

How to get...

good asylum advice



Joseph's story:

“ I needed advice quickly. I saw his card in a shop window. He had a nice office and seemed friendly. I gave him my travel documents and most of the money I'd managed to bring with me. He was very reassuring and seemed confident he could sort everything out for me. I realise now I was too trusting but at the time I didn't know where else to go for advice. It became harder and harder to speak to him, he was always busy and never returned my calls. I had no idea what was going on. Eventually I found out that although he'd put in my application he did nothing else after that. One day I went to his office only to find it empty. I never saw him or my money again and I ended up being detained. Luckily I found a good adviser who managed to sort everything out for me. ”



Joseph complained about the first adviser to the Office of the Immigration Services Commissioner. For details about how to do this please see page 6.

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What is advice now ?

Advicenow is an independent, not-for-profit website providing accurate, up-to-date information on rights and legal issues. The information in this leaflet is not influenced by those who fund our work or by the UK government. Our aim in writing this leaflet is to promote your best interests.



Why should you get advice about your asylum application?

Because if you don't you risk:

- breaking the rules without meaning to
- not using the rules in the best way to help your case

Sometimes the Home Office makes mistakes and without advice you may not spot them or know how to challenge them.

Well-meaning friends may give you advice, but the system changes often so you should always get proper legal advice.

Why should you get GOOD advice?

Because a dishonest or poor solicitor or adviser might:

- not advise you properly
- cheat you out of your money or documents
- not collect evidence that supports your case or forget to show it to the Home Office
- not bother to interview important witnesses who can back up your story
- make a bad job of filling in application forms or not fill them in at all
- represent you badly or not turn up to your hearing

All of these things can result in your asylum claim being turned down even if you had a strong case.

Myths and half truths about getting advice

- Beware of people who tell you 'if it's free it must be no good' or 'you only get what you pay for'. Many experienced solicitors and advisers get paid by the Legal Services Commission (LSC) to give free advice. Yet, a dishonest or poor solicitor or adviser might charge you a fortune for giving bad advice.
- Government officials, including immigration officers, might tell you that you don't need legal advice. We think anyone claiming asylum in the UK should get legal advice. The reason for this is that a solicitor/adviser knows about the law and can apply it to your case to make sure you have as good a chance as possible of making a successful claim.

Home Office

The Home Office is the government department responsible for managing immigration, as well as the police, courts and prisons.

- You may feel very suspicious of solicitors/advisers in the UK and find it difficult to believe that good ones exist because of past experiences. In the UK, solicitors/advisers who give asylum advice are **not** employed by the Home Office, NASS or other government departments; they are independent. Good solicitors/advisers do exist and this leaflet should help you find one.

NASS

The National Asylum Support Service (NASS) provides support, accommodation and financial help for asylum seekers whilst their claim is being considered by the Home Office.

- It's easy to assume that if a solicitor/adviser is from the same ethnic group as you or shares your culture or religion, they will help you more. But, this isn't always the case. Dishonest solicitors/advisers may try to use the fact of your shared background to persuade you to be their client. Some may hint that a solicitor/adviser from a different ethnic group or religion will be unhelpful and cause you to lose your case. Be wary; these are just tactics to attract you so they can make money out of you.
- Just because a solicitor/adviser tells you that you may not win your case doesn't mean they are a bad adviser. Sometimes solicitors/advisers have no choice but to tell you that your chances of success are poor if this is their honest opinion.

Dos and don'ts of getting advice:

Please do:

- **Get legal advice quickly**
- **Beware of fraudsters**

You may meet people who say they are solicitors/advisers waiting near the information desks at the airport or outside ports when you first arrive. They may say they want to help you but in fact intend to cheat you.

Akbar's story:

Akbar was on his way to the Refugee Arrivals Project (an independent charity that helps newly arrived asylum seekers and refugees) when someone claiming to be a solicitor picked him up, asked him for his papers and £200 – all the money he had with him. They drove him round and round the airport for 45 minutes, before dumping him. Akbar finally arrived late and penniless.

- **Stop and think before you hand over your documents**

Sometimes solicitors/advisers need your original immigration documents, for example to send to the Home Office. You should get a photocopy of them as well as a receipt listing each document you have handed over. But be wary of any solicitor or adviser who keeps your original documents for no apparent reason; they may try to use them as a way to keep you as their client.

- **Look after your documents**

They are valuable and if they fall into the wrong hands a criminal will be able to sell them for a lot of money.



Please don't:

- **Don't always listen to well meaning friends**

Beware if friends suggest that you make up bits of your story; this usually leads to trouble and you (and your friend) could be committing a criminal offence.

