as amended by the [Immigration Act 2014](#)) sets out the rights of appeal available against decisions taken under the Immigration Acts. An appeal can only be brought against a decision to refuse a protection or human rights claim, or revoke protection status. A person has 'protection status' if they have been granted leave as a refugee – they have been recognised by the UK as having refugee status – or as a person eligible for a grant of humanitarian protection.

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2.4 Domestic Legislation: Leave to Enter or Remain

Section 3(1) of the [Immigration Act 1971](#) provides the power to grant leave to enter or remain in the UK and **Section 3(1)(c)** provides powers to impose conditions on that leave.

Section 5(1) provides that a deportation order has the effect of invalidating any leave, including indefinite leave, to enter or remain that is given before the deportation order is made or while it is in force.

Article 13(7) of the [Immigration \(Leave to Enter and Remain\) Order 2000](#) states that where a person is outside the UK and has leave which is in force by virtue of this article, that leave may be cancelled (in the case of leave to enter, by an immigration officer; in the case of leave to remain, by the Secretary of State).

2.5 Immigration Rules

[Part 11 of the Immigration Rules](#) sets out the provisions for considering asylum claims and contains provision to revoke refugee status, which reflects our obligations under EU Directives.

[Immigration Rules: Introduction](#) defines 'refugee status' as the recognition by the UK, following consideration of an asylum claim, that a person meets the criteria in paragraph 334 of the Rules, one of which is that they are a refugee. '**Refugee leave**' is leave granted under paragraph 334 or 335 of the Rules which has not been revoked under paragraphs 339A-339AC or 339B.

[Paragraph 338A](#) sets out when refugee status granted under paragraph 334 will be revoked or not renewed. This is set out in detail in paragraphs 339A to 339AB and 339AC and covers circumstances in which the Refugee Convention will cease to apply; where a person will be excluded; where status was obtained by misrepresentation; and where someone represents a danger to the UK.

[Paragraph 339B](#) covers curtailment or cancellation of leave when refugee status is revoked.

[Paragraph 339BA](#) implements Article 38 of the Procedures Directive. This states that where revocation is being considered, the refugee should be informed in writing that their grant of asylum is being reconsidered and the reasons for the reconsideration. It also provides that the person should be given the opportunity to submit, in a personal interview or in a written statement, reasons why their refugee status should not be revoked.

[Paragraph 339BB](#) sets out the circumstances when the procedure in paragraph 339BA does not need to be followed; and [Paragraph 339BC](#) confirms that the procedure can be carried out when the person is outside the UK.

[Paragraph 358C](#) entitles UNHCR to present their views when consideration is being given to the revocation of refugee status.

[Paragraph 339Q](#) states that the Secretary of State will issue a grant of leave (Residence Permit) to people granted refugee status, which may be valid for 5 years or for shorter periods in certain circumstances.

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Section 3: General principles

This section applies to all cases where consideration is being given to revoking refugee status, regardless of the basis on which revocation is being considered.

3.1 Introduction

Being a refugee and having 'refugee status' are 2 separate things. Under the Refugee Convention, a person is a refugee where they meet the definition – they are outside their country of origin or former habitual residence owing to a well founded fear of persecution, regardless of any status conferred. Refugee status is derived from the EU Qualification Directive and is the status afforded by Member States to those recognised as refugees. This means that all EU rights flow from this 'status'.

There is no provision to revoke status under the Refugee Convention itself. Articles 1C and 1F simply provide that the Refugee Convention no longer applies when the circumstances set out in those Articles are met. Article 33(2) differs in that it permits the removal of a refugee, but the individual does not stop being a refugee – under this Article they would be removed notwithstanding the fact that they remain a refugee. Any leave to enter or remain that a refugee is given is also separate to their refugee status. This leave and any conditions attached are conferred under the Immigration Act 1971.

The process for revoking refugee status and removing or varying their leave includes contact with the refugee normally in writing, and providing the United Nations High Commissioner for Refugees (UNHCR) with the opportunity to present their views on the case. Action to revoke refugee status should normally be carried out by the Status Review Unit. However, if there is criminality involved or there are security issues, Criminal Casework or the Special Cases Unit will be involved in the process.

3.2 Grounds for revoking refugee status

Refugee status may be revoked for one or more of the reasons set out in the [Immigration Rules](#). If more than one of the following provisions applies, then revocation on all grounds must be considered and addressed as part of the decision:

- Refugee Convention ceases to apply ([Paragraph 339A\(i\)-\(vi\)](#))
- exclusion from the Refugee Convention ([Paragraph 339AA](#))
- misrepresentation of facts decisive to the grant of refugee status ([Paragraph 339AB](#))
- danger to the UK ([Paragraph 339AC\(i\)-\(ii\)](#))

3.3 Naturalisation and citizenship

Where a person acquires British citizenship, their refugee status is automatically revoked in accordance with [Paragraph 339A \(iii\)](#) of the Immigration Rules upon acquisition of that status (they have acquired a new nationality and enjoy the protection of the country of their new nationality). Therefore, revocation does not apply in such cases and there is no requirement to

obtain information from the individual as to why they should not have their refugee status revoked. It is also unnecessary to contact UNHCR for comment in these cases.

Where a former refugee, who has been naturalised, is found to have obtained refugee status by deception or where they have engaged in conduct which would have brought them within the scope of the exclusion clauses, then the Home Office may review that person's continuing entitlement to British Citizenship. Cases must initially be referred to the Status Review Unit (SRU) for consideration.

3.4 Triggers that lead to a review of refugee status

Where someone has refugee status, revocation action can be taken at any time if there is sufficient evidence to justify such action. This could be:

- during the initial period of limited leave
- after their leave has expired pending a decision on any settlement application
- whilst the refugee has indefinite leave to remain (ILR)

It is possible to consider revocation on one or more grounds and any criminality by the individual or any dependants should lead to a review of the case to consider whether revocation action is appropriate.

The following is not an exhaustive list of triggers. Where there are any concerns about a grant of refugee status, caseworkers should discuss the case with a Senior Caseworker or Technical Specialist.

Return to country of origin or obtaining a passport

This will usually indicate voluntary re-availment and may lead to revocation under [Paragraph 339A\(i\)-\(vi\)](#).

Reasons for the grant of asylum no longer exist

A change in personal circumstances or country situation may mean that the reasons that led to the grant of asylum no longer apply. Any change must be significant and non-temporary. See Refugee Convention ceases to apply ([Paragraph 339A\(v\)-\(vi\)](#))

Misrepresentation

Material facts were misrepresented or omitted and this was decisive in the decision to grant asylum. See Misrepresentation of facts decisive to the grant of refugee status ([Paragraph 339AB](#)).

