

Refugees and asylum seekers

Advice & Guidance for Businesses



Who are refugees and asylum seekers?



- **Refugee** status is granted to a person who has had a positive decision on their claim for asylum under the 1951 United Nations Convention Relating to the Status of Refugees (the Refugee Convention) and has been granted leave to remain in the UK.
- An **asylum seeker** is a person who has applied for recognition as a refugee under the Refugee Convention and is awaiting a decision on their asylum claim

(Employment Guide - The Equality and Human Rights Commission & the Refugee Council)

Right to work

- Refugees are permitted to work without restriction and can apply for permanent residency after five years
- Asylum seekers are not usually allowed to work while their asylum claim is being considered, but they can apply for permission to work if they have not received an initial decision within 12 months
- Those that have been granted refugee status can take up employment if they haven't already done so, and after 5 years residence apply for Indefinite Leave to Remain

Asylum seekers

- The following guidance is available:
[permission-to-work-v10.0ext.pdf \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/612222/permission-to-work-v10.0ext.pdf)
- Asylum seekers may apply for permission to work if they have not received an initial decision on their claim within 12 months, but this will only be considered if that delay was through no fault of the claimant
- There are restrictions on employment for those granted permission to work and guidance refers to the Shortage Occupation List published by the Home Office
- Any permission to work granted will only be valid until the claim has been determined and any appeal rights are exhausted

What can be considered?



- To consider any permission to work application there must be an asylum claim or further submission on protection grounds that has not been decided by UK Visas and Immigration (UKVI) and has been outstanding for at least 12 months from the date the claim was lodged. This only applies to UKVI decisions.
- The Home Office must consider applications for permission to work if the delay is not, in the Secretary of State's opinion, the claimant's fault.
- Those who claim asylum whilst they still have limited leave in another capacity that allows them to work may ask whether they can still work beyond the date on which their leave expires

Applications Granted

A letter, ASL.4264, will be issued when granting permission to work.

This informs the individual of the conditions of their permission to work and advises them to contact Department for Work and Pensions (DWP) to be issued with a national insurance number.

The ASL.4264 must be retained by claimants as proof of permission to work for Job Centre Plus and future employers

Type of work

- If an asylum seeker or failed asylum seeker is granted permission to work (subject to the exceptions listed in the section on Applications from asylum seekers with existing leave, or exceptional circumstances), this must be restricted to jobs on the Shortage Occupation List (SOL),
- The Home Office will not routinely review claimants' qualifications and experience when considering permission to work applications to determine whether they have the necessary skills to obtain employment in a shortage occupation, although it reserves the right to do so
- It is the responsibility of the claimant and potential employer to ensure the job is one which is included on the list of shortage occupations and that the claimant is qualified for the position being offered before taking up the post.
- Where certain occupations on the SOL require that a claimant must have a specified period of experience, this must not have been gained through working illegally.

Indefinite leave to remain or enter

- If an individual has indefinite leave to remain within or enter the UK
 - (i) there is no longer any time limit on their ability to stay in the UK, and
 - (ii) if their home is in the UK they are regarded as being settled in the UK
- An individual is free to work in the UK in any business, profession or employment, including self-employment. However, he/she must comply with the law and any statutory regulations for that business, profession or employment.

What's Next?



Next module

- Module 7 will be about employing 'Local labour' which includes different types of British workers and those with the right to work in the UK

Further Details

If you require more information, use these links:

[permission-to-work-v10.0ext.pdf \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/421212/permission-to-work-v10.0ext.pdf)

[Indefinite leave to remain in the UK: your rights and status - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/indefinite-leave-to-remain-in-the-uk-your-rights-and-status)

If you require more specific and individual assistance email:

[Professor Dave Walsh: dave.walsh@dmu.ac.uk](mailto:dave.walsh@dmu.ac.uk)

With thanks to the following for their vital contribution to this presentation:





Feedback

- Thank you for listening to this module. We hope you have found it helpful.
- Would you kindly answer the following questions...

Feedback

1. How useful did you find this presentation? Please, select one
 - Extremely useful
 - Somewhat useful
 - Neutral
 - Somewhat not useful
 - Extremely not useful
2. From the list below, what category best indicates your job/role?
 - Labour user
 - Labour provider
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 - Retailer
 - Academic
 - Non-government organization worker
 - Other
3. If other, please specify: