

ILPA information sheet

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An archive of information sheets is available at www.ilpa.org.uk/infoservice.html

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Legacy Cases 7

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ILPA has produced six previous information sheets on “Legacy Cases”. Those information sheets continue to provide useful information, and this information sheet should be read together with them. Previous information sheets are available at www.ilpa.org.uk/infoservice.html

General information

As is more fully explained in previous information sheets, legacy cases are those cases where an asylum claim has been made (which has not been dealt with by a Case Owner under the New Asylum Model) and is yet to be resolved. The Case Resolution Directorate is made up of several teams and is the part of the UK Border Agency which is responsible for resolving legacy cases. There is no amnesty for these cases. Resolving a legacy case means the individual may be removed from the UK or may be granted permission to remain in the UK. However, permission will only be granted where the individual satisfies current criteria for granting permission.

Contacting Case Resolution Directorate

All legacy cases are meant to have been allocated to one of the Case Resolution teams. To find out which team is responsible for a particular legacy case, and to get the postal address for that team, use the allocation finder at: <http://www.ukba.homeoffice.gov.uk/asylum/oldercases/who-is-processing-my-case/>

Criteria for granting permission

The criteria for granting permission to remain in the UK was explained in the “Legacy Cases 4” information sheet. That information sheet provided information about “general criteria” that would be considered.

The general criteria included that the Case Resolution Directorate would consider the length of time an individual had been living in the UK. Since that previous information sheet, the UK Border Agency has provided further information about how this should be considered in an individual case. Where there has been significant delay, this will be a factor in favour of granting permission. This is explained further below.

Where someone has an outstanding application

If someone has an initial application for asylum outstanding for more than three years, the Case Resolution Directorate should treat this as a significant delay. Although this does not apply to fresh claims for asylum, a delay of that length in relation to a fresh claim may still be relevant.

If someone has an application for further leave outstanding for more than three years, the Case Resolution Directorate should treat this as a significant delay. This applies where the application for further leave was made before a grant of leave had expired. This will include cases of unaccompanied children who were granted discretionary leave, and applied to extend their leave before the grant of discretionary leave had expired.

Family cases

If a family has been living in the UK for more than four years, this may be treated as a significant delay. A family means a parent or parents with a child or children under 18 years of age. If it is unlikely that that family could be removed within a reasonable period of time, the Case Resolution Directorate may treat a period of three years living in the UK as a significant delay.

If the child or children of the family are now over 18 years of age, but the family has been living in the UK for more than four years while the child was under 18 years, this may also be treated as a significant delay.

Other cases

Where someone has been living in the UK for more than six years, this may be treated as a significant delay. If it is unlikely that he or she could be removed within a reasonable period of time, the Case Resolution Directorate may treat a period of four years as a significant delay.

Further information on significant delay

Even if the Case Resolution Directorate decides that there has been significant delay in an individual case, this does not mean that permission to remain in the UK will be granted. The other criteria (explained in the “Legacy Cases 4” information sheet) will also be considered.

Significant delay is not necessary for the Case Resolution Directorate to grant permission to remain in the UK. A decision will depend on a consideration of all the criteria together.

If someone has not maintained contact with the UK Border Agency during the time he or she has been in the UK, this may mean that the period of time he or she has been in the UK is not treated as a significant delay.

In certain cases, as set out above, a shorter period of time may be considered to be a significant delay because it is unlikely that someone can be removed from the UK within a reasonable period of time. However, if someone does not co-operate with the UK Border Agency, e.g. by co-operating with steps taken to obtain a travel document so that he or she can be removed, this lack of co-operation may mean that the period of time he or she has been in the UK is not treated as a significant delay. If someone does co-operate with the UK Border Agency and it is still unlikely that he or she can be removed within a reasonable period, the shorter period of time may be treated as a significant delay rather than delaying further before resolving the case.

UK Border Agency guidance

The UK Border Agency guidance on these matters is set out in Chapter 53 of the Enforcement Instructions and Guidance. This is available at:

<http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/enforcement/>