Exclusion

Evidence emerges after a grant of status that indicates the person should have been or is excluded from the Refugee Convention. See Exclusion from the Refugee Convention ([Paragraph 339AA](#)) and Danger to the UK ([Paragraph 339AC\(i\)-\(ii\)](#)).

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Criminality

Irrespective of the length of the sentence, a review of refugee status should be conducted in most cases where there are criminality issues. Criminality does not amount to a change of personal circumstances under Paragraphs 339A (i-iv), but it is possible that a review may highlight that protection is no longer needed.

Returning residents

Where a refugee has been outside the UK for more than 2 years their refugee status should be reviewed before any leave is reinstated. Whilst refugee status can only lapse in certain circumstances (see section below on [When refugee status can lapse: cessation cases](#)) any accompanying leave will lapse if a refugee fails to comply with the conditions of that leave. Those outside the UK for more than 2 years will be required to apply for a Returning Residents visa to return and must apply using the appropriate form, paying the relevant fee. Further Details are available on Gov.UK at [returning residents visa](#). Where leave has lapsed and there is no evidence that revocation action has been considered, the case must be referred to SRU.

Extremist behaviour

Where there is any evidence that a refugee or their dependants have engaged in unacceptable behaviours (whether in the UK or abroad) considered not conducive to the public good or has acted in a way which undermines British values, their status must be reviewed and the case referred via a SCW to SCU.

3.5 Requirement to provide the opportunity to respond

Article 38(1)(a) and (b) of the Procedures Directive (reflected in [Paragraph 339BA of the Immigration Rules](#)) set out certain requirements to provide the refugee with the opportunity to respond to where revocation action is being considered. [Paragraph 339BC](#) permits the procedure set out in paragraph 339BA to be initiated, and completed, while the person is outside the UK (see also [Section 2.4 on Domestic Legislation: Leave to Enter or Remain](#)). This includes a requirement to inform them in writing of the reasons why refugee status is being reconsidered and to give them a chance to respond to those reasons. This obligation is fulfilled by providing an opportunity for the individual to respond in writing. However, where it is considered that refugee status has lapsed, it may be possible to dispense with the requirement to provide the opportunity for the refugee to respond. See [when refugee status can lapse: cessation cases](#).

It may also be appropriate to cancel refugee leave in order to prevent an individual returning to the UK until a review of their refugee status has been completed. Refugee leave can be cancelled under [Article 13\(7\) of the Immigration \(Leave to Enter and Remain\) Order 2000](#), for example where the individual is considered a danger to the security of the UK as soon as the individual is notified of the intention to revoke refugee status.

Interviewing in revocation cases

An interview does not need to be carried out in most potential revocation cases. When the caseworker is considering the evidence and the information submitted by the individual is sufficient to reach an informed decision, an interview is unlikely to be necessary. However, it may be necessary to clarify any issues by requesting further written information. If an interview

is required as part of the consideration process, this must be conducted in accordance with the guidance on Asylum Interviews and the safeguards set out in [Paragraphs 339NA to 339ND of the Immigration Rules](#).

Considering representations submitted

Where the individual submits evidence in response to the notification of intention to revoke refugee status, careful consideration must be given to all the points raised as well as the initial information that led to the decision to consider revocation. It is important to keep in mind that the burden of proof rests on the Home Office when making a decision to revoke refugee status and, as with first instance decisions, the relevant standard of proof is a low one. See [Assessing credibility and Refugee Status](#) for further details on the standard and burden of proof requirements.

Caseworkers must consider if:

- the individual has a reasonable explanation which directly addresses the proposal to revoke refugee status been provided
- there are any compassionate reasons as to why refugee status should not be revoked
- it is necessary to contact the refugee for further details
- the individual has raised any other protection based grounds, such that it would be appropriate to allow the individual to retain refugee status

Where it is accepted that someone still needs protection after having reviewed the case, even if the reasons differ from those which gave rise to the original grant of leave, revocation action should not normally be pursued on cessation grounds.

Where grounds are raised that amount to an application for leave to remain on the basis of Article 8 family or private life grounds, these only need to be considered if the decision is to proceed with revocation action. See [considering other forms of leave](#). Applications on any other basis under the Immigration Rules or for a purpose not covered by the Rules (Leave outside the Rules) must be made on the relevant application form available on Gov.UK.

Where no response is provided

Caseworkers must ensure that every reasonable effort has been made to contact the refugee to enable them to provide a response to the decision to consider revocation. This should include, for example, checking:

- previous addresses
- the last known legal representative
- applications for other forms of leave
- any other details provided to the Home Office by other Government departments or agencies

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In the absence of any response, the caseworker should proceed on the assumption that the individual has no reasonable explanation to provide and therefore has no basis on which to remain in the UK. When considering these facts, the caseworker must give consideration to relevant articles of the ECHR that might apply, such as Article 3.

Where no response is received from the refugee, caseworkers must still provide UNHCR with the opportunity to present their views on the decision to revoke refugee status.

Response leads to no revocation action

Where the response from the refugee is accepted and revocation action is not being pursued, caseworkers should complete the relevant templates informing the refugee and UNHCR (where applicable) that no further action is being taken. It may be appropriate to warn them that the behaviour that led to the review potentially jeopardised their entitlement to refugee status even though it has been decided not to pursue revocation on this occasion. It would also be appropriate to advise the refugee that despite no action being taken on this occasion, that this does not preclude any future action. See [decision not to proceed with revocation](#).

Proceeding to revoke

It is not necessary to seek approval to revoke refugee status unless there are specific reasons why this may be appropriate. See [decision to proceed with revocation](#).

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3.6 View from UNHCR on the proposal to revoke refugee status

It will normally be appropriate to give the UNHCR an opportunity to present their views on individual cases before a final decision is taken. This reflects the requirements in [Paragraph 358C](#) of the Immigration Rules. UNHCR should normally be contacted after the individual concerned has had an opportunity to comment so that UNHCR can take the representations of the refugee into account in preparing their view of the case.

UNHCR should usually be provided with 10 working days within which to respond. If more time is required, this may be considered on a case by case basis. If a case must be decided in a particular timescale, less than 10 days may be provided but caseworkers must discuss the case with their SCW and it should be explained as far as possible to UNHCR why a shorter timescale is necessary.

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Although there is no requirement to formally respond to representations from UNHCR, caseworkers must take their comments into account as part of the decision on whether to proceed with revocation and provide UNHCR with a copy of the final decision.

3.7 Dependants

A dependant is defined as a spouse, partner or a minor child related to the refugee at the time consideration is given as to whether refugee status and / or leave should be revoked. Where a dependant was originally granted refugee status and / or leave in line with the principal claimant it will usually be appropriate to treat them in line with the principle applicant in revocation proceedings and seek to remove the family as a group where appropriate.

There may be compelling reasons for not revoking refugee status and / or leave of dependants in some circumstances. Dependants are expected to provide reasons why and to set out any such compelling reasons for the caseworker to consider. Caseworkers must also consider whether the dependants may have reason to claim asylum in their own right independently of their spouse, partner or their parents. In such cases, careful consideration needs to be given as to whether revoking the dependant's status is appropriate in all the circumstances.

It may also be appropriate to revoke the refugee status of a dependant without this impacting on the main claimant and any other dependants, particularly where it is only the dependant who is involved in criminality.

3.7.1 Dependants granted under family reunion

In the case of dependants granted under the family reunion provisions, caseworkers must check and establish if the dependant was granted refugee status as well as leave in line. The previous policy on family reunion was to grant refugee status and leave in line as a matter of course. A dependant granted refugee status on this basis may be unable to provide details about the reasons why the principal applicant was granted asylum. Caseworkers must review the reasons for the grant of asylum to the principal applicant and take this into account when reviewing the case. However, the required test is whether the individual can continue to refuse the protection of the country of nationality. This means that there must be a continuing need for protection at the date of the decision rather than continue to benefit from refugee status on the basis of historical facts.

3.8 Deportation with assurances (DWA) cases

Where the UK wishes to deport someone, but needs specific assurances that they would be treated in line with our international obligations under the EHCR, this is done under the Government's Deportation with Assurances (DWA) programme. The UK has agreements with several countries – usually in the form of a 'Memorandum of Understanding' (MOU) between governments – which provide assurances around the treatment of those deported from the UK to one of these countries, or from one of these countries to the UK. All cases involving potential DWA action are handled within the Office for Security and Counter terrorism (OSCT) who can provide further advice.

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3.9 Extradition

Under UK law, a person cannot be extradited to the country from which they successfully claimed asylum. Where the Extradition Section of the International Criminality Unit (ICU) receives an extradition request, they may check whether a person has refugee status and leave or has made an asylum claim. If the person has refugee status, ICU will forward a copy of the extradition request and ask that the person's status be reviewed in the light of the request. The evidence submitted in support of that request may be enough to show that there are serious reasons for considering a crime has been committed which would fall under Article 1F and may also give rise to other reasons for revocation action. Each case must be considered on its individual merits.

Any extradition request involving a refugee must be forwarded to the SRU or CC (depending on who is dealing with the case) before any action is taken. SRU do not handle extradition cases involving failed asylum seekers or non-asylum cases. Refugees must have both their refugee status and any extant leave removed before extradition can take place. Unless refugee status is revoked, there remains a protection impact on any extradition request.

Extradition requests involving refugees are not likely to arise frequently, but when they do, ICU must be kept informed of progress and be asked to contribute to any submissions on the case. This is not to ensure that ICU agrees with the decision but to check that the extradition process and evidence has been understood by the caseworker. See also Section 3.11 in the Exclusion (Article 1F) and Article 33(2) Asylum Instruction.

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3.10 Status, leave and rights of appeal

The [Immigration Act 2014](#) changed the rights of appeal in revocation cases. **Section 82** of the [Nationality, Immigration and Asylum Act 2002](#) (as amended), provides a right of appeal against a decision to refuse a protection claim; a human rights claim, or the revocation of protection status. A person has 'protection status' for the purpose of Section 82(1)(c), where they have been granted leave as a refugee – they have been recognised by the UK as having refugee status – or a person granted humanitarian protection.

This means that any decision to revoke a grant of refugee status attracts a right of appeal under **Section 82(1)(c)** of the [Nationality, Immigration and Asylum Act 2002](#) (as amended). This right is subject to the exceptions and limitations set out in [Part 5 of the 2002 Act](#). **Section 92(5)** sets out that an appeal under **Section 82(1)(c)** must be brought from within the UK if the decision to revoke was made while the appellant was in the UK and must be brought from outside the UK where the decision to revoke was made while the appellant was outside the UK. As such, the revocation process can be initiated and concluded where an individual is not in the UK at the time.

Dependants who do not have refugee status in their own right do not have a right of appeal, but we would not normally remove a dependant whilst the main applicant has an outstanding appeal against revocation. However, caseworkers will need to cancel, curtail or revoke any extant leave as appropriate.

Cancelling, curtailing or revoking leave

It may also be necessary to revoke, cancel or curtail any extant leave. In certain cases, this will happen automatically as the result of a separate decision, for example serving a Deportation Order will automatically invalidate any extant leave. It may also be necessary to curtail leave in order to grant a different, more restrictive form of leave. This may include, for example, revoking ILR and granting Restricted Leave or curtailing the remaining years of a grant of limited refugee leave and replacing it with 6 months Discretionary Leave.

In every decision to revoke refugee status – regardless of the grounds – consideration must be given to whether any leave should be curtailed or revoked. See [Paragraph 339B](#) of the Immigration Rules.

Curtailing leave: limited leave

Where a refugee (or dependant) has any extant limited leave when a decision is taken to revoke refugee status, this leave can be curtailed in accordance with [Paragraph 323](#) which provides that a person's leave to enter or remain may be curtailed on any of the grounds set out in paragraph 339A-339AC and paragraph 339GA-339GD. Curtailment of leave does not attract a right of appeal, the appeal is against the revocation of the protection status.

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Revoking leave: ILR

[Section 76 of the Nationality, Immigration and Asylum Act 2002](#) provides the power to revoke indefinite leave to enter or remain. **Section 76(3)** only applies to refugees and will most likely accompany a decision to revoke refugee status.

Cancelling leave when the refugee is not in the UK

If the refugee is not in the UK when the decision is taken to revoke refugee status, any right of appeal must be brought from abroad. There is no requirement to allow the refugee to return to the UK to exercise their appeal rights. Any leave the refugee has can be cancelled under [Article 13\(7\) of the Immigration \(Leave to Enter and Remain\) Order 2000](#) using the grounds in [321A-AC of the Immigration Rules](#) or Section 76 of the Nationality, Immigration and Asylum Act 2002.

