

**BEST PRACTICE GUIDE
TO THE PREPARATION OF
ASYLUM APPLICATIONS
FROM ARRIVAL TO FIRST
INTERVIEW**

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PRELIMINARY MATTERS

The definition of a refugee is set out in Article 1 of the 1951 UN Convention relating to the Status of Refugees and reads as follows:

"the term refugee shall apply to any person who ... owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside his country of nationality and is unable or unwilling to avail himself of the protection of that country..."

The burden of proof is on your client to show that (s)he is a refugee fulfilling the requirements of the Refugee Convention definition. Your client must show (s)he is afraid to return to his/her country of origin; that this fear is reasonable and that it is a fear based on one or more of the five Refugee Convention reasons, namely race, religion, nationality, membership of a social group or political opinion.

A claim for political asylum will involve threats to the life and/or liberty of your client; this makes the way in which you proceed as important as the questions you ask. It will not be easy for your client to give you the necessary information. The following should be carefully considered:

1) The interview should be conducted in a sympathetic manner; it is not your job to interrogate your client. If other staff are present in the room ask your client if (s)he would rather have a private interview. If possible offer him/her a choice of a male or female adviser. Particularly with younger asylum seekers consider whether formal clothes may be intimidating.

2) If at all possible the initial interview should not be the one at which all details of the claim are discussed. Details of how far the claim has been processed to date, arrival in the UK and social background could be taken and an idea of the process of an asylum claim might be given. This should enable trust to be built up between client and adviser before the sensitive details of the claim are described at a subsequently arranged interview. Tell your client to stop the interview if (s)he requires a break or would prefer to continue the interview on another occasion.

3) If you have no knowledge of the country involved then try to read up on the current situation in the newspapers, Amnesty International reports, Watch (a regionally organised human rights organisation) reports and Minority Rights Group reports.

4) If the client has an academic background, whether formal or not, then consider explaining the type of information needed for the claim and asking him/her to write his/her own statement to be discussed at a subsequent interview.

5) An interpreter should be used if there are any language problems. Be careful to ascertain the first language of your client. Family and friends are not ideally appropriate as it may be difficult for your

client to talk about such matters as degrading ill-treatment in front of them, and interpretation is a professional skill. Your interpreter should be used to translate what you say into your client's language and to relay in English your client's replies. It is not appropriate for your interpreter to ask his/her own questions in the interview or for the interpreter to interview alone. You should also check with your client that (s)he is happy with the interpreter you have arranged, and consider whether your client may find it easier to talk through a male or female interpreter.

6) It is important to stress to your client the need for an accurate, detailed and truthful account. The history taken needs to be detailed so that a vivid and believable account can be presented to the Home Office which will make the claim credible. The Home Office does have facilities to check facts and so inaccuracies and falsehoods can be uncovered; if this happens this will seriously undermine your client's credibility.

7) Assure your client that everything (s)he recounts will be treated with the utmost confidence and nothing will be sent to the Home Office without his/her approval. Some solicitors find it helpful to build a statement on a word processor during the interview with the client present so that (s)he is involved with the process.

8) If your client's beliefs and activities conflict strongly with your own or with those held by a large client group which you already represent and you feel unable to conduct the case with your full enthusiasm then explain to the client honestly and sensitively why you do not feel able to act, and advise him/her how to obtain alternative representation.

9) Green form legal advice and assistance is available for the processing of asylum claims. Clients should always be advised of the likely cost, if any, of your work.

CHECK LIST

If a political asylum questionnaire has not yet been completed then you may find it most efficient to ask the questions in section a of the check-list, then complete the self-completion political asylum questionnaire, Gen 28, (reproduced in Appendix (b)) except for part c, and then use the rest of the check-list to collect the information for this section, ignoring any repetitive questions.

a) QUESTIONS RELATING TO PROCESSING OF CLAIM TO DATE

1. Has a claim for political asylum been made since arrival, if so when and how - take an account of what was said or copies of what was written. [See note 1-4 p.5]
2. Has a Political Asylum Questionnaire (PAQ) been completed, and if so, was it with an adviser? Take a copy, together with any other correspondence to and from the Home Office. [See note 1-4 p.5]
3. Name and address of any previous adviser(s), and authority for them to transfer the file. [See note 1-4 p.5]
4. Establish client's current immigration status and any appeal rights. [See note 1-4 p.5]
5. Reasons for having made or wanting to make a claim for asylum in the UK particularly. [See note 5 p.5]
6. Check receiving income support. [See note 6 p.5]
7. Has client been issued with a Standard Acknowledgement Letter (SAL)? [See note 7 p.5]
8. Refer to relevant agency if has money, housing, education, physical or mental health problems. [See note 8 p.6]
9. Check if currently has to report because of temporary admission or release conditions and advise to continue doing so. [See note 9 p.7]
10. Has your client been refused the opportunity to claim political asylum in the UK in the past? [See note 10 p.7]
11. Check if your client has an interview date in relation to his or her claim for political asylum. [See note 11 p.7]

EXPLANATORY NOTES

a) Questions relating to the processing of claim to date

1-4. It is important to establish the stage proceedings have reached by talking to your client, reading copies of any documents (s)he may have and by obtaining the file from previous representatives. If your client has lost his/her copies of a claim submitted or you are unable to trace the previous representative it is always possible to request copies of all documents and file notes from the Home Office. This may in itself be of value as it will enable you to challenge any inaccuracies in the Home Office information held on your client. You should then consider whether an asylum claim is your client's only option if no claim has already been submitted. Asylum may not be the most appropriate option if your client has other simpler claims under the immigration rules, such as to remain as a spouse of someone permanently resident in the UK or to remain as a student. If a claim for asylum is appropriate or has been made then it is essential to know at which stage in the process you are becoming involved.

Having interviewed your client you can then evaluate whether or not an adequate statement containing all the check list information has in fact been presented to the Home Office. If incomplete information has already been submitted it is extremely important to ensure that a full account is now submitted, with an explanation as to why this did not happen previously. If mistakes and misunderstandings have taken place in the past due to fear on the part of your client or problems with previous advisers then this must be explained rather than ignored so that the credibility of your client is maintained as far as possible.

5. This should establish any links that your client has with the UK which will be useful in arguing why it is reasonable for him/her to claim asylum in the UK if the Home Office alleges that (s)he has come through safe third countries or is returnable under the Dublin Convention to another EC country where (s)he should claim asylum.

6. Your client will almost certainly need to get income support. Asylum seekers are entitled to "public funds", i.e. income support, family credit, housing benefit and homeless housing. Most asylum applicants are initially prohibited from working by conditions which attach to their temporary admission or to their existing leave to remain. Your client will not usually become eligible for a written Home Office authority until after his/her asylum application has been outstanding for six months. To obtain an authority to work on behalf of your client write to the Home Office with your client's full name, date of birth, nationality and Home Office reference number, if known. If your client has an offer of a job before the six months is up then it is worth writing to the Home Office requesting permission. In your letter you should give details of the work and any particular reasons why your client should be granted permission early.

7. This is the Standard Acknowledgement Letter, and is effectively an identity document for asylum seekers which they will need to claim income support (although under Income Support regulations it is not actually a requirement). If your client does not have such a document you can obtain one by sending a short letter requesting one to the Home Office stating the following: that your client is claiming asylum, when

(s)he arrived, confirming that your address can be used for correspondence with your client and enclosing his/her passport and 3 passport-sized photographs. If your client requires a SAL quickly because of benefits then it is possible to fax the above letter to the Home Office stating that your client will attend to collect his/her SAL from the Screening Unit at Lunar House sometime after a particular date, at least 36 hours from the time the letter is sent.

The process of issuing SALs is currently being used to screen out third country cases, and to question illegal entrants and those without passports under caution; therefore your client will need to be adequately advised should (s)he be interviewed. It is preferable that all interviews are clerked and attended by an independent interpreter. [See article entitled "*Political asylum interviews: the role of clerks and interpreters*" by Alison Stanley in *Immigration and Nationality Law & Practice* at Appendix (c)]

If your client has come through safe third countries on his/her way to the UK (s)he should be advised that (s)he could be returned there to claim asylum unless good reasons can be given as to why this is unreasonable, such as family in the UK or a period of more than six months has elapsed. (See Dublin Convention and statement of Mr Waddington to the House of Commons on 25/7/90.) Illegal entrants will not be returned before their claims are considered (obligation of non-refoulement Art.33 UN Refugee Convention); however they can be removed immediately their claims are refused.

8. The Refugee Council advises refugees and asylum seekers on housing, benefits, health, educational provisions and employment. They currently have leaflets on health, housing, women and income support. They are producing a leaflet on HIV & AIDS. These leaflets are available free to advisers who would like to keep a stock in their offices. They also have a Refugee Advisers' Support Unit which can give information on services to asylum seekers.

The Refugee Arrivals Project provides interpreter-escorts to asylum seekers in their first week in the UK, and sorts out housing, benefits, medical services and if possible legal help.

You should advise your client of his/her right to register with a GP and seek any medical help (s)he may need through the health service. Your client is entitled to free medical treatment by the NHS.

If you feel that your client is suffering as a result of trauma and is showing signs of physical or emotional distress because of torture and flight into exile (s)he could receive help from the Medical Foundation for the Care of Victims of Torture. This is a small specialist charity which has a team of medical experts including doctors, physiotherapists, psychotherapists, social workers and counsellors who are able to provide health care to those who have suffered torture or state violence, and also to their families. The Medical Foundation is not equipped to provide emergency treatment for people suffering delusions with serious suicidal or homicidal tendencies. If you feel that your client could benefit from the help of the Medical Foundation you should write with the following information: your client's symptoms; why you are referring the case; the background to your client's case; your client's address and whether (s)he will need an interpreter. You should be aware that there is a waiting list. In an urgent case you can ring the Medical Foundation's duty worker or advise your client to go to the Medical Foundation to see the duty worker, preferably accompanied by a friend to interpret for this initial visit.

The Refugees Ad Hoc Committee on Asylum Rights can provide your client with details of community groups which may give them useful social and moral support.

The World University Service, UKCOSA (UK Council for Overseas Student Affairs) and Africa Education Trust can advise on grants and educational possibilities.

9. Failure to do so could result in your client being detained. However if may be possible to negotiate a reduction in the frequency of reporting especially in long running cases.

10. If the British government has broken its international obligations under the Refugee Convention then it may be possible to pursue a civil claim for damages if your client has suffered in any way to his/her detriment.

