
DUNCAN LEWIS WORKFLOW: RWANDA REMOVALS

INTRODUCTION

1. This is a workflow for organisations who are in contact with individuals who have been served with recent NOI letters or have been recently detained by the Secretary of State for the Home Department (“**SSHD**” in Immigration Removal Centres (“**IRCs**”), to identify those individuals who may have been detained pending removal to Rwanda.
 2. By way of background, there are two decisions¹ which the SSHD must make in order to remove a person (“**P**”) to Rwanda:
 - 2.1. a decision by which the SSHD decides that P’s asylum claim falls to be declared inadmissible in the UK under paragraphs 345A-D of the Immigration Rules (now archived), or under section 80B of the Nationality and Borders Act 2022 (the “**inadmissibility decision**”); and
 - 2.2. a subsequent decision by which the SSHD decides that P is to be removed to Rwanda, a safe third country both in general and for that individual (the “**removal decision**”).
- For the avoidance of doubt, P’s asylum claim must *first* be declared inadmissible before the SSHD can seek to remove P to Rwanda (or to any other safe country).
3. It is advisable for those cases which have the strongest grounds on which it may be argued that the claim should not be declared inadmissible to be approached differently than those in which there are less strong grounds to do so.
 4. In brief, the grounds on which P’s asylum claim may be declared inadmissible are as follows:
 - 4.1. P was granted asylum / equivalent protection in a safe third country;
 - 4.2. P could have made a claim for asylum / equivalent protection in a safe third country because P –
 - 4.2.1. made a claim for asylum;
 - 4.2.2. could have made a claim for asylum; or

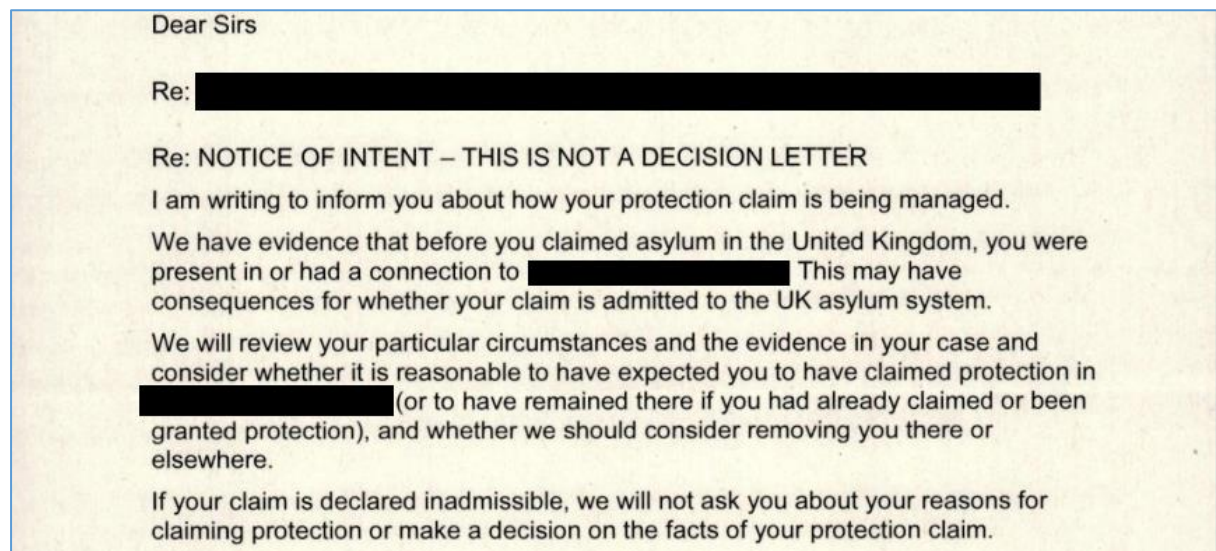
¹ This position applies *only* to those individuals who are being removed otherwise than under the section 2 of the Illegal Migration Act 2023, which has yet to be brought into force by the SSHD.

- 4.2.3. has a 'connection' to a safe third country such that they should have claimed asylum there.
5. Removal to Rwanda may be challenged by way of claim under section 4(1) of the Safety of Rwanda (Immigration and Asylum) Act 2024 ("**SoRA 2024**"), that Rwanda is not a safe country for that individual, on the basis of their particular circumstances.
6. We set out below a few key points which we hope will assist your organisations in: (i) identifying individuals who may be subject to removal to Rwanda, and (ii) referring these cases to Duncan Lewis to assist us in allocating these cases within our firm.

IDENTIFYING INDIVIDUALS WHO MAY BE SUBJECT TO REMOVAL TO RWANDA

Notices of Intent

7. In advance of making inadmissibility decision in respect of P, the SSHD must first serve a Notice of Intent ("**NOI**") which informs P that their claim is being considered for an inadmissibility decision, and inviting them to make representations as to why their claim should *not* be declared inadmissible. If P is detained, they will have 7 days to respond to the NOI. If P is not detained, they will have 14 days to respond.
8. It remains as yet unclear whether the SSHD will detain individuals simultaneous with the making of inadmissibility and / or removal decisions, or whether the SSHD will make these decisions subsequent to detaining individuals under Immigration Powers. Accordingly, it is advisable for your organisations to ascertain whether detained individuals have been served with a NOI, an example of which is provided below. For the avoidance of doubt, the NOI may or may not make mention of the possibility of removal to Rwanda.



Representations on remaining in the UK or not applying inadmissibility

If you wish to submit reasons not already notified to the Home Office why your protection claim should not be treated as inadmissible, or why you should not be required to leave the UK and be removed to the safe third country or countries we may ask to admit you (as mentioned above), you should provide those reasons in writing.

You are not required to make any representations. If you do make representations, you are free to address any issues you consider relevant. However, to assist us in making an informed decision in your case, you may wish to consider issues such as whether you agree that you were present in or have a connection to one of the countries listed above; whether you would be at risk of serious harm if returned or removed to one of those countries; and whether you have any medical conditions such that your removal from the UK to one of those countries would have serious implications for your health.

Any correspondence must be returned to the Home Office for review within 7 calendar days [for detained cases] or 14 calendar days [for non-detained cases] of the deemed date of service of this letter. The deemed date of service will be the actual date of service if you are given the notice in person or if you receive it by email, fax, document exchange or courier; it will be the second day after it was sent if you receive it by post, where delivery or receipt is recorded (excluding non-business days).

If you require further time, you may request an extension in writing, outlining the reasons why an extension is needed in your particular circumstances.

9. If an individual was served an NOI before they were detained, and no removal decision has as yet been made (as to which see §11 below), the following steps are advisable.
 - 9.1. First, confirm whether the time for responding to the NOI has lapsed.
 - 9.2. Second, and subject to §9.1 above, encourage P to request an extension of time (whether retrospective or prospective) to respond to the NOI. The process for requesting an extension of time is indicated in the NOI. The following are examples of factors which may be relevant to P's need for an extension of time:
 - 9.2.1. whether or not P had / has a legal representative;
 - 9.2.2. whether or not P was / is able to make contact with their legal representative;
 - 9.2.3. any vulnerabilities which are relevant to why P did not / is unable to respond within the prescribed timeframe;
 - 9.2.4. the complexity of P's account and the resulting need for adequate time to take detailed instructions;
 - 9.2.5. the time required for P to adduce any expert evidence supportive of his representations to the SSHD; and
 - 9.2.6. that the extension of time sought is required in the interests of procedural fairness.

10. If a response has already been sent, it is advisable to obtain a copy of this response as soon as possible.

Removal decisions

11. It is possible that individuals who are detained will be served inadmissibility and / or removal decisions at the time of detention. Please see below examples of: (a) an inadmissibility decision, (b) a removal decision, and (c) removal directions. It is advisable to go through the individual's file of papers to identify whether any or all of these decisions have been served on them. For the avoidance of doubt, these three decisions may not all be served at the same time.

Dear [REDACTED]

INADMISSIBILITY OF ASYLUM CLAIM AND REMOVAL FROM THE UNITED KINGDOM

You have applied for asylum in the United Kingdom (within the meaning of paragraph 327 of the Immigration Rules) on the grounds that you have a well-founded fear of persecution or are at real risk of serious harm in Iran.

As part of the application process, you attended an asylum screening interview, during which you were asked a number of questions relating to your identity, health, general welfare, family and your basis of claim. You were also asked other questions relevant to how we process your claim, including about your journey to the UK, your presence in or connection to safe countries before you reached the UK, whether you claimed asylum in those countries and if not, why not, and whether there was any reason why you could not return to one or more of those countries.

Dear : [REDACTED]

Your case was fully and carefully considered but your application to stay in the United Kingdom was refused and you have no basis to remain in the United Kingdom. I am satisfied that you have been notified that you are person who is liable to be removed from the United Kingdom and that you have had ample opportunity to make representations as to why you should not be removed. As you are to be removed on a specially chartered flight to Rwanda, the Home Office may, in line with enforcement operational instructions, decide not to defer removal in the face of a last minute threat or application to seek permission for judicial review in England and Wales or application to seek first orders for a Petition for judicial review in Scotland.

REMOVAL DIRECTIONS

ISSUED TO A PERSON LIABLE TO REMOVAL OR A FAMILY MEMBER OF SUCH A PERSON

Removal under section 10 of the Immigration and Asylum Act 1999, with removal directions given under schedule 2 to the Immigration Act 1971, or schedule 3 to the Immigration Act 1971 where a deportation order is in force.

To [REDACTED]

REMOVAL DIRECTIONS

- A. Directions have now been given for your removal from the United Kingdom on a direct flight to Kigali International Airport, Kigali, Rwanda on 14 June 2022

REFERRING INDIVIDUALS IDENTIFIED AS POTENTIALLY SUBJECT TO REMOVAL TO RWANDA TO DUNCAN LEWIS

12. If an individual has either an NOI, an inadmissibility decision, a removal decision, or removal directions, it is advisable to refer them to legal representatives without any delay. If the individual already has representatives, it is advisable to ensure that those representatives are willing and able to: (a) prepare a response to the NOI or at least seek an extension of time pending referral of the individual to alternate representation, **and** (b) challenge any removal decision to Rwanda including by way of judicial review.
13. To assist us in identifying the key issues in each case, it would be helpful if referrals were accompanied by the following information in respect of the person P whose case you are referring:
 - 13.1. P's full name, nationality, date of birth, and contact information;
 - 13.2. a summary of P's asylum claim;
 - 13.3. the date on which P arrived in the UK;
 - 13.4. the date of P's NOI and any subsequent decisions;
 - 13.5. the country or countries through which P passed *en route* to the UK, and the time spent in the country or countries;
 - 13.6. whether P claimed asylum in any other country;
 - 13.7. if P did claim asylum in any other country, the outcome of that claim;
 - 13.8. if P did not claim asylum in any other country, why not;
 - 13.9. any other reasons why P sought to claim asylum in the UK, including family members in the UK or other ties to the UK;
 - 13.10. any mental and / or physical ill-health conditions with which P has been diagnosed, or with which P presents;
 - 13.11. any history of abuse or torture;
 - 13.12. any history of protest either in their home country or in the UK;
 - 13.13. the nature of the actors by whom P was persecuted (i.e. state / non-state);
 - 13.14. any history of trafficking / exploitation;

13.15. whether P has been referred into the NRM, and if so the current status of their trafficking claim; and

13.16. any reasons why P considers they are not suitable to be removed to Rwanda.

REFERRALS TO DUNCAN LEWIS

14. If your organisations wish to refer any cases to Duncan Lewis, please email these referrals to all of the following email addresses: ToufiqueH@duncanlewis.com; JenniferMat@duncanlewis.com; and ManiniM@duncanlewis.com. Alternatively, please telephone Yermaine Garza on 020 7275 2570.