Section 3D of the Immigration Act 1971

There is no longer a right of appeal against a decision to vary or revoke immigration leave. When dealing with a decision to revoke protection status, if a decision is taken to revoke any existing leave at the same time section 3D will not apply. This is because any appeal is only against the decision to revoke protection status, not against the decision to revoke 'leave'. So once the leave is revoked or curtailed, even if there is a right of appeal against the revocation of protection status, the person has no leave.

A decision to vary leave so that there is no leave remaining - often referred to as curtailment with immediate effect - or to revoke leave did carry a right of appeal before 6 April 2015. This means that where there is an in country appeal outstanding against a variation or revocation (of leave) decision then the applicant continues to be on 3D leave.

3.11 Considering if other types of leave should be granted

[Appendix FM](#) to [and paragraph 276ADE\(1\)](#) of the Immigration Rules provide the basis on which a person, who is not a foreign criminal liable for deportation, can apply for entry clearance to or leave to remain in the UK on family life grounds or leave to remain here on private life grounds. Where Article 8 family and/or private life reasons are raised, caseworkers should consider whether a grant of leave on this basis is appropriate only where refugee status is being revoked. The refugee will still have a right of appeal against revocation of status, even where leave on another basis is granted. See [status, leave and rights of appeal](#).

Article 8 in criminal cases

Article 8 claims from foreign criminals are considered under [Paragraphs 398 to 399A of the Immigration Rules](#) which are underpinned by sections [117A to 117D of the Nationality, Immigration and Asylum Act 2002 \(as amended by section 19 of the Immigration Act 2014\)](#). For further information see Criminality guidance for Article 8 ECHR cases.

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3.12 Gateway settlement cases

Those resettled to the UK under the any of the 3 resettlement schemes: Gateway, Mandate or the Syrian Vulnerable Persons Relocation (VPR) Scheme may be considered for revocation action where appropriate. However, it is likely that a number of factors contributed to the decision to resettle, therefore the case should be referred to the Resettlement team for Gateway or Mandate cases or the Asylum Policy team for the Syrian VPR cases in the first instance.

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Section 4: Protection need ceases to apply

The cessation clauses set out in Article 1C(1) to (6) of the Refugee Convention describe how the Convention will **cease** to apply a person who has previously been recognised as a refugee. The person can therefore no longer be regarded as a refugee. [Paragraph 339A \(i\)-\(vi\)](#) of the Immigration Rules provides for a person's refugee status to be revoked where they have ceased to be a refugee. These provisions mirror the cessation clauses of Article 1C of the Refugee Convention and implement the requirements of Article 11(1)(a)-(d) of the EU Qualification Directive.

[Paragraph 339A\(i\) – \(iv\)](#) of the Immigration Rules reflects a change in the refugee's **personal situation** and Paragraph 339A (v) and (vi) reflects changes in the **country situation** and/or the refugee's **personal situation**. In considering the country situation, Article 11 of the Qualification Directive requires Member States to have regard to whether the change in circumstances is of such a significant and non-temporary nature that the fear of persecution can no longer be regarded as well-founded.

4.1 The cessation clauses

The circumstances in which refugee status may be taken to have ceased, as set out in Article 1C of the Refugee Convention, are as follows:

- **voluntary re-availment of national protection:** an individual voluntarily chooses to re-avail themselves of the protection of the country of their nationality
- **voluntary re-acquisition of lost nationality:** a refugee, having lost (or been stripped of) their nationality of the country in respect of which they were recognised as having a well-founded fear of persecution, voluntarily re-acquires that nationality
- **voluntary acquisition of a new nationality and protection:** a refugee acquires a new nationality and enjoys the protection of the country of their new nationality and has no fear of persecution in that country
- **voluntary re-establishment in the country where persecution was feared:** a refugee travels to and re-establishes themselves in the country from which protection was sought
- **nationals whose reasons for becoming a refugee have ceased to exist because:**
 - the circumstances that led to refugee status being granted have ceased to exist and the refugee can no longer continue to refuse the protection of their own country of nationality
 - protection has now become available where it once was not
- **stateless persons whose reasons for becoming a refugee have ceased to exist:** a stateless person with refugee status may be able to return to their country of former habitual residence because the circumstances in which they were recognised as a refugee have ceased to exist and they have a right to reside there

Where a stateless person is unable to reside in their country of former habitual residence, they may meet the requirements for stateless leave. See Stateless leave to remain applications. Where a cessation clause applies, such that an individual no longer needs protection, their refugee status will be **revoked** under Paragraph 339A (i) to (vi) of the Immigration Rules.

4.2 Applying the cessation clauses

Although Article 14(1) refers to applications made after the entry into force of the Qualification Directive in October 2004, in [Salahadin Abdulla \[2010\] EUECJ C-176/08](#), the German Court referred the case to the European Courts of Justice (ECJ) on whether cessation could apply to those granted refugee status before the Directive entered into force. The relevant German law had no restriction on cessation provisions as regards when the asylum claim was made ('temporal limitation'). The ECJ noted Article 14(1) but took no issue at all with the lack of temporal limitation in German law and found that it (the ECJ) had jurisdiction to hear the case even though on the face of it, the cases were not within the scope of the Directive. It is Home Office policy to apply the relevant provisions of Article 14 of the Qualification Directive to any decision to cease refugee status, regardless of when the asylum claim was made.

4.3 Re-availment: Paragraph 339A(i)–(iv)

This is where a refugee chooses to return to their own country and/or to obtain and/or use a passport issued by that country. Paragraph 121 of the UNHCR handbook states:

If a refugee applies for and obtains a national passport or its renewal, it will, in the absence of proof to the contrary, be presumed that [he] intends to avail himself of the protection of his country of nationality.

Where a refugee has obtained a passport and travelled to their country of origin or former habitual residence, the circumstances of the case must be reviewed to consider whether refugee status should be revoked. However, caseworkers must take into account any explanation provided by the individual and any exceptional, compassionate circumstances that may render revocation inappropriate. See [compassionate circumstances](#) below.

Travel Documents

Where the Home Office encounters a refugee who has travelled on a national passport or a Refugee Convention Travel Document (CTD) which indicates a return to their country of origin, the document must be retained while their status is reviewed, under section 17 of the [Asylum and Immigration \(Treatment of claimants, etc\) Act 2004](#). Where an individual is found to be in possession of both a national passport and a CTD, the Home Office will retain both documents while their status is reviewed. Where they only hold a CTD and there is no evidence to suggest a national passport is held, the CTD cannot be impounded until a decision is taken on whether revocation is appropriate. If such action is considered appropriate, the travel document will be destroyed.

An Immigration Officer can admit the individual on continuing leave while consideration is given as to whether to revoke refugee status. In exceptional cases, an Immigration Officer may

suspend the leave of an individual subject to revocation consideration, where there are other serious considerations which would merit the suspension of leave.

No Time Limit (NTL) requests

Where a refugee has obtained or renewed a national passport and subsequently makes a request for a Biometric Residence Permit (BRP) confirming NTL, serious consideration will be given as to whether these actions constitute re-availment. However, where a refugee has requested a BRP confirming NTL and their passport was held prior to recognition as a refugee, they should normally be reminded that it is inconsistent with their status as a refugee to travel on a national passport and if they want to travel abroad they can apply for a CTD. Such a request does not necessarily mean they intend to travel back to the country from which they sought asylum; they may just be unaware that they could travel outside the UK on a CTD.

Where a refugee states that they require a BRP confirming NTL for identity purposes, they should be informed that a CTD would fulfil that requirement without jeopardising their refugee status in the UK. Where a refugee insists on their request for an NTL stamp following the issue of such a letter, and the reasons for that request calls into question their continued need for protection, a referral must be made to the Status Review Unit to consider cessation action.

Compassionate circumstances

Refugees are entitled to apply for a Refugee Convention Travel Document (CTD). If a refugee holds a national passport when they are granted refugee status, this will be retained by the Travel Documents Section (TDS) when a CTD is issued. Persons accepted as refugees in the UK cannot hold both a CTD and their own national passport. If a refugee wants their national passport back and if they chose to travel on their own national passport, their case will be reviewed and they would be in danger of losing their refugee status. TDS will consider returning the refugees national passport in certain exceptional circumstances where a refugee makes such a request, however, they would first have to return any CTD they hold. It is expected that the length of the visit will be consistent with the purpose of that visit and the individual should be informed of this when their passport is returned to them.

4.4 When refugee status can lapse: cessation cases

In cases of voluntary re-availment or the acquisition of a new nationality, as set out in Article 11(1)(a) to (d) of the Qualification Directive (and reflected in [Paragraphs 339A \(i\) to \(vi\)](#) of the Immigration Rules), Article 38(4) of the Procedures Directive (PD) permits Member States to decide that refugee status shall **lapse by law** in the case of cessation or if the refugee has unequivocally renounced their refugee status.

[Paragraph 339BB](#) sets out exceptions to the procedure required in paragraph 339BA. Where refugee status is treated as having lapsed in accordance with Article 38(4) of the PD, there is no need to inform the person in writing of the reasons for the reconsideration or provide them with the opportunity to submit reasons why refugee status should not be revoked. This may apply where refugee status is revoked under paragraph 339A or if the person unequivocally renounces their recognition as a refugee.

However, caseworkers must be cautious in applying this provision and where there is still doubt as to whether someone still needs protection, and they remain in the UK, they should normally be given the opportunity to provide reasons why their status should not be revoked.

4.5 Change in circumstances: Paragraph 339A(v)-(vi)

Cases where application of paragraph 339A(v)-(vi) may be appropriate must be subject to an assessment on their individual merits. Caseworkers must also consider whether compelling reasons have been provided by the refugee as to why they are refusing to re-avail themselves of protection of their country of nationality or former habitual residence.

Changes in country situation

This refers to changes in the country situation that are **significant** and **non-temporary** such that a fear of persecution can no longer be regarded as well-founded. The overthrow of one political party in favour of another might only be transitory or the change in regime may not mean that an individual is no longer at risk of persecution. The changes must be such that the reasons for becoming a refugee have ceased to exist and there are no other reasons for an individual to fear return there. In the case of stateless persons, they must be able to return to their country of former habitual residence for the purposes of residency and not be at risk of persecution there.

Internal relocation

Where it is considered that it would be reasonable to return an individual to a specific part of a country, the fact that they have previously been recognised as a refugee must form part of the overall assessment. This overall assessment includes, but is not limited to, full consideration of:

- the situation in the country of origin
- means of travel
- proposed area of relocation in relation to the individual's personal circumstances

Even where country information and guidance suggest that relocation is possible, it is the ability of the individual and any dependants to relocate in practice which must be assessed, bearing in mind that the changes must be significant and non-temporary.

Changes in personal circumstances

Where the original reasons for recognising an individual as a refugee no longer exist due to a change in **personal circumstances**, caseworkers must consider whether other factors mean that they are still at risk. It is possible that the grant of refugee status was for more than one reason or that there are additional factors that mean refugee status should be retained. For example, a woman may have been granted because she refused to agree to a forced marriage. If she is now married, she may still face a risk of persecution if she has married without the consent of her family.

Refugees must be provided with the opportunity to respond where revocation action is being considered. See [section 3.2: Requirement to provide the opportunity to respond](#). Caseworkers

must carefully consider any evidence provided as to why the individual still fears return before revoking refugee status on grounds of a change in personal circumstances. It will only be appropriate to revoke such status on grounds that such status has ceased where an individual no longer has a well-founded fear of persecution on any grounds and it is safe for them to return.

Compelling reasons arising out of previous persecution

Article 1C(5) and (6) of the Refugee Convention contain an exception to the cessation provisions, allowing a refugee to invoke 'compelling reasons arising out of previous persecution' for refusing to re-avail himself or herself of the protection of their country of origin.

This exception applies to cases where refugees, or their family members, have suffered truly atrocious forms of persecution and it is unreasonable to expect them to return to their country of origin or former habitual residence. This might, for example, include:

- ex-camp or prison detainees
- survivors or witnesses of particularly traumatic violence against family members, including sexual violence
- those who are severely traumatised

The presumption is that such persons have suffered grave acts of persecution, including at the hands of elements of the local population, and therefore cannot reasonably be expected to return. Application of the 'compelling reasons' exception is interpreted to extend beyond the actual words of the provision to apply to Article 1A(2) refugees and reflects a general humanitarian principle.

As this provision is expected to apply only in the most exceptional of cases, any decision not to proceed with revocation on this basis must be taken by a senior caseworker.