11. The Immigration Service may interview your client in connection with his/her claim, particularly if (s)he has claimed at a port, is an illegal entrant or is claiming asylum on the verge of deportation. In such circumstances you should endeavour to take instructions from your client using the guide so that you understand your client's case and can prepare to submit a detailed substantive claim. You will also need to prepare your client for the interview. Your client should be made aware that this is his/her principle opportunity to explain his/her case and to convince the Home Office that (s)he fulfils the Refugee Convention definition. (S)he should be made aware that it is vital that (s)he talks in detail about all the matters you and (s)he have discussed. It should be explained that the Immigration Service are rarely helpful in this connection and that (s)he may be faced with a very general invitation to tell his/her story or asked if (s)he has anything to add to a submitted statement/representations or subjected to detailed and unhelpful questions. The questionnaire IS 97B is sometimes used at these interviews and is included at Appendix (b). (S)he should be told to voice any complaints or concerns about the interview during the interview. You should then follow up any irregularities in the interview with your own letter of complaint. You should ensure that you or your representative attends the interview and that an independent interpreter attends if your client is to be interviewed in a language other than English. See article in Immigration Law and Practice July 1990 entitled "*Political asylum interviews: the role of clerks and interpreters*" by Alison Stanley for the role you or your clerk and interpreter should play at the interview [see Appendix (c)].

You may choose to submit the detailed substantive claim on behalf of your client before the interview or afterwards. To submit the claim beforehand may provide a better basis for the interview to proceed on, the interviewing officer having had the opportunity to acquaint him/herself with the matter. Your client will also be able to read through the representations/statement and thus will be able to refresh him/herself with dates and perhaps obtain a better understanding as to how his/her story is relevant to fulfilling the definition in the Refugee Convention. However it may be that your client will be able to give a fuller and more detailed account at the Immigration Service interview having been through his/her story with yourself and having had time to consider the definition in the Refugee Convention, in which case to submit your detailed substantive claim in advance of the

interview may be to give an incomplete or inaccurate account which is ultimately unhelpful to your client.

If you do submit a claim in advance of the interview it is essential your client has a copy in his/her own language. If there are inconsistencies between this claim and what your client says at the interview you must submit representations/a further statement explaining the differences.

b) QUESTIONS RELATING TO ARRIVAL IN UK

1. Date of arrival in UK. [See note 1 p.10]
2. How obtained any exit visa. [See note 2-7 p.10]
3. How obtained passport, in whose name. [See note 2-7 p.10]
4. How obtained visa for UK - what type of visa, what was said and why at interview. [See note 2-7 p.10]
5. Did (s)he have any difficulties leaving his or her country and have to use bribes etc. [See note 2-7 p.10]
6. How and where the ticket(s) were purchased. [See note 2-7 p.10]
7. Mode of transport to the UK. [See note 2-7 p.10]
8. All countries travelled through coming to the UK and why no claim for asylum was made in each. [See note 8 p.10]
9. Did airline/boat staff take documents and did (s)he eat and/or feel ill on the trip? [See note 9-11 p.11]
10. Time of arrival in the UK. Did (s)he realise was in the UK? Was (s)he ill or hungry? How many hours had (s)he been travelling on arrival? Who was (s)he questioned by and for how long? Was (s)he also searched and documents taken? Was anything about the process explained to him/her? Was there an adequate interpreter? How did (s)he feel about the immigration officer? Did relatives or friends meet him/her at the airport, and was (s)he told of their presence? [See note 9-11 p.11]
11. What did (s)he say on arrival and why? Was (s)he pressured to speak by fear/threats of detention? Did (s)he claim asylum, if not why not? Was (s)he happy that what (s)he said was accurately recorded, if not why not? Did (s)he have a representative present? Did (s)he have what (s)he had said read back to him/her for checking? Did (s)he sign a statement? [See note 9-11 p.11]

EXPLANATORY NOTES

b) Questions relating to arrival in UK

1. A distinction should be made between those asylum seekers who are claiming on arrival, who either claimed at the port or who have entered recently under another provision (and who risk being treated as illegal entrants); and those who have been in the UK for some time. (These are often called refugees sur place, see p.22 of the Refugee Handbook. The Refugee Handbook is the United Nations High Commission for Refugees' practical guide to determining refugee status.) Questions in this section will be of particular relevance to those fleeing immediate danger and who have made a claim on arrival or who are contemplating making one soon after.

2-7. This information will be needed for the PAQ and is significant in showing how your client, despite being persecuted by the authorities, was able to obtain such official documentation. Of course many clients are unable to obtain legitimate documents and may have had to lie to obtain documents such as visas: this should be submitted in support of your client's claim as evidence that (s)he does have a well founded fear of persecution and was desperate to escape. If bribes were paid take details of how much and to whom it was paid. Article 31 of the Refugee Convention sets out that refugees should not be penalised for illegal entry to the UK, which would include entry on false documentation, so long as (s)he can show good cause.

It is very important that any escape from detention is described in the greatest possible detail as many asylum seekers' escape stories are not believed. If a detailed substantiated description of the escape is given this will add credibility to the rest of your client's claim. It will also provide important evidence of your client's subjective fear of persecution. If your client has a spouse and children you should ask why they were left behind, so that an impression that your client has come to seek work in advance of the family is not created. You should be aware that agents or friends might have told your client to stick to a particular and untrue story. You may have to be both sympathetic and insistent with your client to obtain the true story.

8. This information will be needed to counter any allegation that your client could reasonably have claimed asylum in a safe country along the way. There is a general principle that your client has a duty to seek asylum as soon as possible and that a refugee has no right to select his/her country of asylum. The general principle apart, your client may find themselves returned to another EC country under the allocating principles of the Dublin Convention (now ratified by the UK and effectively operational, although not currently in force) if they have been through another signatory's territory. If this is likely to happen the client should be advised and consideration should be given as to whether a claim should be made immediately and whether your client has close ties to the UK which may be used to argue against return to another country.

If your client has made a claim in another European country and felt unable to stay in that country, for instance because of actual or threatened racial attacks, you may find it useful to liaise with other European lawyers. The ELENA directory of European refugee lawyers

should provide you with useful contacts, this directory has been compiled by ECRE, the European Consultation on Refugees and Exiles.

If your client has been awarded refugee status elsewhere but is not fleeing the country of refuge for reasons set out in the Refugee Convention then it will be a matter of trying to obtain a transfer of asylum to the UK. This is technically possible but actually very difficult. You would be aiming to show good reasons for leaving the country of refuge and strong links with the UK.

9-11. This information should provide you with the context in which your client gave any initial statements to the Immigration Service, copies of which should be obtained from the Immigration Service. Clearly the more sick, tired, hungry, harassed and disorientated your client was the less weight should be attributed to the fact that (s)he did not give a full and accurate account on first contact with the UK authorities. This should be set out explicitly in your representations if there are problems with initial statements or if no claim was made on arrival so that your client's credibility is preserved.

It is also important that you lodge an immediate complaint, in advance of submitting your client's claim, if any immigration staff or interpreters have behaved unreasonably or if there have been procedural irregularities.

c) QUESTIONS RELATING TO SOCIAL BACKGROUND

1. Full name, plus any aliases. [See note 1-8 p.13]
2. Address, telephone number and any other permanent contact number/address. [See note 1-8 p.13]
3. Nationality. [See note 1-8 p.13]
4. Place and date of birth. [See note 1-8 p.13]
5. History of residences to date, ownership of property, any regional connection. [See note 1-8 p.13]
6. Education and work history to date. [See note 1-8 p.13]
7. Religion, ethnic group and language. [See note 1-8 p.13]
8. Names, dates of birth, nationality, places of residence and jobs of parents, parents-in-law, brothers and sisters, spouse and children. [See note 1-8 p.13]

EXPLANATORY NOTES

c) Questions relating to social background

1-8. Basic identity information required for the PAQ. You should impress on your client the need to inform you of changes of address as maintaining contact over the long period of an asylum claim is vital. It is also essential that the Immigration Service are informed if your client is on temporary admission or release.

This information should be used to provide a paragraph in your claim to the Home Office which will set out your client's background, illustrating that (s)he had strong reasons to remain in their country of origin, and countering any implication that (s)he is an economic migrant. The Refugee Handbook (pp.16-17) makes it clear that it is necessary to distinguish Refugee Convention refugees from economic migrants or refugees from natural disaster.

The information will also fit your client into the background reading you will have done prior to the interview and thus enable you to ask more specific questions if your client is finding it difficult to answer general questions.

This information may also point you to the sections of the refugee definition which concern race, religion, nationality and social group. Even if the main thread of your client's claim is persecution for political reasons there may be subsidiary supporting histories of persecution on these other grounds. You should not forget to question your client further on these matters and include any additional history of persecution for another Refugee Convention reason in your claim.

d) QUESTIONS RELATING TO FEAR OF PERSECUTION

POLITICAL OPINION

1. What is (s)he afraid of and when this fear arose. [See note 1 p.16]
2. Nature of political beliefs, reason for holding them and circumstances in which (s)he acquired them. [See note 2-15 p.16]
3. Membership/sympathiser of political parties/association, or refusal of membership of a ruling party. [See note 2-15 p.16 & 3 p.16]
4. Structure of party or association of which client is a member and full names of those with whom client worked. [See note 2-15 p.16 & 4 p.16]
5. Political posts held or functions performed. [See note 2-15 p.16]
6. Political activities. [See note 2-15 p.16 & 6 p.16]
7. Activities which associated him/her with a political group or opinion. [See note 2-15 p.16 & 7 p.16]
8. Any incidents with the authorities, including demonstrations. [See note 2-15 p.16 & 8 p.16]
9. Detentions and arrests, names of prisons/detention centres. [See note 2-15 p.16]
10. Torture and ill-treatment. [See note 2-15 p.16 & 10 p.17]
11. Trials, convictions and punishments. [See note 2-15 p.16 & 11 p.17]
12. Harassment, restriction on activities, searches, period in hiding and discrimination. [See note 2-15 p.16 & 12 p.17]
13. Did (s)he ever receive medical treatment of any type as a result of his/her treatment by the authorities. [See note 2-15 p.16]
14. Effect of political activity/opinion on education, job, property and extended family. [See note 2-15 p.16]
15. Political involvement of extended family, and have any been recognised as refugees in this country or elsewhere? [See note 2-15 p.16 & 15 p.17]
16. Why it was not reasonable to escape from persecution in country of origin - any safe area. [See note 16 p.17]
17. If client has been out of country of origin since start of persecution did s(he) make a claim for political asylum or seek protection, if so details of claim and why (s)he left; if not why no claim was made in that country. [See note 17 p.18]

18. Military service. [See note 18 p.18]

19. What (s)he believes would happen if (s)he were returned.
[See note 19 p.18]

20. Political activities in the UK. [See note 20 p.18]

21. Is client willing to lodge a complaint against his/her own government with the United Nations Human Rights Committee? If the client's own country is a member of the Council of Europe then is (s)he willing to lodge a complaint at the European Commission of Human Rights in Strasbourg. Similarly if relevant is (s)he willing to complain to the African Commission of Human and Peoples Rights or the Inter-American Commission on Human Rights? [See note 21 p.18]

RELIGION

The above check list can be adapted, substituting religion for politics.

It is important to show sincere commitment to a faith and/or religious group, making continued worship on arrival in the UK important and a letter from the relevant religious organisation important supporting evidence.

RACE & NATIONALITY

Establish a precise description of race/nationality including tribe or clan/subclan. Questions 1 and 7-21 above should then be adapted to relate to race/nationality.

If the claim involves any form of racial discrimination consider also making a claim under the Convention on the Elimination of All Forms of Racial Discrimination. Forms and further advice available from Interights.

SOCIAL GROUP

Establish a detailed account of the social group, preferably using one issue or characteristic to describe it, with justification for treating it as such including any helpful case law. The Home Office has tended to interpret social group as meaning ethnic group, but it is obviously potentially broader than this. Adapt the whole check list above substituting social group for politics.

EXPLANATORY NOTES

d) Questions relating to fear of persecution

1. This should establish whether your client has a potential claim within the definition. You are looking for a general indication of which section of the definition: race, religion, political opinion, nationality or membership of a social group (see pp.18-21 of the Refugee Handbook for discussions of these terms) it will focus on; what the persecution has consisted of and the strength of the case. This question should enable you to orientate yourself and decide how much detail of early involvements or minor incidents is needed. If the claim is not going to focus on persecution for reasons of political opinion then adapt it using the notes on the other four grounds following the check list.

2-15. With these questions you aim to take a detailed chronology with as many dates, names and addresses as possible charting your client's political involvement up to the point of escape due to persecution or fear of persecution. You should try to show the link between actual and potential persecution, your client's fears for the future and the translation of those fears into an escape.

In this chronology you aim to show that your client has been and/or will be persecuted rather than simply discriminated against or punished for something (s)he has done. The boundaries between these terms are not easily defined and evidence of discrimination or harassment may be important to show that persecution was about to take place (pp.14-16 of the Refugee Handbook provides a discussion of these terms).

Although the definition only requires a fear of persecution the greater the history of actual persecuting acts the greater credence this adds to your client's claim.

3. Including quasi-political organisations such as trade unions, student unions or women's groups.

4. Your client may be reluctant to give certain information, for instance names of colleagues who may be persecuted at home. You should be aware that this can be for legitimate reasons, such as wanting to protect friends and family or instructions from a political party and is not necessarily a sign that (s)he is unwilling to tell the truth. If your client is unwilling to give genuine names check whether (s)he is prepared to give code names. If (s)he is not prepared to give any names then you should explain that this is due to fear of breaches of confidentiality.

6. If there has been a gap in your client's political activities then ask for the reasons behind this.

7. If your client has been attributed with opinions by the authorities in his/her country of origin it may be worth investigating whether or not this could amount to persecution on the basis of membership of a social group.

8. "The authorities" will normally be clearly defined agents of the state, however in some cases it will be necessary to show that the

perpetrators of persecution should be considered as government agents due to government tolerance or tacit approval of their acts.

10. Be vigilant that your client does not gloss over torture or ill-treatment which (s)he is too embarrassed to relate; or fears will result in removal; or regards as too obvious to mention because it is widely practised in his/her country of origin. Obtain full descriptions of the torture and check whether your client has scars or other symptoms of torture. Other symptoms might be: nightmares, insomnia, loss of memory, poor concentration, palpitations, irritability, mood swings, fear of officials or fear of sudden noises. Take detailed descriptions of any symptoms your client is suffering and obtain a medical report as soon as possible, see documentation section.

11. The fact of having committed crimes does not necessarily exclude your client from the right or ability to claim asylum under the Refugee Convention. There are certain crimes that do however exclude a claim for asylum. Serious non-political crimes, for instance murder, committed prior to entry to the UK could bring your client into exclusion clause Art 1 F of the Refugee Convention and prevent a claim for asylum in the UK; as may crimes against humanity or war crimes wherever they are committed. If your client has committed other crimes abroad then you must show that (s)he is not simply escaping regular, lawful prosecution. You should check whether or not charges for criminal offenses were brought by the authorities on grounds of your client's unpopular political opinion. See pp.15-16 of the Refugee Handbook. If your client has committed crimes in the UK this should be irrelevant. However the Home Office is likely to view a claim for asylum coming from someone after they have been recommended for deportation as part of a sentence for a criminal offence as lacking credibility and just as a last ditch attempt to remain in the UK by whatever means. In such circumstances you will have to work hard to obtain as much supporting evidence as possible to give the claim credibility.

12. If your client has been in hiding question him/her as to what precisely is meant by this: actually staying hidden in a room or keeping out of the way of authorities. Ask how the safe accommodation was arranged and why (s)he was not investigated as a newcomer to the area.

15. This should be done carefully, applying questions 2-14 from this check list to the politically active family member.

If your client has family or political colleagues who have been given asylum in the UK or elsewhere this will add a great deal of credence to his/her claim, and details of when and where and reference numbers should be taken. If family or others involved in the same political activities which led to your client's flight are seeking asylum this is not evidence supporting your client's claim in the eyes of the Home Office. It is however desirable that all communications about the same incident are consistent, see the section on documentation.

16. The Home Office frequently raise this point in refusal notices, and it is therefore advisable to address it at an early stage. It is particularly relevant if your client has spent time away from his/her place of persecution for reasons such as work. The idea is to show that

it would not be reasonable for your client to have sought safety internally, not that it was impossible. See pp. 21-22 of Refugee Handbook regarding this.

17. Check your client's passport if it is available to you and question him/her directly about any travelling abroad (s)he may have done. It may be necessary to provide supporting documentation for your client's reason for feeling that it was inappropriate to claim asylum if (s)he has travelled abroad after the onset of persecution.

18. Escaping military service is not a reason to be given asylum, unless the person concerned is a conscientious objector and this can be well supported by his/her history. If military service is the reason behind your client's fear to return to his/her country of origin then read the Refugee Handbook pp.39-41 for a detailed analysis.

However if someone has been politically involved then his/her interaction with the authorities over military service may show aspects of persecution and/or provide evidence of political beliefs which will be relevant to his/her political history.

19. An asylum claim must include an objective likelihood of persecution, which should be set out in the history and supporting documentation, and a subjective fear. By questioning your client about what would happen on his/her return you give yourself the material to flesh out his/her subjective fear in your claim. See pp.11-13 of the Refugee Handbook for detail on these two aspects.

Asking this question may also produce material which will be useful to show an immediate danger. You would need to do this if you had eventually to pursue an action in Strasbourg at the European Court of Human Rights under Article 3 of the European Convention on Human Rights (the right not to be tortured and ill-treated) and wished to prevent your client being removed pending the hearing of these proceedings.

20. Your client's political involvement in the UK is not something which is necessarily going to be helpful to his/her case. For an asylum seeker who has fled persecution and sought asylum on or soon after entry it is largely irrelevant. However it may be advisable to briefly mention any continuing activity if it may demonstrate that (s)he would be in immediate danger were (s)he to be returned to his/her country of origin. This would be essential in the context of an Article 3 application to the European Court of Human Rights and trying to stay a removal while this application is pending. Political involvement in the UK may also add credibility if it indicates a continuity of political allegiance.

For an in-country applicant it may be important to show a particular allegiance which then becomes dangerous following developments in the country of origin. The danger of dwelling on activities in the UK is that the Home Office will see them as self-serving.

The Home Office would seem to have asked for this information in the past in connection with certain groups as a means of obtaining intelligence on suspected terrorists. You should not feel compelled to give information which does not contribute to your client's claim.

21. For help with the procedures to lodge a complaint against your client's national authorities contact Interights. A finding in your client's favour by one of these bodies would without doubt be of great

assistance to your client's case. The client should understand that making such a complaint will mean a loss of confidentiality which may have adverse effects on him/herself or on family.

e) QUESTIONS RELATING TO SUPPORTING DOCUMENTATION

1. Where is the passport/travel document client arrived in the UK on, will need to send to Home Office if client has it or explain what has happened to it. Any other identity documents. [See note 1 p.21]
2. Ask for any documents that the client has relating to his/her flight and political activities, e.g. plane tickets, membership cards, newspaper articles, photographs, letters from friends and family containing relevant information together with the envelopes in which they arrived. [See note 2 p.21]
3. Discuss with client any further documents (s)he is able to obtain, such as letters confirming membership of political parties or a letter from any medical personnel (s)he may have seen in his/her country of origin following ill-treatment or torture. [See note 3 p.21]
4. Collect current newspaper and magazine articles relating to the political situation from the UK and overseas press.
[See note 4 p.21]
5. Check Amnesty International, Minority Rights Group, and Watch Group reports, reports of the examination of the country reports to the UN Human Rights Committee under the International Covenant on Civil and Political Rights for supporting information on your client, the situation in his/her country of origin and on what has happened to returned asylum seekers. [See note 5 p.21]
6. Obtain an authority from client to discuss case with Amnesty International if case is within their mandate and it is appropriate. [See note 6 p.22]
7. Obtain an authority from client to obtain an opinion from the Protection Officer of the United Nations High Commissioner for Refugees if appropriate. [See note 7 p.22]
8. Consider whether Article 19, Index on Censorship and PEN (writers in exile) may have useful materials or may be able to comment. If appropriate obtain an authority from your client.
9. Obtain an authority from client to obtain a medical report if case involves torture or ill-treatment. [See note 9 p.22]
10. Obtain an authority from client to obtain a letter from any other doctor or social worker who has been treating him/her for any significant condition either in his/her country of origin or in the UK.
[See note 10 p.23]
11. Statements from friends and family who have knowledge of your client's political activities. [See note 11 p.23]
12. Consider whether an academic opinion could be useful, particularly about prevailing conditions in your client's country of origin. [See note 12 p.23]

EXPLANATORY NOTES

e) Questions relating to supporting documentation

1. The Home Office requires passports with all applications, if they are available. You should check your client's passport for stamps to make sure that his/her memory of dates of trips out of his/her country of origin is accurate. If your client's passport is already with the Home Office or Immigration Service then consider requesting a copy.

2. It is desirable to check the authenticity of documents supplied to you by your client, particularly those sent to him/her by others. It is wise first sensitively to canvass your client's views as to whether they might be inaccurate copies/fakes. Phil Powell of 1 Horton Rd, London E8 1DP is an expert on Asia, who is prepared to verify documents for a fee. Documents which are of doubtful authenticity should not be sent to the Home Office unless it is necessary to explain your client's actions by so doing (for instance flight on receipt of a wanted notice); in such circumstances no claims for their validity should be made.

It is useful if your client's relatives write on airmail letters as there can be no argument about where and when they were posted.