Ahmed's story:

Ahmed was from Chechnya and Muslim. He was told that it was better not to mention that he was Muslim, because "people in the west don't like them". Unfortunately he believed this and he told the authorities he was Russian. He ruined his chances of getting asylum by lying.

- **Don't assume that everyone asking for money is dishonest**

This is not always the case. There are good solicitors/advisers who don't carry out legal aid work. It is normal for them to charge for their services.

Legal aid

This is money to pay for legal advice and help for those with little savings and on a low income. If you get NASS support you are automatically eligible for legal aid for asylum and immigration advice. The Legal Services Commission (LSC) pay solicitors/advisers who they have approved to provide legal aid.

- **Don't be influenced by the offer of money or gifts**

Anybody offering you perks like cash or a mobile phone to be their client is likely to be an incompetent fraudster. Although it's tempting at the time, their present won't be worth much if you lose your case.

The mistakes people make when explaining their past experiences

When you first arrive in the UK you may be tired, frightened and lonely. Probably your main concern is to be allowed in. You may be too scared to tell the Home Office anything very much about your life. Or you may be tempted to say anything to get what you want most – a safe place to live. Please don't make the same mistakes as others have done. If you do, you risk losing your case and getting sent back to where you came from.

Please do:

● Tell the whole truth

If the Home Office discovers that you have told a lie – even just one lie, they are much less likely to believe what else you tell them even if it is true. They will think that you are untrustworthy and capable of telling other lies.

● Give enough detail

It's very important to give the Home Office enough information the first time you meet them. If you change your statement or add things later they may think you are lying to increase your chances of winning your case.

Felipe's story:

When asked how many times he'd been 'detained' Felipe shrugged and said 'once'. He was thinking about the last time when he was detained for two months, and which led him to decide he had to leave. Later, when his adviser was taking a full statement it turned out that he'd been taken into police custody many times throughout his life, often for only an hour or two. Felipe was so used to it, he no longer thought of it as 'detention' – it was just a part of life.

Adding more detail later allowed the Home Office to think that Felipe was exaggerating to improve his chances of success. It made his case look much less believable.

● Mention things that have happened, even if they are embarrassing, intimate or painful

It's very hard to tell someone you've never met before and don't know whether you trust that, for example, you've been raped or tortured. But it is very important you do otherwise you could lose your case. If you are female and would prefer to speak to a woman, or male and would prefer to speak to a man, explain this to your solicitor/ adviser.

● Be aware that some words in the UK may have a different meaning

So, for example, people coming from outside the UK sometimes refer to non blood relations as 'brothers', 'sisters' or 'children' without realising that these terms mean something more specific in the UK. If you tell the Home Office that a particular person is your 'brother' when this person is not a blood relation, they may think you are a liar and so capable of lying about other things as well.

● Challenge mistakes

If the Home Office wrongly records your personal details or misspells a name or place name it's best to point it out as soon as you can. If you don't it could cause problems, for example if it doesn't match evidence you use to support your case. If you don't feel comfortable telling the immigration official yourself, ask your solicitor or adviser to.

Please don't:

● Don't miss something out deliberately

This is also lying and if you're found out you will have less chance of getting asylum.

● Don't miss something out because you think it isn't relevant

Every detail, however small or unimportant it seems to you, may count. It's better that the Home Office and your solicitor/ adviser decide what is or isn't relevant. If you leave something out it may make it harder for your solicitor/ adviser to help you successfully. But equally don't feel any pressure to make things up – if you can't remember something, for example a name, date or place, you can't.

● Don't just say what you think the Home Office wants to hear

If you try guessing what the immigration officials want to hear rather than telling the truth you will create serious problems for yourself. The officials will think you have something to hide.

Top Tips

1

Helping the process to go well

- Give your solicitor/adviser the complete story.
- Give your solicitor/adviser as much detail as possible about your past experiences.
- Keep in touch with your solicitor/adviser – this way you should avoid things going wrong with your case, for example, missing deadlines or important interviews.
- Let the Home Office and your solicitor/adviser know if you change your address or telephone number.
- Keep your original immigration documents with you somewhere safe.
- Make sure you turn up to hearings, appointments and interviews, and on time.

2

How to tell if your solicitor/adviser is doing a good job for you

- Did they take a detailed statement from you?
- Did they check dates, exact locations, place names, sequence of events, the names of and your relationship to the other people involved in the events that led to you seeking asylum?
- Did they advise you on your chances of success?
- Did they clearly explain the process and what they were going to do next?
- Did they give you copies of important documents including letters sent to the Home Office or anyone else about your case?
- Did they clearly explain to you what you can expect from them, and what they expect from you?
- Did they give you information about how to complain about their services?