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Section 5: Misrepresentation

Whilst the Refugee Convention contains no specific provisions for the revocation of refugee status on the basis of misrepresentation (previously referred to as 'cancellation'), paragraph 117 of the [UNHCR handbook](#) sets out the following circumstances where it would be appropriate to consider doing so:

- refugee status was obtained by misrepresentation of **material** facts
- the refugee possesses another nationality that was not disclosed at the time of the original decision
- the exclusion clauses would have been applied had all the relevant facts been known

5.1 Misrepresentation of material facts

[Paragraph 339AB](#) relates to situations where a refugee has misrepresented or omitted facts, including use of false documents, and this behaviour was **decisive** in the decision to grant refugee status. This means that had the facts been known, such status **would not** have been granted. If there is a pending prosecution for obtaining leave by deception, the Home Office will normally wait for the outcome of the criminal proceedings. However, this is not a formal policy requirement and consideration of revocation action can still proceed where appropriate.

Where refugee status is being revoked on this basis, consideration must also be given to curtailing or revoking any associated leave. A person who obtains leave to enter (limited or indefinite) by deception is an illegal entrant. If it is decided to take illegal entry action (under Schedule 2 to the Immigration Act 1971) the leave can be invalidated. Similarly, where leave to remain (whether limited or indefinite) has been obtained by deception, an individual is liable to removal under section 10 of the Immigration and Asylum Act 1999 (for cases where the leave was granted after 1 October 1996).

Any conditions attached to the persons leave which may have given them certain entitlements (for example, to take employment or recourse to public funds) will also end once leave is curtailed or revoked.

Defence under Article 31 of the Refugee Convention

Article 31 of the Refugee Convention, which is reflected in section 31 of the Immigration and Asylum Act 1999, provides that refugees should not have any penalties imposed upon them as a consequence of illegal entry or presence in the country of refuge, provided they:

- travelled to the country of refuge directly from the territory in which they fear persecution
- present themselves to the domestic authorities without delay
- show good cause for their illegal entry or presence

See [Section 31 of the Immigration and Asylum Act 1999 and Article 31 of the 1951 Refugee convention](#) guidance for further details.

Considering evidence of misrepresentation

Where there is evidence to suggest that the grant of refugee status was obtained by misrepresentation or omission of **material** facts, the caseworker must be satisfied that:

- clear and justifiable evidence of deception exists, for example:
 - evidence that the refugee is not the nationality they claimed to be
 - evidence that documents supplied to support the claim is not genuine
 - evidence of actions after the grant that call into serious question the veracity of the claim
- the deception was material to the grant of refugee status (were it not for the deception, the claim would have been refused)

Even where deception is admitted or proven, the caseworker must consider whether the person still qualifies for a grant of refugee status for any other protection based reasons. It will only be appropriate to revoke status on grounds of misrepresentation where an individual does not need protection.

Possession of another nationality

Where an individual is in possession of another nationality and failed to disclose this during the consideration of the asylum claim, their refugee status should be reviewed and may be revoked. This can apply to an individual holding dual nationality and failing to declare one or both nationalities as they may have residency rights in a country in which they have no well-founded fear of persecution. This is different to obtaining a national passport and / or using it to return to the country of origin – for these cases refer to [section 4: cessation cases](#).

Evidence obtained through a family reunion application

Cases involving misrepresentation may be identified following a family reunion application. In such cases, the refugee status of the sponsor should be reviewed to consider whether the misrepresentation was material to the grant of refugee status and whether such status should be revoked. Consideration of the family reunion application must be postponed until the review has been completed. Where the sponsors' refugee status is revoked, the family reunion application should be refused.

Where evidence of misrepresentation derives from information provided by family members, careful consideration must be given as to whether the accounts are so different that they are incompatible and whether this was **material** to the grant of status. Caseworkers must consider the possibility that family members may not confide in each other everything that happened to them. For example, a child may not have been told the reason why their parents left or a person may have been completely unaware of their partner's political interests. Minor discrepancies in dates or lack of knowledge of political activities will not of themselves be sufficient grounds for revocation. If the 2 accounts are considered to be incompatible, the refugee is expected to provide an explanation. This will usually be obtained by writing to the refugee but it may be necessary to arrange an interview. See [interviewing](#) section above. The refugee must be informed that consideration is being given to the revocation of refugee status and they have the opportunity to respond. See [section 3.5 above](#).

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Section 6: Exclusion or a danger to the UK

Revocation on the basis of exclusion from the Refugee Convention, or on grounds that an individual poses an ongoing danger to the UK will be appropriate where a refugee's behaviour warrants withdrawal of the original grant of refugee status. Even where a refugee cannot be removed (due to an Article 3 ECHR risk), it will still be appropriate to consider the duration and conditions of any leave they should be given. [Paragraphs 339AA and 339AC\(i\)-\(ii\)](#) of the Immigration Rules apply in such cases.

It may also be appropriate to consider whether refugee status should be revoked on any other basis. See [section 3.1 grounds for revocation](#).

6.1 Exclusion: Article 1F

Decisions to revoke refugee status taken in accordance with [paragraph 339AA](#) of the Immigration Rules reflect the requirements of Article 14(3) of the Qualification Directive. This permits Member States to revoke refugee status if, following the grant of status, it is established that the person should have been or is excluded from being a refugee in accordance with Article 12(2) of the QD. Article 12(2) reflects the exclusion criteria in Article 1F of the Refugee Convention.

Where evidence comes to light following a grant of refugee status such that there are serious reasons for considering that a person has committed a crime or act that falls within the scope of Article 1F(a) (crime against peace, war crime, crime against humanity) or (c) (guilty of acts contrary to the principles and purposes of the UN) of the Refugee Convention their refugee status should be revoked. In such cases, the fact that the person may not present an ongoing danger to the UK is immaterial. Where there are reasonable grounds for regarding the individual as a danger to national security, the cases must be referred to the Special Cases Unit before any action is taken.

6.2 Danger to the UK

Decisions to revoke refugee status taken in accordance with [Paragraph 339AC\(i\)-\(ii\)](#) of the Immigration Rules, reflect the requirements of Article 14(4) of the Qualification Directive. This permits Member States to revoke refugee status, if there are reasonable grounds for regarding the individual as a danger to the security of the Member State. This provision is identical to the expulsion / return provisions provided for under Article 33(2) of the Refugee Convention.

Where someone is considered to be a danger to national security or a danger to the community after being convicted of a serious crime, refugee status must be revoked.

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6.3 Revocation in criminal cases

Article 33(2) of the Refugee Convention provides for refugees to be returned to their country of origin, even though they may face persecution, where either:

- there are reasonable grounds for considering they are a danger to the national security of the host state
- they pose a danger to the community after having been convicted by a final judgement of a particularly serious crime

This provision provides an exception to the principle of non-refoulement in Article 33(1) and applies equally to those who have already been granted refugee status and leave and asylum seekers who prove to be serious threats to public security, including those who exhibit extremist behaviours.