Documents supporting as many of the facts alleged in your client's claim as possible should be lodged with the Home Office as they will greatly enhance your client's credibility and make it more difficult for the Home Office to refuse your client.

3. Your client may be in a better position than you to obtain documentation, for example (s)he will be able to read his/her national newspapers which may comment on relevant political events. Anything which comes to you in a language which you do not read fluently should be translated before it is sent to the Home Office. Care should be taken that nothing detrimental to your client's case is on the reverse side of a document being sent to the Home Office.

4. The British Library newspaper library in Colindale has a large selection of English language press from throughout the world and the Refugee Council Resource Centre has a large collection of reports and clippings. Commercial press cuttings services also exist such as the one operated by the Press Association. ECRE, the European Consultation on Refugees and Exiles, can refer you to resource centres throughout Europe. Documentation Centres are listed in the ELENA index of useful addresses produced by ECRE. If you do a large number of cases from the same country you may wish to lodge a portfolio of clippings and reports with the Home Office which can then be referred to; this should be updated regularly.

5. Amnesty International British Section refugee office has a subscription system by which they will supply copies of reports and urgent letter writing actions on refugee producing countries on a regular basis, giving you an in-office source of up-to-date reference material. If you have a case from a country which does not normally produce refugees they will supply reports/urgent action material for the cost of their photocopying charges. Details of the current fees for this service are available from the Refugee Office, Amnesty

International British Section.

This material may provide you with further questions for your client and mean that you need to clarify events; it should enable you to link his/her specific experience with the general situation thus providing credibility to his/her claim.

6. This may be necessary if the material you have from Amnesty does not cover the situation that your client has described and the case concerns a potential prisoner of conscience, torture and ill-treatment, disappearance or other matter within Amnesty's mandate which needs to be corroborated. You should send your client's complete statement and any other background documents that you may have, and a covering letter setting out what it is you would like Amnesty to answer or comment on. If your client mentions contact with an Amnesty delegation you should also check with Amnesty to confirm this. All contact with Amnesty must be through the Refugee Office in the British Section and not with the International Secretariat; if necessary the Refugee Office will contact the researchers at International Secretariat on your behalf.

7. The Protection Officer may be willing to intervene in any case, but is most likely to become involved where your client is detained. An opinion from UNHCR can be particularly useful if the Home Office is proposing to remove your client to a third country or if there is controversy as to whether your client's country is one which generates refugees.

9. It may not always be necessary to obtain a medical report where there is sufficient other supporting evidence for your client's claim. However if your client has been tortured or ill-treated and has scars, bruises, visual disturbance or other persecution related medical conditions then you should immediately obtain a report from your client's GP documenting these conditions. It is important that objective evidence is obtained as soon after arrival as possible when these conditions are at their most obvious. If your client's GP is uncertain about writing a report then (s)he can seek guidance from the Medical Foundation for the Care of Victims of Torture. If you write a clear instructing letter this should enable the GP to write a useful report. Shortly a BMA guide for doctors setting out how to write a medico-legal report in refugee cases will be available. For more specialist reports you should try and locate consultants who are perhaps used to writing medico-legal reports for personal injury or criminal cases. Again a clear instructing letter is important in obtaining a useful report.

The Medical Foundation does provide medico-legal reports but only in selected cases where this is likely to make a significant contribution to the evidence. At the stage of the initial application this means that they are only prepared to see your client for a report if (s)he is detained; is from a country normally regarded as safe by the Home Office or is so distressed that (s)he is unable to relate his/her story to you, the representative. For their own research and documentation purposes they are also willing to do reports where clients come from countries not generally known to use torture. If you are uncertain if your client comes within these criteria then you should speak to the case allocator. The Medical Foundation may also provide reports later in the legal process at the stage of minded to refuse notice, refusal notice, where deportation or removal is likely and where an appeal is

pending. If you do refer to the Medical Foundation then you should write setting out why you believe a report is likely to make a significant difference to your client's case. You should enclose a copy of the PAQ, your client's statement and/or representations with other supporting evidence. You should keep the Medical Foundation informed of your client's address.

10. This may provide supporting information for your client's claim to have been persecuted for his/her political beliefs or provide information for a secondary claim to remain on the basis of other compassionate circumstances.

A medical report from a doctor in your client's country of origin relating to torture, ill-treatment or detention is extremely valuable evidence, and if it is possible that one might be obtainable then efforts to do so should be made immediately.

11. Family in this context means extended family.

Where a "family" of asylum seekers arrive it should not be assumed that only one is to apply for asylum and the rest to be dependants. Attempts should be made to obtain asylum statements from all parties and then they should be advised of their options, it is obviously safer if as many claims for asylum as are possible are made.

Ideally claims should be dealt with in such a way that consistency between the family members is assured. The family's consent to breaching confidentiality will have to be obtained and may not always be there. If a family member wishes his/her claim to remain confidential from other relatives then the disadvantages should be pointed out but his/her wishes must be respected.

Where family members make claims with different advisers attempts should be made to obtain the client's consent to liaise to ensure that all claims are consistent.

Even where family members are unable or unwilling to apply for asylum statements should be obtained from them with details of the asylum seeker's political history and persecution, and any harassment they suffered as a result. These should be submitted as supporting evidence.

The Home Office should be informed in your claim if other family members are claiming asylum and copies of their claims attached or their Home Office reference numbers referred to.

12. Relevant University Departments are often willing to help out. The Refugee Studies Programme in Oxford may also have academic information.

f) ADVISE CLIENT AS TO WHETHER CLAIM IS LIKELY TO BE SUCCESSFUL

EXPLANATORY NOTES

f) Advising client as to whether claim is likely to be successful

It is rarely easy to advise a client in certain terms whether (s)he will obtain refugee status or not. However some indication as to whether you believe it to be a strong or weak case should be given. You are acting as your client's adviser as well as representative. If you are completely uncertain as to whether the claim will be successful then at least communicate this to your client. Joining groups such as the Refugee Legal Group will enable you to benefit from information exchange with experienced practitioners, which in turn may make it easier to give your client an indication as to the chances of success. Advice on the chances of success should be reiterated in a subsequent letter to your client in which you inform him/her of the action it is agreed you should take on his/her behalf.

g) ADVISING CLIENT ON THE PROCESSING OF HIS/HER CLAIM

1. Explain how the mechanics of making a claim will work and time scale. [See Note 1 p.26]
2. Explain entitlement to income support, housing benefit, to work after six months and not to be returned during currency of claim. [See note 2 p.26]
3. Explain that there is no entitlement to family reunion whilst claim is processed. (Although under slightly different Home Office practices for Somali clients it is possible to lodge the claim for family reunion at the same time as the asylum claim with the hope that they will be determined simultaneously.) However if family arrive they are best advised to claim asylum as well as to request to remain as dependants on arrival; and then to contact you for full advice on any potential claims they may have. [See note 3 p.26]
4. Explain consequences of a successful claim : right to remain, family reunion, passport and fact will not be able to return to country of origin. [See note 4 p.26]
5. Explain consequences of unsuccessful claim, possible grant of exceptional leave to remain, effect on any other claims to remain and being excluded from Europe. [See note 5 p.26]
6. Explain if liable to be detained. [See note 6 p.27]
7. Explain possibilities of being released if detained: bail and/or temporary admission. [See note 7 p.27]

EXPLANATORY NOTES

g) Advising client on the processing of his/her claim

1. The process will vary depending whether or not your client has leave when the application is made and whether there is any chance of him/her being treated as an illegal entrant. Your client should understand from the start that delays are endemic so that (s)he does not suspect that you have not got on with his/her claim; if this is explained (s)he is less likely to become anxious that no reply from the Home Office means a likely refusal. It should be made clear to your client that (s)he cannot leave the UK whilst his/her claim is being considered. Your advice should be set out again in a letter to your client confirming what you and your client have agreed should happen, what has been done and an outline of what remains to be done by yourself and your client (for instance in the area of collecting documents), and your views on the chances of success.

2. Article 33 of the Refugee Convention prevents the Home Office returning an asylum seeker until his/her claim has been determined.

3. If your client's family arrive and claim only to remain as dependants of an asylum seeker then they risk being returned as illegal entrants or being returned on refusal of leave to enter as family of an asylum-seeker, there being no international obligation not to return them. If they claim asylum then they cannot be returned because of Article 33 of the Refugee Convention.

4. If your client is granted full refugee status under the Refugee Convention then (s)he will be given 4 years leave to remain in the UK, and will be eligible to apply for settlement at the end of that 4 year period.

(S)he will be able to be joined by his/her spouse and children under the age of 18 years; there is no need for the refugee to show that (s)he can accommodate and support these relatives. The Home Office should look favourably on applications from other members of the refugee's household (p.43-44 of Refugee Handbook). If relatives are missing then advise clients that the International Social Services and Red Cross may be able to help find them.

(S)he will be able to apply to the Home Office for a UN refugee travel document which will enable your client to travel to all countries except his/her country of origin (Article 28 of Refugee Convention).

Your client will not be able to return to his/her country of origin or to apply for a passport from his/her national authority without running the risk of being deemed to have re-availed him/herself of the protection of the regime from which s(he) fled and thereby losing his/her refugee status (see p.27-28 of Refugee Handbook).

5. If your client does not come within the scope of the Refugee Convention then this does not mean that (s)he will necessarily be returned to his/her country of origin. The Home Office makes grants of exceptional leave to remain to persons who they consider it would be unsafe to return despite their not coming within the Refugee Convention. Grants of exceptional leave are frequently made to those coming from areas where there is civil war, who may face threats to

their life or persecution but not for a Convention reason, and to those whom the Home Office deem not to be likely to suffer the necessary degree of persecution to come within the Convention. The Home Office sometimes makes statements that a whole group of people will be granted exceptional leave to remain; if this is relevant to your client then an application setting out why your client comes within the policy should be considered instead of a full asylum application. In other circumstances even if you think it likely that your client will be awarded exceptional leave to remain it is always wise to submit a claim under the Refugee Convention if possible as this will give your client the protection of international law and non-refoulement, depending on immigration status a right of appeal and the chance to obtain a more advantageous status.

If your client is awarded exceptional leave it may be possible to appeal and request full status; if your client does not have an appeal right an application for "up-grading" to full status can be lodged and if this is refused then there will be a right of appeal as this application will be made whilst your client has current leave.

A grant of exceptional leave will normally only be for one year, followed by two grants for three years. After seven years it is possible to apply for settlement. Each renewal is reliant on the same conditions prevailing which led to the initial grant.

Clients with exceptional leave are only able to apply for family reunion after they have had this status for four years unless there are compelling compassionate circumstances. They must also show that they can maintain and accommodate their relatives without recourse to public funds.

Exceptional leave to remain does not entitle your client to a UN travel document, however if (s)he cannot obtain a passport from his/her national authority then it is possible to apply for a UK travel document. As with full refugee status, if your client travels to his/her country of origin this may jeopardise his/her grant of leave.

If your client is refused refugee status and not awarded exceptional leave to remain, (s)he may have other outstanding applications with the Home Office which will have to be dealt with before the Home Office takes steps to deport or remove him/her. It is likely that these applications will be refused however; for instance an outstanding student application is likely to be refused because the Home Office will not believe that your client intends to leave the UK at the end of his/her studies as is required by the Immigration Rules.

There is a self-evident climate of hostility throughout Europe to refugees and asylum seekers. There are inter-governmental initiatives currently attempting to negotiate Conventions which will produce information exchange between EC countries including a list of persons who have tried to circumvent immigration control. These persons would not be granted visitor or other visas to come to Europe in the future. There is an obvious danger that failed asylum seekers would be placed on this list of persons to be excluded.

6. All persons without leave to enter, those being treated as illegal entrants and those who have been served with a notice of intention to deport are liable to be detained. Both port and in-country applicants for asylum can therefore be liable to be detained.

7. Bail and Temporary Admission or Release

Asylum seekers are frequently detained and a priority for the legal

representative of such a client must be to attempt to obtain bail or temporary admission/release on his/her behalf.

BAIL

Asylum seekers who have bail rights will be in one of the following 3 groups:

- those who have appealed against a decision to deport or against destination after a deportation order has been signed;
- those who have been refused leave to enter the UK but who have a right of appeal before being returned because they obtained a visa or entry clearance before travelling, and have exercised this right of appeal;
- those who have requested leave to enter the UK as a refugee and the Home Office have not decided whether to grant leave within 7 days.

There is a specific bail application form obtainable from the immigration office dealing with the case. After this form is returned the case will be listed within a few days. You will be informed of the hearing date by phone.

To obtain bail you will need to show that:

- there are two people prepared to stand surety to a sum in the region of £5000; it is worth trying if they can show £2000 between them. (There is no fixed sum required by law.) They will both have to be of good character and be prepared to come to court with evidence of their funds and good standing, ie jobs, owning property;
- there will be somewhere for your client to live when (s)he is released, preferably with one of the sureties.

Your client will be more likely to obtain bail if there is a substantial sum of money (the client's own recognisance and the sureties); if there is a secure place for him/her to live and if (s)he is willing to comply with other conditions such as reporting.

TEMPORARY ADMISSION/RELEASE

Asylum seekers who are detained under the Immigration Act and who do not have bail rights can request temporary admission if they have no leave to enter or temporary release if they have had leave.

A request should be made immediately by telephone to the official dealing with the case and should be restated in any representations. It is possible to repeat the request for release on a regular basis as refusal of temporary admission is reviewed every five days, and certainly this should be done if there are any favourable changes in circumstance. The decision to refuse temporary admission is generally made at inspector level. All requests made by telephone should be followed up with a written communication to ensure that the Immigration Service record of your request is accurate.

Matters which can be used to argue for release with the Immigration Service:

- a permanent and secure address
- family and friends in the UK

- willingness to report and not take employment
- medical evidence about stress or other conditions which are being aggravated by detention
- any evidence that in the past they have complied with conditions imposed by the Immigration Service
- the amount of time it is likely to take for the case to be determined.

3 DETAILED PRESENTATION OF THE SUBSTANTIVE ASYLUM CLAIM

- A) The claim should be for political asylum under the 1951 UN Convention relating to the Status of Refugees. You aim to show why your client fled or is claiming now, that (s)he is actually afraid to return to his/her country of origin for as many of the Convention reasons as are applicable and why this is objectively reasonable. You must tie your application to one or more of the five Refugee Convention grounds. The burden of proof is on your client to show that the definition is fulfilled. Quote sections of the Refugee Handbook wherever relevant as the Home Office is supposed to have regard to it in carrying out UK's international obligations under the Refugee Convention.
- B) The claim should also allege that to return your client would amount to a breach of Article 3 of the European Convention on Human Rights which guarantees freedom from torture, inhuman and degrading treatment or punishment. This is particularly important where there is a fear of persecution but where there are problems showing it is for a Refugee Convention reason.
- C) Other compassionate reasons for allowing your client to remain in the UK should be put to the Home Office as a separate and additional claim for your client to stay in the UK.
- D) Mention any other concurrent claim your client may have (e.g. as a student) and make it clear that this claim is also made/not withdrawn.
- E) If your client is detained a request for temporary admission should be made.
- F) The claim can either be in the form of a first person statement and covering letter or in the form of third person representations combining your information with that of your client. (First person statements are more direct and protect you from alleging what your client says is accurate; third person representations are easier for the Home Office to deal with as they receive only one document plus enclosures.) If a Political Asylum Questionnaire has not been completed then one must be filled out, and your statement or representations provide the reply to part C of the questionnaire.
- G) It is extremely important that your client's story is set out in full in your claim to the Home Office. All subsequent communications will be less credible in the eyes of the Home Office. However, the client's history should be put forward as the "main points" of the client's claim in case the client remembers further relevant information at a later stage or new information/documentation comes to light.
- H) The client's history should be set out chronologically or in some other logical fashion, with a summary of the risks your client will face if (s)he is returned.
- I) Care should be taken to use correct terminology, for example checking whether your client was arrested or detained and whether the

arrest/detention was carried out by police/military police/army.

J) All relevant incidents should be described as precisely as possible. Credibility can often be established by small individual details being described such as a particular insult by a torturer.

K) All attached documents should be explained and the Home Office's attention drawn to particularly relevant sections.

L) Do not refer to documents you are obtaining in case you cannot get hold of them or they turn out to be unhelpful.

M) The tone of your claim should neither be apologetic nor bombastic.

N) Ensure that your claim is consistent with all previous communications and interviews with the Immigration Service and Home Office. If mistakes and misunderstanding have taken place they must be explained as adequately as possible.

O) Your client should check your claim line by line before it goes to the Home Office to ensure that it is accurate and no misunderstandings took place at the interview. (S)he should be provided with a copy in a language (s)he understands.

P) Since it is likely that the full claim will not be able to be made immediately it is prudent to go on the record with the Home Office and Immigration Service straight away with a simple letter, giving no details, informing them that a detailed claim will be made in the near future and asking that any correspondence be addressed to yourselves.

Q) Inform the Home Office that your client is willing to be interviewed should they so wish; if your client will need an interpreter let them know the relevant language. State that you request advance warning of any interview as a representative of your office will wish to attend, with an independent interpreter if appropriate.

R) Ask the Home Office to address all further correspondence to yourselves.

S) All communications should be addressed both to the Immigration Service and to the relevant section of the Home Office. All communications should have your client's Home Office reference number on them, if your client has had previous dealings with the Home Office this will be on letters or on the inside back page of his/her passport. After your full claim has been sent to the Home Office ensure that regular reminders are sent to the Home Office so that pressure is maintained for a decision in your client's case.

4 ASYLUM INTERVIEW FOLLOWING THE SUBMISSION OF THE SUBSTANTIVE CLAIM

Your client may be interviewed following the submission of your substantive claim and prior to any decision on his/her case. If you are notified of an interview you should arrange to see your client to take details of any recent developments and news from home (s)he may have received. If anything significant has happened further representations or a statement should be submitted, together with any supporting documentation.

Your client should be briefed on the purpose of the interview. It is essential that your client tells his/her story as set out in your representations/statement in the greatest possible detail. You should advise your client to reread his/her copy of your statement/representations to remind him/herself of the relevant matters and dates. You should warn your client that the interview may not take place in the most sympathetic manner, and that (s)he should voice any complaints about the conduct of the interview immediately, at the interview. A representative of your office should attend the interview with an independent interpreter if your client is not to be interviewed in English. For further details on your or your clerk's role at the interview and the role of the interpreter see *"Political asylum interviews: the role of clerks and interpreters"* by Alison Stanley [see Appendix (c)].

Following the interview you should check the notes made by yourself/ your clerk against those of the Immigration Service/Home Office. If the Home Office/Immigration Service notes do not reflect what was said at the interview then you should set this out in a letter to the Home Office. You should also set out any complaints you have about the conduct of the interview. You should also check the interview notes against your representations/statement submitted as your client's substantive asylum claim. If there are any discrepancies between what was said at the interview and what you have said on your client's behalf then you will have to question your client and submit explanations to the Home Office.

A) Legal Sources

- 1951 Convention and 1967 Protocol relating to the Status of Refugees (Reproduced at the back of the Refugee Handbook)
- Handbook on Procedures and Criteria for Determining Refugee Status (available from United Nations High Commission for Refugees)
- Dublin Convention 1990 (signed and ratified by the UK but not yet in force, available from the Parliamentary Library)
- European Convention on Human Rights (Relevant excerpts in *Basic Documents on International Migration Law* by Richard Plender)
- European Agreement on Transfer of Responsibility for Refugees 1980 (*Basic Documents on International Migration Law* by Richard Plender)
- Universal Declaration of Human Rights (Relevant excerpts in *Basic Documents on International Migration Law* by Richard Plender)
- International Covenant on Civil and Political Rights (Relevant excerpts in *Basic Documents on International Migration Law* by Richard Plender)
- International Convention on the Elimination of All Forms of Racial Discrimination (Relevant excerpts in *Basic Documents on International Migration Law* by Richard Plender)

* *Basic Documents on International Migration Law* by Richard Plender is published by Martinus Nijhoff and is available from Interights.

APPENDIX (b)

POLITICAL ASYLUM QUESTIONNAIRES

GEN 28

ASYLUM APPLICATION

QUESTIONNAIRE FOR SELF COMPLETION

STATEMENT OF CONFIDENTIALITY

An asylum application in the United Kingdom is a confidential matter between the asylum applicant and Her Majesty's Government. Any information provided in connection with the application will be treated in confidence.

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ASYLUM APPLICATION

Port Reference

Home Office
Reference

ATTACH
PHOTOGRAPH
HERE

Part A Personal Details of Applicant

FAMILY NAME:	
OTHER NAMES:	
ANY OTHER NAMES PREVIOUSLY USED:	
SEX:	MARITAL STATUS:
DATE OF BIRTH:	PLACE OF BIRTH:
CURRENT NATIONALITY:	ANY PREVIOUS NATIONALITY:
PRESENT ADDRESS:	
LAST ADDRESS IN COUNTRY OF ORIGIN:	
If no passport held on arrival, please explain circumstances:	
If you required an exit visa to leave your country of origin, please give details including date and place of issue and any time limit imposed on your return:	

EDUCATION, WORK AND MILITARY SERVICE SINCE AGE OF 15

Dates	Position held (if in full-time education, write 'student' if in armed forces, give rank, unit and location)	Employer's name or name of school, college etc, and location of workplace or school, college etc

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Part B Family details

Please give details of other members of your family and indicate if any have applied for or been recognised as refugees in the UK or elsewhere.

HUSBAND/WIFE

Full Name

Date and Place of Birth

Nationality

Present Address

Last address in country of origin if different from present address

Home Office reference number if known:

CHILDREN

Name	Date of Birth	Nationality	Which country are they in now?	Home Office reference number if known

PARENTS

	Father	Mother
Full name		
Date and place of birth		
Nationality		
Where do they live? (state village/town and country)		
Home Office reference number if known		
Occupation		

PARENTS-IN-LAW

	Father-in-law	Mother-in-law
Full name		
Date and place of birth		
Nationality		
Where do they live? (state village/town and country)		
Home Office reference number if known		
Occupation		

BROTHERS

Full Name	Date and place of birth	Nationality	Town or village and country where they live now	Home Office reference number if known

SISTERS

Full Name	Date and place of birth	Nationality	Town or village and country where they live now	Home Office reference number if known

PART C BASIS OF CLAIM FOR ASYLUM

Why are you seeking asylum? Please give full details of the reasons, and use as many additional pages as you need. Give details which you consider relevant to your application of:

- your religion
- your ethnic origin
- political affiliations
- persecution or harassment which you or members of your family have suffered from a government or other organisation (stating which ones) and giving what you think were the reasons for harassment.
- any periods which you or members of your family have spent in detention, giving place and dates if known

If your claim is based on your political activities, you should supply details such as:

- the name of any political organisations with which you have been involved either in the UK or abroad
- when and how your first contact with them took place
- the nature of your involvement with them, both in the UK and abroad

You should enclose any evidence you have of your activities, such as membership cards, photographs, press articles etc. (These will be returned to you)

Asylum Application

PART C (CONTINUED)

Asylum Application

PART C (CONTINUED)

You may add further sheets if you wish

PART D MISCELLANEOUS

Have you ever applied for asylum in any country? If so, where, and with what result?

Have you ever been convicted of a criminal offence? If so give details, including dates and the sentence you received.

Name and address of solicitor or other representative if you have one.

If it is necessary to interview you in connection with this application, will you require an interpreter, and if so, for which language?

If there is anything else which you think is relevant to your application that you have not recorded elsewhere on this form, please give details on the sheet overleaf.

EXTRA PAGE FOR SECTION C OR FOR ADDITIONAL RELEVANT INFORMATION

40

LH1.7

DECLARATION BY APPLICANT

I confirm that I wish to apply for asylum in the UK. I understand the information I have given will be treated in confidence.

To the best of my knowledge all the answers I have given are truthful and complete. There is nothing further I wish to add in support of my application at this stage. I understand that I may submit additional material should further relevant information become available.

Signed

Date.....

LH1.7

IS 97A

PART A		HO REF: PORT REF:	
INTERVIEW DETAILS			
DATE AND PLACE OF INTERVIEW			
LANGUAGE(S) OF INTERVIEW (If English, confirm applicant is happy to be interviewed in English)			
NAME OF INTERPRETER IF USED (State if professional/casual or IS)			
NAMES OF OTHERS PRESENT			
APPLICANT'S FAMILY NAME (under which birth record filed)			
OTHER NAMES			
SEX		MARITAL STATUS	
PLACE OF BIRTH		DATE OF BIRTH	
CURRENT NATIONALITY			
EVIDENCE OF NATIONALITY			
ANY PREVIOUS NATIONALITY			
INTERVIEWEE	INTERVIEWING OFFICER		
SIGNED.....	SIGNED.....		

YOU HAVE APPLIED FOR ASYLUM IN THE UNITED KINGDOM AND YOU WILL BE INTERVIEWED IN CONNECTION WITH YOUR APPLICATION. YOU WILL BE PROVIDED WITH AN INTERPRETER IF YOU SO WISH. YOU WILL NOT BE REQUIRED TO LEAVE THE UNITED KINGDOM WHILE YOUR APPLICATION IS BEING CONSIDERED. YOU OR YOUR REPRESENTATIVE WILL BE INFORMED OF THE OUTCOME OF THE APPLICATION AS SOON AS A DECISION HAS BEEN REACHED. ANY INFORMATION PROVIDED IN CONNECTION WITH THE APPLICATION WILL BE TREATED IN CONFIDENCE.

IF YOU NEED FURTHER ADVICE ON YOUR APPLICATION YOU MAY CONTACT THE NEW REFUGEE UNIT, A VOLUNTARY ORGANISATION INDEPENDENT OF THE GOVERNMENT, FOR FREE ADVICE. NRU CAN BE CONTACTED AT:-

NEW REFUGEE UNIT
2ND FLOOR
COUNTY HOUSE
190 GREAT DOVER STREET
LONDON SE1 4YB
(TELEPHONE 071-357-7421)

DECLARATION BY THE APPLICANT;

I UNDERSTAND WHY I AM TO BE INTERVIEWED AND THAT I WILL NOT BE REQUIRED TO LEAVE THE UNITED KINGDOM WHILE MY APPLICATION IS UNDER CONSIDERATION. I HAVE BEEN INFORMED OF THE AVAILABILITY OF AN INTERPRETER AND OF THE SERVICE OF UKIAS.

SIGNED.....

PART B
ARRIVAL DETAILS

1. TRAVEL DOCUMENT HELD BY APPLICANT			
2. ISSUED BY GOVT OF		3. DATE OF ISSUE	
4. PLACE OF ISSUE		5. VALID UNTIL	
6. Q. DID YOU ENCOUNTER ANY PROBLEMS OBTAINING A PASSPORT? A.			
7. DETAILS OF ANY OTHER DOCUMENT ESTABLISHING IDENTITY OR NATIONALITY			
8. IF NO TRAVEL DOCUMENT HELD ON ARRIVAL, EXPLAIN CIRCUMSTANCES			
9. CURRENT UK ENTRY CLEARANCE OR VISA HELD?			
10. DETAILS OF ANY OTHER CURRENT VISAS including any exit visas)			
INTERVIEWEE SIGNED.....		INTERVIEWING OFFICER SIGNED.....	

42

PART B
(CONTINUED)

11. ARRIVED IN UK FROM			
12. BY FLIGHT/SHIP		13. DATE OF ARRIVAL	
14. Q. WHAT WAS YOUR METHOD OF LEAVING YOUR OWN COUNTRY AND DID YOU ENCOUNTER ANY PROBLEMS ON DEPARTURE? A.			
15. Q. DID YOU TRAVEL DIRECT TO THE UNITED KINGDOM; IF NOT, TO WHERE DID YOU TRAVEL EN ROUTE? A.			
16. Q. HOW LONG DID YOU SPEND IN EACH COUNTRY? A.			
INTERVIEWEE SIGNED.....		INTERVIEWING OFFICER SIGNED.....	

PART B
(CONTINUED)

17. Q. DO YOU HAVE ANY EVIDENCE OF YOUR STAY THERE?

A.

18. Q. DID YOU CLAIM ASYLUM IN ANY OF THE COUNTRIES THAT YOU TRAVELLED THROUGH EN ROUTE TO THE UNITED KINGDOM? (If yes, ask for details; if no, ask why not?)

A.

19. Q. HAVE YOU EVER TRAVELLED TO ANY OTHER COUNTRIES?

A.

20. Q. WAS YOUR PASSAGE TO THE UNITED KINGDOM ARRANGED BY AN AGENT OR ORGANISATION? (If yes, ask for details)

A.

INTERVIEWEE

INTERVIEWING OFFICER

SIGNED.....

SIGNED.....

PART B
(CONTINUED)

21. Q. HAVE YOU EVER LIVED FOR A PERIOD OF MORE THAN ONE MONTH IN ANY COUNTRY OTHER THAN THE ONE TO WHICH YOU FEAR RETURN?

A.

22. Q. HAVE YOU EVER BEEN ISSUED A PASSPORT OR OTHER TRAVEL DOCUMENT BY ANY COUNTRY OTHER THAN THE ONE TO WHICH YOU FEAR RETURN?

A.

23. Q. WHAT WAS YOUR REASON FOR LEAVING THAT COUNTRY?

A.

24. Q. HAVE YOU ANY REASON WHY YOU WOULD NOT WISH TO RETURN TO THAT COUNTRY? (If yes, ask for details)

A.

INTERVIEWEE

INTERVIEWING OFFICER

SIGNED.....

SIGNED.....

PART C
(CONTINUED)

32. Q. HAVE ANY MEMBERS OF YOUR FAMILY ENCOUNTERED DIFFICULTIES WITH THE AUTHORITIES, SUCH AS HARASSMENT, DETENTION OR PERSECUTION?

A.

33. Q. DO YOU KNOW THE CURRENT WHEREABOUTS OF YOUR FAMILY?

A.

INTERVIEWEE

INTERVIEWING OFFICER

SIGNED.....

SIGNED.....

45

PART D
BACKGROUND DETAILS

34.

EDUCATION

DATES

SCHOOL/COLLEGE

QUALIFICATIONS

35.

EMPLOYMENT

DATES

POSITION HELD

EMPLOYER'S NAME & ADDRESS

INTERVIEWEE

INTERVIEWING OFFICER

SIGNED.....

SIGNED.....

PART E ASYLUM APPLICATION	
36. Q.	HAVE YOU EVER APPLIED FOR ASYLUM PREVIOUSLY IN THE UNITED KINGDOM OR ELSEWHERE? (If yes, when, where and what was the outcome)
A.	
37. Q.	WHAT IS THE BASIS FOR YOUR PRESENT CLAIM FOR ASYLUM? (Use a continuation sheet where necessary)
A.	
38. Q.	ARE YOU OR HAVE YOU EVER BEEN A MEMBER OF ANY POLITICAL PARTY, GROUP OR ORGANISATION?
A.	
39. Q.	HOW DID YOU BECOME INVOLVED WITH THE GROUP OR ORGANISATION? (Ask for dates)
A.	
INTERVIEWEE SIGNED.....	INTERVIEWING OFFICER SIGNED.....

PART E (CONTINUED)	
40. Q.	TO WHICH BRANCH DID YOU BELONG, WHAT WAS THE DEGREE OF YOUR INVOLVEMENT AND WHAT POSITION DID YOU HOLD?
A.	
41. Q.	CAN YOU GIVE DETAILS OF THE STRUCTURE, AIMS AND ACTIVITIES OF THE GROUP OR ORGANISATION?
A.	
42. Q.	CAN YOU GIVE THE NAMES OF THE GROUP LEADERS AND THE LOCATION OF THEIR HQ?
A.	
43. Q.	HAVE THE GROUP'S ACTIVITIES BEEN BANNED OR RESTRICTED AT ANY TIME?
A.	
INTERVIEWEE SIGNED.....	INTERVIEWING OFFICER SIGNED.....