If the answer to all these questions is 'yes' you can be reasonably confident that your solicitor/adviser is doing a good job for you.

3

Interpreters

- Interpreters should not give you legal advice – this is against the law.
- Although it is reassuring to talk to someone who speaks your language, remember that interpreters are not legal experts and are sometimes used by dishonest solicitors/advisers to recruit new clients, do interviews and provide advice.
- If you suspect an interpreter is explaining what you say wrongly you should let the solicitor/adviser or the Home Office official know straight away even if this means stopping an interview. Even if you can't speak to them in their language try and make it clear that you are not happy with what the interpreter is saying.

The different types of advisers

Publicly funded

Some solicitors/advisers are paid for the services they provide by the Legal Services Commission (LSC). This is called 'legal aid' work and it allows them to advise clients with little savings and on a low income for free.

Legal aid solicitors/advisers can only spend a limited amount of time on your case, say five hours to begin with, and then they have to apply for more time. If this happens in your case, it doesn't mean your solicitor/adviser isn't any good. It is just the system they have to work with.

Help with your legal costs

'I haven't got any money so I can't afford to pay a solicitor/adviser'. You may not need money; if you get NASS support you will be eligible for free legal advice about asylum from a solicitor/adviser who provides legal aid.

If you want to know whether you can get legal aid and have access to the internet you can check at www.clsdirect.org.uk/legalhelp/calculator.jsp?lang=en

Privately funded

Other solicitors/advisers charge for their services. If you are eligible for legal aid you should go to a publicly funded solicitor/adviser and not pay privately unless you really want to.

Changing your solicitor/adviser if you're not happy

You have a right to good advice and a right to complain if you are not happy with the job your solicitor/adviser is doing for you. However do remember that just because a solicitor/adviser doesn't tell you what you want to hear that doesn't necessarily mean they are bad at their job.

Changing your solicitor/adviser is not something you should do lightly but if you are getting bad advice you

may have to. If you are getting legal aid you will only be able to change your solicitor/adviser if there is a good reason to do so. If you want to change, then the earlier in your case you change the better. You can't have two solicitors/advisers at once.

Make sure a new solicitor/adviser will take your case on before you leave your old one. It can be very difficult to find a new solicitor/adviser because there aren't enough of

them willing to take on cases from other solicitors/advisers. This makes it all the more important that you find a good one at the very beginning.

If you can't find a solicitor/adviser near you, you may have to travel. If you are eligible for legal aid, help may be available for transport costs. Discuss this with your new solicitor/adviser before you go to see them.

How to complain

Who you can complain about

If you think your solicitor/adviser has treated you badly or given you poor advice you can complain using their complaints procedure or you can complain to the Office of the Immigration Services Commissioner (OISC). It is safe for you to do this; the OISC will not pass your personal details onto the Home Office even if, for example, you are in the UK illegally.

You can complain about any adviser or solicitor – even if you didn't find them through the OISC. The OISC work to make sure that all advisers give good advice, and take all complaints seriously.

What you can complain about

You can complain about any problem you have had with the immigration advice given by your solicitor/adviser, including:

- poor advice
- poor service, for example, not explaining what they're doing
- not finding out about your past experiences in full
- making false claims of success
- charging unreasonable rates and/or charging for work not done
- asking you to make false or misleading statements
- missing deadlines
- failing to appear in court

If you need an interpreter to help make your complaint the OISC can arrange one for you.

What the OISC will do with your complaint

The OISC will look at your complaint and decide what action needs to be taken. If your adviser is acting against the law or giving poor advice they might be able to stop them working.

The OISC can't help speed up your application or deal with complaints about the Home Office.

You can complain using the form which is available in 25 languages from the OISC's website www.oisc.org.uk/complaints/00-start-complaints.asp or by calling 0845 000 0046.

How to find good advice

The following organisations can be trusted, and can refer you to a solicitor/adviser:

The Office of the Immigration Services Commissioner (OISC)

Online advice finder at www.oisc.org.uk/adviser-finder/00-adviser-finder.asp
Telephone: **0845 000 0046**

Community Legal Service Direct

can refer you to a solicitor/adviser who specialises in asylum cases and who is approved to give free advice under legal aid.
www.clsdirect.org.uk/directory/directorySearch?lang=en
Telephone: **0845 345 4 345**

The Law Society keeps a register of approved immigration and asylum practitioners and their contact details. You can find this on the internet at www.lawsociety.org.uk/professional/accreditationpanels/lawpanel.law#top

The Immigration Law Practitioners' Association (ILPA)

has a members directory on their website at www.ilpa.org.uk/
Telephone: **020 7251 8383**

If you want to use the internet to look up these organisations visit a local library where you can get online for free. Or you can visit 'internet cafés' which you can find on many high streets. But you will have to pay to use these.

