



What to Expect from an Adviser

General

1. At your first appointment your adviser should take your detailed instructions (with the assistance of an interpreter, if necessary) about your current circumstances and your immigration issues and advise you on:-
 - what options are available to you;
 - the requirements of any potential application;
 - whether your application is likely to succeed and/or what the potential difficulties with your application may be;
 - whether the application should be made at all and if so, what evidence could assist/ support your application;
 - whether there is a Home Office fee to pay and how much that fee currently is;
 - details of the process for making the application;
 - any deadline for making the application;
 - details of how long the application is likely to take,
 - Details of the possible outcomes.
2. If legal aid forms are signed, your adviser should not request any money from you unless a particular Home Office application requires a fee to be paid. Legal Aid does not cover Home Office fees and if there is a Home Office fee to be paid you will need to pay this yourself. Legal Aid should cover all other disbursements such as for interpreters' and experts' fees. (If your matter results in a high court case, for example if there is a judicial review or an appeal to the Court of Appeal, then you will move onto a type of funding called a public funding certificate. If this happens then the Legal Services Commission (LSC) may request that you pay a contribution towards your legal costs if your level of income is above the relevant financial limit; your adviser should explain this to you if this happens).
3. Following your initial appointment with your adviser you should receive an initial advice letter confirming the details of your instructions to your adviser and the advice that you were given in your first appointment, you should receive this within two weeks of your initial appointment.
4. Your adviser should send you a copy of any covering letters and any further representations that they send to the Home Office in support of your application. They should also provide you with a copy of any response that they receive from the Home Office. If you do not understand what any of these letters mean you should ask your adviser to explain them to you. Your adviser must make sure that you understand what is happening on your case and if you cannot understand their explanation in English they should arrange an appointment with an appropriate interpreter so that this can be explained to you in your own language.

5. Your adviser should confirm the details of any important new instructions or advice that you are given and this should be done in writing.
6. Your adviser must keep you informed of any developments in your case. Even if nothing is happening on your case, for example if everything has been submitted to the Home Office and you are now waiting for a decision from the Home Office, your adviser must still remain in regular contact with you. You should expect to receive a letter from them at least every three months.

Asylum Cases

7. If it is an asylum case then the adviser should usually draft a statement for approval, provide you with a copy of the final draft and consider what background information might support the case.
8. You should give your adviser a copy of all of the letters and documents that you were given by the Home Office at your first meeting with them.
9. Your adviser should take the full details of your account and advise you as to the following:
 - They should explain the elements of the refugee definition, as contained in the Refugee Convention, and explain the requirements for being recognised as a refugee;
 - They should explain what you should expect throughout the asylum process;
 - They should assess the merits in your case and discuss the strengths and weaknesses of your claim with you;
 - They should advise you as to what additional evidence would support your claim and discuss ways in which this evidence can be obtained;
 - They should also inform you of the deadlines for sending these documents to the Home Office and tell you what steps they will be taking to ensure that the Home Office has all of the information that they need to consider your application before a decision is made on your claim.
10. Unfortunately, the LSC only provides funding for an adviser to attend an asylum interview if the applicant is an unaccompanied minor (a child who is here in the UK by themselves) or if the applicant is particularly vulnerable, for example if they suffer from severe mental ill-health. If you do not fall within these exceptions then your adviser will not get funding to attend your asylum interview with you. A request can be made 24 hours in advance of your interview for the interview to be tape recorded, if your adviser will not be attending the interview then they should request that the interview be tape recorded. At the end of the interview the Home Office caseworker will give you a copy of these tapes and they should be given to your adviser, along with a copy of the written interview record, at your next appointment with your adviser.
11. Your adviser should read through the written interview record and advise you regarding any difficulties that arise as a consequence of the interview and take instructions on these. Following your substantive asylum interview you will have five

working days to send the Home Office any further information about your case, and if necessary in response to your interview. Your adviser must ensure that any further information that should be sent to the Home Office, before they make a decision on your claim, is done within those five working days or alternatively if that information cannot be provided to the Home Office within the time limit and there is a good reason for this then they must inform the Home Office of this and request an extension of time.

Appeals

12. If your application is refused then your adviser should:

- explain to you why your application was refused,
- take instructions on the reasons for refusal letter (i.e. get your response to issues that the Home Office relied upon in refusing your application),
- assess and advise you on the merits of any appeal,
- if appropriate, assist with appealing against the decision, if there is an appeal right,
- advise you regarding any alternative remedy e.g. judicial review, if there is no appeal right.