Article 33(2) is reflected in Section 72 of the [Nationality, Immigration and Asylum Act 2002](#) which provides that, for the purposes of Article 33(2) of the Refugee Convention, an individual is presumed to have committed a serious crime and be a danger to the community if they are sentenced to imprisonment of at least **2 years**. Section 72(6) provides that a presumption under section 72 that a person constitutes a danger to the community is rebuttable by that person, and caseworkers must ensure that such evidence is carefully considered in the context of the individual case.

Where Article 33(2) applies, a refugee may be removed from the UK in spite of the fact they are a refugee according to the Refugee Convention. However, whilst an individual remains at risk of persecution or serious harm in their country of origin they cannot be removed there as this would be contrary to our obligations under Article 3 ECHR. Where it is not possible to remove the individual, refugee status can and should be revoked under [paragraph 339AC](#) and any refugee leave (limited or indefinite) may be replaced with a shorter period of leave with more restrictive conditions imposed.

The [Restricted Leave](#) policy covers those refused under Article 33(2) of the Refugee Convention where the case falls within SCU's remit. Restricted leave may be granted in these circumstances where removal would breach our obligations under the ECHR. Where the refugee (or any dependant) has been convicted by a final judgment of a particularly serious crime, this constitutes a danger to the community and the case must be referred to Criminal Casework in the first instance. For further guidance see Exclusion and Article 33(2), [Restricted Leave](#) and Discretionary Leave.

In cases subject to automatic deportation, the effect of a Deportation Order (DO) is that any extant leave is automatically revoked or curtailed. This means that where a DO is in place, no separate work to curtail or revoke leave is required.

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6.4 Granting leave

Article 24 of the QD requires Member States to issue a residence permit to those granted refugee status which is valid for at least 3 years and renewable, unless compelling reasons of national security or public order require shorter grants of leave. In practice, this means that

where refugee status is not revoked, the person must be granted a minimum of 3 years' refugee leave. See guidance on drafting, implementing and serving asylum decisions.

Where an individual is being excluded or refused under Article 33(2), caseworkers must refer to guidance on exclusion under Articles 1(F) and 33(2). In September 2011, the Restricted Leave policy replaced grants of Discretionary Leave for those excluded under Article 1F of the Refugee Convention and the policy was also updated in January 2015 to cover those refused under Article 33(2), where the case falls within the remit of Special Cases Unit (SCU). Such individuals will not benefit from refugee leave and will instead be granted much shorter periods of leave if they still need protection. All cases involving exclusion issues or extremism must be referred to SCU.

Cases involving criminality where there is no SCU interest are not covered by the restricted leave policy and must be referred to Criminal Casework. Criminals or extremists should not normally benefit from leave on any basis as it is a Home Office priority to remove them from the UK. Where a refugee's status is revoked due to serious criminality, in accordance with this guidance, but the individual cannot be removed, it may appropriate to grant shorter periods of leave under the Discretionary Leave policy.

In all cases where exclusion or Article 33(2) applies any limited leave granted under either the Restricted Leave or Discretionary Leave policy should normally be for 6 months and the cases reviewed regularly to facilitate removal as soon as possible. Any decision not to pursue deportation on ECHR grounds must be approved by a senior officer at no lower than Grade 5.

It is Home Office policy that where refugee status is not being revoked but the individual has been involved in any criminality, they may be granted 3 years limited leave where there continues to be a need for protection, unless there are compelling reasons to grant a longer period.

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Section 7: Process overview

This section outlines the process to be followed and the paperwork to be issued when considering and implementing decisions to revoke refugee status and refugee leave.

7.1 Initial considerations

Referring cases to Status Review Unit (SRU)

Where an individual is encountered by a non-case working unit (for example, entry clearance officers, immigration officers at port), it is important to remember that the individual remains a refugee until such time as their refugee status is revoked – even if their leave has lapsed.

Where there is initial evidence that the grant of refugee status should be reviewed, you must:

1. Advise the individual that their status may be subject to review.
2. Impound the Refugee Convention Travel Document (CTD).
3. For individuals who are encountered where re-availment (return to the home country or re-acquisition of a national passport) is suspected, retain the national passport.
4. Forward the case to Status Review Unit for their consideration.

Referring cases to Special Cases Unit (SCU)

Where evidence exists that SCU have an interest in the case or evidence obtained suggests that the case should be referred, caseworkers must:

1. Forward case to Special Cases Unit in accordance with any instructions placed on the Home Office record.
2. Inform SCU of the information that has come to light and establish if there is any interest in the case.

Referring cases to Criminal Casework (CC)

Cases of interest to CC are usually recorded as such and should be forwarded to Criminal Casework for their consideration. Any case where there has been a custodial sentence and CC has not already started deportation action must be referred to CC's workflow team for consideration.

Re-documentation issues

Caseworkers must consider as part of the revocation process what is required in respect of travel documentation to remove an individual. However, no approach should be made to the respective embassy to obtain a document until the decision has been made and served and any appeal has been heard. Although re-documentation of an individual can be difficult and protracted, the inability to obtain a travel document should not prevent revocation action where it is otherwise appropriate.

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7.2 Cases where refugee status is considered to have lapsed

Where the case is being treated as one where refugee status is considered to have lapsed, especially where the refugee has unequivocally renounced his/her recognition as a refugee, the requirements to inform and provide an opportunity for the refugee to respond do not need to be applied. See [when refugee status can lapse: cessation cases](#). Caseworkers must:

1. Issue template letter **ASL.5053** - 'Notification that refugee status has lapsed', which informs the individual that their refugee status has lapsed in the UK and that any extant leave has been curtailed or revoked.
2. Update CID with the case outcome.
3. Return the individuals national passport (where applicable) and cancel any other Home Office travel documents.

7.3 Informing a refugee of potential revocation action

Where the refugee is outside of the UK

[Paragraph 339BC](#) of the Immigration Rules permits the procedure set out in Paragraph 339BA (requirement to provide the refugee with the opportunity to respond) to be initiated, and completed, while the person is outside the UK. Caseworkers must continue to follow the procedure set out in accordance with [Paragraph 339BA](#).

Caseworkers must:

1. Issue template letter **ASL.3831**: Proposed Revocation of Refugee Status - this informs the individual of the proposed action, the reasons why such action is being considered and invites them to submit representations within a specified number of days in support of their continued refugee status in the UK. Delete interview details unless applicable.
2. Where the refugee has legal representation, send a copy of ASL.3831 with the ASL.3834 Representatives Covering Letter.
3. Consider any representations see [Considering representations submitted](#).
4. Where no further action is being taken see [Decision not to proceed with revocation](#).
5. Where revocation action is being taken, caseworkers must inform UNHCR. See [Informing UNHCR of the proposal to revoke](#).
6. Where no response is received see [Informing UNHCR of the proposal to revoke](#).

7.4 Informing UNHCR of the proposal to revoke

[Immigration Rule 358C](#) requires the Home Office to provide the UNHCR with the opportunity to present their views where refugee status is being revoked. See section [Comments from UNHCR on proposal to withdraw status](#). Caseworkers must:

1. Send template **ASL.3835** (Revocation Cases: Letter to UNHCR), selecting option informing UNHCR of the intention to revoke the refugee status of the individual concerned and why the refugee's response to **ASL.3831** has not dissuaded us from taking such action together with the **ASL.3831** and any representations made by the refugee and/or their representative.

UNHCR should be invited to submit any comments they may wish to make within a specific number of working days (depending on the circumstances of the case). Correspondence to UNHCR should be sent to: The Representative UNHCR London, 10 Furnival Street, London, EC4A 1AB.

2. Consider any representations from UNHCR as part of the decision. There is no need to draft a formal response to UNHCR addressing the points raised, but UNHCR must be provided with a copy of the final outcome letter.
3. Contact UNHCR to agree any further extensions before proceeding if no response has been provided.

7.5 Decision not to proceed with revocation

Where revocation is not being pursued:

1. Consider whether any changes should be made to the leave the refugee has.
2. Send template **ASL.3841** informing the refugee that no further action is being taken.
3. Send template **ASL.3835** (Revocation Cases: Letter to UNHCR) selecting option informing UNHCR of the decision not to proceed with revocation.
4. Update CID notes field that it has been decided not to proceed with revocation action on this occasion and to confirm the refugee has been issued with **ASL.3841**.

For **SRU cases**, use Outcome 'Refugee Status/HP Retained'.

7.6 Decision to proceed with revocation

Caseworkers must:

1. Where applicable, complete template ASL.3844 Authority to Revoke (Grade 7) and forward to appropriate officer who should respond within **5 working days**.
2. Where the individual (and any dependants) has ILR, revocation should be considered in accordance with the guidance on Revocation of ILR.
3. Send **ASL.3838** (Revocation of Refugee Status Letter) setting out the reasons for the decision and informing the refugee to return their CTD (if applicable); BRP (or ISD) within **14 days**.
4. Complete ACD.1989 (PF1) appeal pro-forma listing all annexes; date of curtailment of limited leave or revocation of ILR and relevant family details.
5. Complete ICD.5005 IAFT5 IA (in Country) or ICD.5007 IAFT7 IA (out of country).
6. Complete ASL.1006 IA for any dependants.
7. Serve the decision in accordance with the Implementing Decisions AI, including where the decision is being served to file.

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7.7 Implementing allowed appeals

If the individual is successful at appeal, the Specialist Appeals Team (SAT) and/or casework team will consider whether to challenge that decision. If it is decided not to challenge, the appeal should be implemented as soon as possible.

Where refugee status has been revoked but removal cannot proceed, consideration should be given to whether shorter forms of leave are appropriate. See Restricted Leave and Discretionary Leave policy for details. Where the individual and/or dependants are subject to removal action see [section 7.9](#) below.

7.8 Dismissed appeals

Where an individual is Appeal Rights Exhausted (ARE), and they do not have any form of leave they will be liable for removal. The case should be prepared in accordance with local instructions and forwarded to Immigration Enforcement to proceed with removal action.

7.9 Preparing the case for removal and enforcement action

The following actions will apply where the individual is subject to removal action:

1. Where the applicant (and any dependants), has limited leave, this must be revoked or curtailed before any removal action can be undertaken. This should normally be done at the same time as the revocation of protection decision. See Revocation of ILR and Curtailment guidance.
2. Issue IS.96 and set Reporting Conditions.
3. If applicable, impound travel documentation by contacting Travel Documents Section (TDS) and arranging for the Refugee Convention Travel Document to be destroyed.
4. Complete the Harm Matrix in accordance with existing instructions.
5. Obtain travel documentation in accordance with the relevant Removals documentation and Guidance.
6. Hand case over to Immigration Enforcement to arrange removal in accordance with existing practice.

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Annex A - Updating case outcome on CID

Initial recording

Where revocation is being considered, create a case type on CID using 'Consideration of Revocation of Protection Status'. This is essential to ensure that the case is correctly recorded and tracked.

Outcomes

- 'Refugee Status Cancelled'
- 'Refugee Status Ceased'
- 'Refugee Status Revoked'

Updating CID (Amended Leave)

Select 'Case type':

- Consideration of Cancellation of ILE / R s.76 or Consideration of Curtailment of LTE/R

Select Case Outcome:

- ILE / R Cancelled – s.76 (2)
- ILE / R Revoked – s.76 (3)
- LTE / R Curtailed – s.3(3)(a)

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Annex B - Stock letter reference guide

DocGen reference	Title of letter
ASL.3831	Notice of Intention to Revoke Refugee Status (All grounds)
ASL.5053	Notification refugee status lapsed
ASL.3834	Covering Letter to Representative
ASL.3835	Letter to UNHCR (Notice of intent/decision)
ASL.3838	Reasons for Revocation of Refugee Status (All grounds)
ASL.3841	Decision on Intention to Revoke Refugee Status (All grounds)
ASL.3844	Assistant Director Authority Letter
ASL.3846	Intention to Cease Refugee Status under 1C(5) & Art.33(2)
ASL.3848	Referral Proforma
ASL.3849	Warning (Future Conduct) Letter

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Version control and contacts

Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors then email the Asylum Policy team.

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email guidance – making changes.

Clearance

Below is information on when this version of the guidance was cleared:

- version 4.0
- valid from 19 January 2016

Official Sensitive – start of section

This information has been removed as it is restricted for internal Home Office use.

Official sensitive – end of section

- approved on 23 November 2015

Change record

Below is information on previous versions of this guidance:

Version	Author	Valid from	Change references
3.0	OPPI	18/12/2008	Inclusion of information about IS151 series
4.0	IBPD	19/11/2015	Re-branded and updated in line with Immigration Act 2014 appeal rights and Immigration Rule changes 19/11/2015