PART E

(CONTINUED)

44. Q. HAVE YOU EVER ATTENDED ANY RALLIES OR DEMONSTRATIONS EITHER IN THE UNITED KINGDOM OR ABROAD?

A.

45. Q. CAN YOU GIVE DETAILS OF YOUR ATTENDANCE, SUCH AS WHERE AND WHEN IT WAS HELD, THE REASON FOR THE RALLY, AND APPROXIMATELY HOW MANY ATTENDED?

A.

46. Q. WHAT IS YOUR RELIGION?

A.

47. Q. DO YOU HAVE ANY TRIBAL AFFILIATIONS?

A.

INTERVIEWEE

SIGNED.....

INTERVIEWING OFFICER

SIGNED.....

PART E

(CONTINUED)

48. Q. HAVE YOU EVER SUFFERED ANY FORM OF PERSECUTION OR HARASSMENT BY THE GOVERNMENT OR ANY OTHER BODY?

A.

INTERVIEWEE

SIGNED.....

INTERVIEWING OFFICER

SIGNED.....

PART E
(CONTINUED)

49. Q. HAVE YOU EVER BEEN DETAINED? (Ask for reasons, duration, dates and places of detention)

A.

50 Q. DO YOU HAVE ANY CRIMINAL CONVICTIONS? (If yes, ask for date(s) and place(s) of offences and trial, reasons for conviction and details of sentence)

A.

51. Q. HAVE YOU COMPLETED MILITARY SERVICE? (Ask for dates of service completed, unit, rank and duties)

A.

52. Q. IF YOU HAVE NOT COMPLETED MILITARY SERVICE, ARE YOU ELIGIBLE FOR MILITARY DUTY? (Ask for details of contact with the military authorities about this and when service is due)

A.

INTERVIEWEE

INTERVIEWING OFFICER

SIGNED.....

SIGNED.....

PART F
CURRENT CIRCUMSTANCES

53.
Q. HOW HAVE YOU SUPPORTED YOURSELF SINCE YOUR ARRIVAL IN THE UNITED KINGDOM?

A.

54.
Q. WHAT ACCOMMODATION DO YOU HAVE?

A.

55.
Q. WHAT FAMILY DO YOU HAVE IN THE UNITED KINGDOM?

A.

56.
Q. HAVE YOU HAD ANY CONTACT WITH YOUR FAMILY ABROAD?

A.

57.
Q. HOW DO YOU OCCUPY YOUR TIME (EG EMPLOYMENT, STUDY ETC)?

A.

58.
Q. ARE YOU OR HAVE YOU EVER BEEN A MEMBER OF ANY ORGANISATION IN THE UNITED KINGDOM?

A.

59.
Q. WHAT WOULD YOU DO IF YOUR APPLICATION WAS GRANTED/REFUSED?

A.

60.
Q. DOES ANYBODY ELSE KNOW OF YOUR APPLICATION?

A.

INTERVIEWEE

INTERVIEWING OFFICER

SIGNED.....

SIGNED.....

PART G

ADDITIONAL QUESTIONS ARISING FROM THE INTERVIEW

61.
Q.

62.
Q. IS THERE ANYTHING YOU WISH TO ADD OR AMEND TO WHAT YOU HAVE SAID?
A.

63.
Q. HAVE YOU UNDERSTOOD ALL THE QUESTIONS?
A.

64.
Q. HAVE YOU HAD ANY DIFFICULTY UNDERSTANDING THE INTERPRETER?
A.

INTERVIEWEE

SIGNED.....

INTERVIEWING OFFICER

SIGNED.....

ASYLUM INTERVIEW RECORD
SUMMARY SHEET

OBSERVATIONS OF INTERVIEWING OFFICER

Large empty rectangular box for observations.

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PART H
DECLARATION OF APPLICANT

IT HAS BEEN EXPLAINED TO ME THAT THE PURPOSE OF THIS INTERVIEW HAS BEEN TO ENABLE ME TO EXPLAIN WHY I WISH TO CLAIM POLITICAL ASYLUM. I HAVE UNDERSTOOD THE QUESTIONS PUT TO ME AND HAVE HAD AN OPPORTUNITY TO TELL THE INTERVIEWING OFFICER ABOUT ANY OTHER FACTS WHICH I THINK ARE RELEVANT.

I HAVE READ/HAD READ TO ME PAGES 1. (INCLUDING THIS ONE) WHICH HAVE BEEN MADE BY THE INTERVIEWING OFFICER AND HAVE BEEN ABLE TO ADD OR CORRECT ANYTHING I WANT. THE INTERVIEWING OFFICER'S NOTES, AS AMENDED BY ME, GIVE AN ACCURATE ACCOUNT OF WHAT I HAVE SAID AND OF MY CIRCUMSTANCES.

INTERVIEWEE

WITNESSED BY

SIGNED.....

.....

DATE.....

.....

IS 97B

Port reference:

Your reference:

Date:

You have applied for asylum in the United Kingdom. In order that your application may be considered, please complete the attached form. Although you may have given us some of this information already, it would be very helpful if you could complete all relevant sections as fully as possible. YOU SHOULD RETURN THE COMPLETED FORM TO THE ABOVE ADDRESS. (If you did not hold a passport on arrival in the United Kingdom, please explain the circumstances in Part A of the questionnaire.)

The completed form will be forwarded by us to the Home Office Immigration and Nationality Department at Lunar House, 40 Wellesley Road, Croydon, CR9 2BY (Tel 081 686 0688) where it will be considered by the Specialist Refugee Unit.

If you need further advice on your application, you may contact the REFUGEE LEGAL CENTRE, a voluntary organisation, independent of the Government for free advice. They can be contacted at:

REFUGEE LEGAL CENTRE	Telephone:
SUSSEX HOUSE	071 357 7421
39-45 BERMONDSEY STREET	(until 16 October 1992)
LONDON	
SE1 3XF	071 827 9090
	(from 17 October 1992)

If you are unable to complete the form in English, and there is no-one who can help you to do so, please let us know as soon as possible.

It may in due course be necessary for you to be interviewed in connection with this application. You will be provided with an interpreter if you wish.

You will not be required to leave the United Kingdom while your application is being considered. You or your representative will be informed of the outcome of the application as soon as a decision has been reached. Please keep us informed of any change of address or if you change your representative.

If you do not reply within 8 weeks of the date of this letter, your application may be refused.

Immigration Officer

Reproduced from *Immigration and nationality law and practice*, with thanks.

Political asylum interviews: the role of clerks and interpreters

ALISON STANLEY

Introduction

It has been an accepted practice for many years for practitioners' representatives to accompany clients to asylum interviews at the Home Office for in-country applicants and with the immigration service for port applicants. Despite this, the government still maintain that this is entirely at their discretion. The advantages to an applicant of having a representative present are great. At the least it ensures that an independent record is kept of the interview. At best it enables a client to put over his or her story properly and completely, thus facilitating a full examination to take place as required by the UN Convention governing the status of refugees. As a result, practitioners now frequently advise clients not to co-operate with an interviews in the absence of a representative.

Practitioners will be aware of the large number of Kurdish asylum seekers who arrived in the United Kingdom in May and June of last year. The conduct of political asylum interviews by the immigration service and official interpreters has given grave cause for alarm with allegations of political bias, mistranslation and interpreters 'running' interviews in place of immigration officers. On one occasion an official interpreter had to be physically restrained following an assault on a solicitor's clerk when the interpreting skills of the interpreter's wife (also an official interpreter) were impugned. As a result of practitioners' concerns at a meeting on 12 July 1989 between Tim Renton (then Minister), Jeremy

Corbyn MP, various legal practitioners and others it was conceded that independent interpreters could also be present at asylum interviews. This concession has had an advantageous effect in preventing the worst abuses of some of the official interpreters and it is suggested that it is a practice that should be followed at every asylum interview.

Legal aid

The Legal Aid Board has always paid for solicitors' representatives to be present at asylum interviews, paying the standard attendance rate for the interview and the reduced travel rate for the travel and waiting period. In addition, the London Legal Aid Area routinely pays interpreters' fees at the magistrates' court rate (currently £10 per hour) for both travelling and interview time.

Interview arrangements

In order to ensure that advisers are informed of any interviews that are arranged, practitioners are advised at an early stage to go on the record as acting for the client and as wishing to be present together with an independent interpreter at any interview that may take place. In port cases it may be advisable to do this by telephone with a follow-up confirmatory letter. Practitioners may wish to advise clients to refuse to co-operate with any interview that may take place without a representative being

present. If this tactic is to be adopted it is advisable to inform the interviewing authority of this in writing beforehand.

It is not necessary to inform the interviewing authority of the identity of those attending the interview. However, the Immigration Service frequently insist on knowing the name of the interpreter and will not allow him or her to be present at the interview if he or she is prohibited from working by the terms of his or her leave in the United Kingdom, has a criminal record or has a claim for asylum pending. Frequently the independent interpreter is asked to produce his or her passport as proof of identity. This element of internal control is objectionable and has been taken up with the Minister by Jeremy Corbyn MP. Interestingly, to the writer's knowledge, the Immigration Service has not made any such stipulations concerning clerks!

Clients should be warned of the possibility of letters of invitation to an interview being sent direct to them in error and thus should be encouraged to contact their adviser on receipt of any communication from the Home Office or Immigration Service.

Practitioners may find the following notes concerning the function of clerks and interpreters attending political asylum interviews useful.

Clerks

1. The function of the clerk attending asylum interviews is to take a complete contemporaneous note of everything that is said. A useful method of recording the interview is as follows:

Attendance note re: (client's name)

Date:	Place of interview:
Clerk's name:	Independent interpreter's name:
Immigration Officer's name:	Official interpreter's name:
Travel and waiting time:	Travel expenses:
Time interview commenced:	Time interview ended:

Q.

A.

Q.

A. etc.

2. The clerk should note everything that is said but also note down any interruptions such as a break for refreshments, a dispute over interpreting and its resolution or any intervention that the clerk or independent interpreter may make. The clerk may find that an easy way to note his or her interventions or those of the independent interpreter is to note their own name or interpreter's name in the margin and then write in the intervention.

3. A note should also be made if the immigration officer or official interpreter is rude, makes jokes at the client's expense, is clearly bored, wishes to speed through the interview, drums his or her fingers on the table, repeatedly looks at his or her

watch or engages in any other conduct detrimental to the client's opportunity to put his or her case fully and fairly.

4. Ideally a clerk should have had made available to him or her a copy of the representations or the statement outlining the client's asylum claim which has already been submitted to the interviewing authorities. If any of the points raised in the representations are not dealt with during the interview then the clerk should request this area to be covered at the end of the interview. A note should be made of the request and if the immigration officer refuses to comply he or she should be asked to record the refusal on the interview record.

5. As the interview proceeds a helpful way of checking that all points have been covered properly and clearly is to put an 'x' in the margin over points that the clerk considers have not been dealt with properly. At the end of the interview the clerk should check through the notes to see if those points marked with an 'x' have been dealt with in the course of the interview and if not should raise them at that point.

6. If the clerk considers that matters have been covered in insufficient depth (for example periods of detention not covered properly) he or she should draw the officer's attention to the client's statement contained in the representations and ask that further questions be put. Once again, if the immigration officer refuses to do so a note should be made.

7. If an immigration officer asks the same question repeatedly despite the client having already answered the question the clerk should intervene and point this out.

'Political asylum questionnaire' ('PAQ')

8. For port applicants the initial asylum interview takes the form of a questionnaire that is completed by the interviewing officer. At the beginning of the interview the client is asked to sign a declaration in the following terms:

'Declaration by Applicant:

'I understand why I am to be interviewed and that I will not be required to leave the United Kingdom while my application is under consideration. I have been informed of the availability of an interpreter and of the services of UKIAS.

'Signed

This declaration should be translated to the client before he or she signs it. If this does not occur a note should be made. At the end of the interview there is a second declaration to be signed by the client which once again should be translated to him or her. This declaration reads as follows:

'Declaration by Applicant

'It has been explained to me that the purpose of this interview has been to enable me to explain why I

wish to claim political asylum. I have understood the questions put to me and have had an opportunity to tell the interviewing officer of which I think are relevant.

I have read/had read to me the notes that have been made by the interviewing officer and have been able to add and correct anything I want. The interviewing officer's notes as corrected/amended by me, give an accurate account of what I said and of my circumstances.

'Witnesses Signed Date:

This declaration should not be signed by the client unless the clerk has checked through the 'PAQ' form to ensure it accords with the clerk's own contemporaneous note. In addition the form should be translated to the client by the independent interpreter. Although it is unlikely that a court would treat this second declaration as a bar on an applicant putting forward further material at a later date it is suggested that the declaration should be amended to show that the client 'reserves the right to provide further information at a future date'. Frequently immigration officers state that the application will not be considered unless the declaration is signed as otherwise the application has not been made. This is clearly wrong: the application for asylum is accepted when the client asks for asylum at the port of entry or indicates a fear of being returned to his or her home country. If the immigration officer will not allow the amendment a note should be made of this.

9. If the client has been referred for a medical or psychiatric report which is not yet available the clerk should ask that this fact be noted on the official record with a request that no negative decision be made until the report has been considered.

10. After-entry applicants normally complete a 'PAQ' form with the assistance of their adviser which is then submitted to the Home Office. Thus interviews of after-entry applicants, so-called 'minded to refuse', 'refusal' or other further interviews usually take the form of 'questions and answers' similar to a police station interview. Occasionally the interviewing officer merely summarises the client's answers. The clerk should, however, ensure that she or he takes a complete note of each of the questions as well as the client's replies. Normally the applicant is asked to initial his or her answers at the bottom of each page and/or at the end of the interview record. Once again the client should not do this unless each of the answers has been checked against the independent record. If there are any errors or omissions the interviewing officer should be asked to amend the official record and his or her response should be noted in the independent record.

11. The clerk may be asked to sign the record of interview and/or to confirm that it was conducted satisfactorily. As a general rule, unless the clerk is very experienced, this latter should not be done as it raises a presumption that the interview was conducted satisfactorily, which the adviser may later wish to challenge.

12. The clerk should ask for a copy of the 'PAQ' or the interview records. If no photo-copying facilities are available a request for copies to be forwarded to the office should be made. If the interviews concern 'minded to refuse' or 'refusal' decisions, copies of those decisions should be requested.

13. Depending on the circumstances, if the client is on temporary admission it may be that he or she will be detained following the interview. If this occurs the clerk should telephone the adviser conducting the case immediately.

Independent interpreters

14. The role of the independent interpreter in asylum interviews is to ensure that the official interpreter translates properly. Official interpreters are not examined on their competence in either English or the foreign language being translated. Nor are they vetted for political bias. Issues to look out for include:

- (i) Failure to translate the interviewing officer's questions or the client's replies fully and accurately.
- (ii) The interpreter asking questions instead of the immigration officer, commenting on answers given or otherwise interfering in the interview.
- (iii) Lack of knowledge of the political and the cultural position in the country in question resulting in an inability to translate properly. This is common with interpreters who are non-nationals or who have not lived in their country for a long time.
- (iv) Aggression towards the client.

15. If a mistranslation has occurred the interpreter should intervene to indicate this. This should occur even with seemingly unimportant mistranslations for if a large number of mistranslations occur it adds up to a picture of incompetence which may be important if challenging the content of the interview at a later date. The clerk should make a note of the interpreter's intervention even if the immigration officer or the official interpreter do not accept the independent interpreter's statement.

16. Official interpreters rarely give their names but are identified by initials only. If the interpreter is deficient in any way the clerk should write a physical description of the person concerned as this will help to identify him or her.

Conclusion

Recent casework experience has shown that the use of the clerks and independent interpreters substantially enhances the likelihood of an asylum interview being successful. The comments above may assist practitioners to make use of them to maximum effectiveness.

Alison Stanley is a solicitor and works for the Joint Council for the Welfare of Immigrants.

6 USEFUL ADDRESSES AND TELEPHONE NUMBERS

Africa Educational Trust
3rd Floor, Africa Centre
38 King St
London WC2 8JT
071 836 5075

Africa Watch
(Human Rights organisation, produces reports)
90 Borough High St
London SE1 1LL
071 378 8008, fax 071 378 8029

African Commission of Human & Peoples' Rights
Kairba Avenue
PO Box 673
Banjul
The Gambia

Amnesty International British Section
(International Human Rights Organisation - documentation)
99-119 Rosebery Ave, London EC1R 4RE
071 278 6000, fax 071 833 1510

Article 19
90 Borough High St
London SE1 1LL
071 403 4822, fax 071 403 1943

British Library, Newspaper Library
(Large collection of English language press)
Colindale Ave
London NW9 5HE
071 323 7353, 071 323 7379

European Commission of Human Rights
BP 431 R6
67006 STRASBOURG CEDEX
FRANCE
010 33 88 41 20 00

European Consultation on Refugees and Exiles
(European coordination on refugee legal issues - comparative European
and policy reports and courses, details and copies of documents
available through ILPA)
Bondway House, 3-9 Bondway
London SW8 1SJ
071 582 9928, fax 071 820 9725

Home Office Asylum Division
Quest House
Wellesley Rd
Croydon CR9 2BY
General Registry 081 760 4964

Section A: Eastern Europe, China and the Americas 081 760 2255/2070
Section B: Middle East, Turkey, North Africa 081 760 4986/4823
Section C1: Africa north of the Equator 081 760 4815/4912/4826
Section C2: Africa south of the Equator 081 760 4882/4974
Section D: Asia, Far East 081 760 2561/2526

Immigration Law Practitioners Association
(Professional association of lawyers practising predominantly in the field of immigration and asylum law, runs courses and seminars)
115 Old St
London EC1V 9JR
071 250 1671, fax 071 253 3832

Index on Censorship
32 Queen Victoria St
London EC4 4SS
071 329 6434, fax 071 329 6461

Inter-American Commission on Human Rights
Organisation of American States
Washington DC 20006
USA
010 1 202 458 6011

International Social Service of Great Britain
(For finding missing persons abroad)
Cranmer House, 39 Brixton Rd
London SW9 6DD
071 735 8941, fax 071 582 0696

International Red Cross
(For finding missing persons abroad)
International Welfare Department,
British Red Cross
9 Grosvenor Crescent
London SW1X 7EJ
071 235 5454, fax 071 245 6315

Interights
(International law centre, help and advice on European aspects of refugee cases)
5-15 Cromer St, London WC1H 8LS
071 278 3230, fax 071 278 4334

Joint Council for the Welfare of Immigrants
(National voluntary organisation campaigning and working for improved immigration and asylum rights and practice)
115 Old St
London EC1V 9JR
071 251 8706, fax 071 253 3832

Medical Foundation for the Care of the Victims of Torture
(Provides medical services to people who have been tortured and
ill-treated and medical reports)
96-98 Grafton Rd
London NW5 3EJ
071 284 4321, fax 071 284 4265

Minority Rights Group
(Reports on minority groups and human rights abuse)
379 Brixton Rd
London SW9 7DE
071 978 9498, fax 071 138 6265

Refugee Legal Centre
(Free legal advice and representation to refugees)
Sussex House
39/45 Bermondsey St
London SE1 3XF
071 827 9090, fax 071 378 1979

PEN Writers in Prison Committee
9-10 Charter House Buildings
Goswell Rd
London EC1M 7AT
071 253 3226, fax 071 253 5711

Refugees Ad hoc Committee on Asylum Rights
(Refugee community groups coordinating committee concerned to fight for
fair asylum law)
365 Brixton Rd
London SW9 7DB
071 738 6408

Refugee Arrivals Project
(Provides interpreter escorts to newly arrived refugees with no
contacts in the UK to sort out housing, income support, education,
doctors and where possible legal help)
Room 2005, 2nd Floor, Queen's Building
Heathrow Airport TW6 1DL
081 759 5740, fax 081 759 7058

Refugee Council
(Provides help to refugees and asylum seekers in the following areas:
housing, social security, health, education and employment; also has a
Resource Centre with material useful as supporting documentation - open
9.30-5.30 with a librarian willing to confirm whether they have a
particular type of documentation.)
Bondway House, 3-9 Bondway
London SW8 1SJ
071 582 6922, fax 071 582 9929

Refugee Forum
(Refugee community groups organisation)
54 Tavistock Place
London WC1H 9RG
071 482 3829

Refugee Legal Group

(An organisation of refugee lawyers who meet regularly to exchange information concerning refugee law and practice)

c/o North Islington Law Centre
161 Hornsey Rd
London N7 6DU
071 607 2461, fax 071 700 0072

Refugee Studies Programme

Queen Elizabeth House
21 St Giles
Oxford OX1 3LA
0865 270722, fax 0865 270721

United Kingdom Council for Overseas Student Affairs

(Have specialist information about being an overseas student in the UK, availability of grants etc which may be helpful to asylum seekers)

9-17 St Albans Place
London N1 ONX
071 226 3762, fax 071 226 3373

United Nations High Commission for Refugees

(May provide comments on/intervene in cases; can provide a copy of the Refugee Handbook)

7 Westminster Palace Gardens
Artillery Row
London SW1P 1RL
071 222 3065, fax 071 222 4813

World University Service

(Has details of grants available to refugees)

20 Compton Terrace
London N1 2UN
071 226 6747, fax 071 226 0482