13. If legal aid forms have been signed and your adviser says s/he is unable to represent you at your appeal without payment then this is probably because a decision has been made by him/her or the LSC that the case has insufficient merit. If this happens then you must be advised of this decision. You have a right to request that this decision be reviewed by the LSC, *whether or not you ask for this*, your adviser must assist you with completing the form to the LSC requesting this review.

14. If you choose not to review this decision or your review is unsuccessful then you should carefully consider whether it is worthwhile to pay for private representation, as this will usually mean that the prospects for success in your appeal are poor. Your adviser may request pro bono representation (this is free representation) eg, from Free Representation Unit [FRU].

15. If you are being represented at your appeal then your adviser should:

- Draft an appeal statement based on your instructions which should be read back to you in a language that you understand, it is important that you check that the information in this statement is correct,
- advise you as to the appeal procedure and timescales,
- interview and prepare statements for any witnesses who will be attending your appeal,
- advise you further as to any additional evidence including expert evidence could strengthen your appeal and also consider any evidence that you provide to them,
- collate any helpful background country evidence, if appropriate,
- send these documents to the Tribunal and the Home Office,
- advise you as to what to expect at the Tribunal and the possible outcomes.

16. You should be told the outcome of your appeal promptly and in writing. Your adviser should also tell you the deadline for applying for permission to appeal against the

Tribunal's decision. It is possible for you to apply for permission to appeal the Tribunal's decision if it is decided against you. If your appeal is unsuccessful your adviser should assess and advise you as to the merits in applying for permission to appeal and if appropriate should assist you with this application. If the appeal is successful and the Home Office do not apply for permission to appeal the decision your adviser should confirm to you once their deadline for submitting an application for permission has passed and your appeal has been finally concluded. If the appeal is unsuccessful and there are insufficient grounds for an application for permission to appeal against the decision, you should be advised of this in good time so that you can seek alternative advice (although in practice this may be difficult to find). Again, you have a right to request that this decision be reviewed by the LSC and, *whether or not you ask for this*, your adviser must assist you with completing the form to send to the LSC requesting this review.

17. Your adviser should promptly inform you of the outcome of any application for permission to appeal and if negative advise you as to any further appeal rights. In addition they should advise you as to the merits and procedure of lodging such an appeal and also confirm the deadline for doing so.
18. If the application is ultimately unsuccessful then you should be advised as to any alternative application that could be made, the procedure for doing so, the merits of making such an application and the potential difficulties of such an application.
19. If the application is successful, then you should be advised as to:
 - the documentation that will be received,
 - the practical effects of your status including eligibility for any travel document, entitlement to welfare benefits, entitlement to work and if appropriate family reunion,
 - what application, if any, to make at the expiry of the leave,
 - any steps that may need to be taken before the expiry of the leave in order for you to be eligible to apply for an extension or indefinite leave, as appropriate.

Professional Conduct

20. To be an immigration adviser a person must be regulated either by the Solicitors Regulatory Authority or the Office of the Immigration Services Commissioner. As such your adviser is a professional who owes you various professional duties including the following:
 1. a duty of confidentiality,
 2. a duty to always act with integrity and professionalism in their dealings with you,
 3. a duty to ensure that their independence is not compromised,
 4. a duty to always act in your best interests,
 5. a duty to ensure that you are given key information at relevant times throughout your case
 6. and a duty to ensure that they provide you with a good standard of service.

Complaints

If for any reason you are unhappy with the service that you are receiving from your adviser you should inform them of this as soon as possible; they will not be able to fix the problem if they are not aware of it.

If the problem continues, or if you feel that it would be more appropriate to do so, then you can make a formal complaint. Your adviser will, and must, have a formal complaints procedure and should inform you of this procedure at the start of your case; ordinarily this information should be included in the client care letter that you get at the beginning of your case. If you are unaware of their complaints procedure you should feel free to ask for this information, you can do so at any stage in your case. If you do not wish to make the complaint directly to your adviser, their supervisor or their organisation/firm directly then you can make the complaint directly to the Office of the Immigration Services Commissioner, 5th Floor, Counting House, 53 Tooley Street, London SE1 2QN or if they are a solicitor then to the Legal Complaints Service, Victoria Court 8 Dormer Place Leamington Spa Warwickshire CV32 5AE. Complaints can be made to the OISC or the Legal Complaints Service at any time.