It is a good idea to look for a solicitor or adviser with one of these signs in their window or on their notepaper:

Community
Legal Service



OFFICE OF THE
IMMIGRATION SERVICES
COMMISSIONER

The following organisations are charities and independent organisations who work with asylum seekers. Many of them will also be able to refer you to a solicitor or adviser.

Asylum Aid

A charity that provides free legal advice and representation for asylum seekers.
www.asylumaid.org.uk
Advice Line: **020 7247 8741**
Telephone: **020 7377 5123**

The Medical Foundation for the Care of Victims of Torture

A charity that provides care and rehabilitation to survivors of torture and other forms of organised violence.
www.torturecare.org.uk/
Telephone: **020 7697 7777**

Migrant Helpline

A charity which provides advice and support for asylum seekers entering and living in the UK.
www.migranthelpline.org.uk
Telephone: **020 8774 0002**

Refugee Action

A charity that provides advice and information to asylum seekers.
www.refugee-action.org.uk/
Telephone: **020 7654 7700**

Refugee Arrivals Project

A charity offering newly arrived asylum seekers advice about their entitlements to support in the UK.
www.refugee-arrivals.org.uk/
Telephone: **020 8759 5740**

Refugee Council

A charity working to help and support asylum seekers and refugees.
www.refugeecouncil.org.uk/
Telephone:
London **020 7346 6777**
Cardiff **029 2048 9800**

UK Lesbian and Gay Immigration Group

A charity which provides advice for lesbian and gay asylum seekers.
www.uklgig.org.uk/Solicitors.htm
Telephone: **020 7620 6010**

Jargon buster

Home Office

The Home Office is the UK government department responsible for managing immigration as well as the police, courts and prisons.

Law Society

The Law Society represents solicitors in England and Wales and sets standards to make sure they deliver a good and ethical service.

Legal Services Commission

The Legal Service Commission looks after legal aid in England and Wales and is responsible for ensuring that people get the information, advice and legal help they need to deal with their problems.

Legal aid

This is money from public funds used to pay for legal advice and help for those with little savings and on a low income. The Legal Services Commission (LSC) pays solicitors/advisers who they have approved to provide legal aid.

NASS

The National Asylum Support Service (NASS) provides support, accommodation and financial help for asylum seekers whilst their claim is being considered by the Home Office.

Office of the Immigration Services Commissioner

The Office of the Immigration Services Commissioner (OISC) is an independent public body set up to ensure that immigration and asylum advisers are competent and act in the best interests of their clients. It is not part of the Home Office.

Statement

This is a formal account of the facts and events leading up to your arrival in the UK.

Advicenow is an independent, not for profit website. We provide accurate, up-to-date and relevant information on rights and legal issues delivered in an accessible and lively format. As well as bringing together all the best rights and legal information on the web we produce our own guides which include cartoons, quizzes, top tips and jargon busters to help get the message across.

Advicenow leaflets

- **Bailiffs and debt collection**
- **Discrimination: Raising a grievance**
- **Do I need a lawyer?**
- **How to get good asylum advice**
- **Parents apart**
- **Claiming compensation**
- **Divorce: A survival toolkit**
- **Homeless? Get your foot in the door ...**
- **Identity theft**
- **Seven steps**

You can view all these leaflets at www.advicenow.org.uk/features.

Advicenow campaigns

- Common law marriage doesn't exist. So what rights do couples living together really have? See www.advicenow.org.uk/livingtogether.
- Getting divorced or splitting up? Find out how family mediation can help you sort out arrangements for your kids, home and money. See www.advicenow.org.uk/familymediation.

“Advicenow is the liveliest, least stuffy, most accessible and understandable website on legal matters that I’ve ever come across.”

Marcel Berlins, *The Guardian*

Plain
English
Campaign

Plain English Web Award

The information in this leaflet applies to England and Wales.

The law is complicated and every case is different. Get advice.

This leaflet is written by Clare Shirtcliff. Reviewed by Immigration Law Practitioners Association (ILPA).
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If you have any comments on this leaflet please email us at feedback@advicenow.org.uk



advice services alliance

Advicenow is run by the Advice Services Alliance, the coordinating body for all UK advice services. ASA members include advice^{UK}, Age Concern, Citizens Advice, DIAL UK, Law Centres Federation, Shelter and Youth Access.

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