

## **Settlement protection (Indefinite Leave to Remain for refugees) Application Process Q&A**

### **COST**

**How much will a settlement protection application cost? Can this be refunded or is the cost to be met by the families or the Local Authority?**

There is no application fee for applying for settlement protection as a person with refugee status or humanitarian protection.

### **PROCESS**

**Will the process be the same as the standard Indefinite Leave to Remain (ILR) process or will it be amended/simplified for families who arrived on VPRS/VCRS?**

The process will be the same as all other settlement protection applications.

**What are the timescales for applying? When should a refugee begin the process?**

Applications should be made within the last month of a refugee's current leave.

**What happens if a refugee applies 'in time' but doesn't receive a decision before their current leave expires?**

Providing an application is submitted before their current leave expires, the refugees' conditions of their previous leave will be extended by section 3C of the Immigration Act 1971 until their application is decided.

**What happens if an employer / landlord queries the right of refugees to work/access benefits and/or health care between the expiry of existing leave and a decision on settlement?**

Where an individual has limited leave to enter or remain in the UK and a valid application is made to extend or vary that leave before it expires, their existing leave and entitlements continue until their application is decided. Therefore, if they previously had a right to work, access benefits or healthcare this will continue. This is set out in section 3C of the Immigration Act 1971 and is sometimes referred to as '3C leave'.

If an individual is unable to present a document as prescribed to an employer or a landlord because they have an outstanding application with the Home Office for leave to remain, are appealing a decision or have sought an administrative review, employers and landlords can seek confirmation that the

individual has a right to work or rent by contacting the relevant checking service.

**Employers Checking Service:**

Details of the Employer Checking Service can be found in the guidance: <https://www.gov.uk/government/publications/right-to-work-checks-employers-guide>

**Landlords Checking Service:**

Details of the Landlord Checking Service can be found in the code of practice: <https://www.gov.uk/government/publications/right-to-rent-landlords-code-of-practice>

If a valid application is confirmed the checking service will issue a Positive Verification Notice (PVN) to the employer or a 'yes' response to the landlord which is valid for six months and provides them with a defence against a civil penalty.

**Should over 18s submit a separate application? The advice is unclear.**

Individuals who are over the age of 18, and who were previously granted refugee status or humanitarian protection in their own right but were still a dependant of the principal resettlement applicant, do not need to submit a separate application. They can either apply on the principal applicant's form or make their own application. Individuals who are over the age of 18 and were granted leave in-line as a dependant of an individual with refugee status or humanitarian protection must apply on the same form as the principle applicant.

**How long will it take for a decision to be made?**

Once received, applications will be processed, and a decision made, as soon as possible. However, providing an application is submitted before their current leave expires, the refugees' conditions of their previous leave will be extended by section 3C of the Immigration Act 1971 until their application is decided.

The standard level agreement for an application is 6 months from the application date. All applications are dealt with in date order. Applications can be expedited in exceptional circumstances i.e. for a death or serious illness of a family member.

Customers will be notified at the 5-month stage if we are unable to make a decision within the agreed 6 month SLA.

**Do driving convictions need to be declared?**

All criminal convictions, including driving convictions, must be declared. This is made clear during the application process (see Asylum Policy Instruction on Settlement Protection for further details -

<https://www.gov.uk/government/publications/settlement-protection-asylum-policy-instruction>).

**Due to the way the Syrian registration process works, children who are born outside of Syria and are subsequently registered in Syria have two dates of birth. Will this be a problem?**

The child's date of birth registered with the Home Office will be the one shown on the BRP. This is the date of birth that should be used during the application process.

### **POTENTIAL OUTCOMES**

**What are the chances of getting ILR? Is there any agreed position that those on VPRS/VCRS will definitely get it?**

It would be inappropriate to comment on the chances of any applicant being granted ILR. Applications will be considered in-line with the published policy. Those who meet the requirements of paragraph 339R of the Immigration Rules will be granted settlement.

**If anyone is rejected, does not apply in time or correctly, what are the consequences? Will there be any additional support for LAs to support these cases?**

It is important that refugees apply 'in time' (within the last month of their existing leave) as 'out of time' applications (after the expiry of their existing leave) would result in applicants losing the conditions of their previous grant of leave whilst waiting for a decision on their application and could result in the individual being regarded as an overstayer and would therefore be liable to removal.

**If someone is studying and they don't get ILR, will they be allowed to finish their studies?**

When refugees are notified of the outcome of their ILR application they will also be advised what that means for their status in the UK (see Asylum Policy Instruction on Settlement Protection for further details - <https://www.gov.uk/government/publications/settlement-protection-asylum-policy-instruction>). Those who do not qualify for settlement protection because they are no longer at risk of persecution in their country can apply to stay under other provisions of the Immigration Rules that they may qualify for (for example as a student) or return home in safety.

**What happens if you don't get ILR – will you be sent back to Syria/home country?**

When refugees are notified of the outcome of their ILR application they will also be advised what that means for their status in the UK (see Asylum Policy Instruction on Settlement Protection for further details - <https://www.gov.uk/government/publications/settlement-protection-asylum-policy-instruction>).

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### **If a refugee has criminal convictions will they still be eligible for ILR? Could their refugee status be revoked?**

In accordance with our obligations under Article 24 of the Qualification Directive, refugees and/or their dependants who are refused settlement on criminality grounds but still need international protection will continue to be granted leave in periods of 3 years until the individual becomes eligible for settlement (see Asylum Policy Instruction Settlement Protection for further details). Where a person with refugee status or humanitarian protection commits a particularly serious crime, as defined in Section 72 of the Nationality Immigration and Asylum Act 2002 and constitutes a danger to the community in the UK, their status will be revoked, and they will be removed from the UK to their country of origin under Article 33(2) of the Refugee Convention. Where removal is not possible, for example due to ECHR barriers, shorter, more restrictive grants of leave will be made.

### **Is there a right of appeal for unsuccessful applications?**

Where the original grant of refugee status remains unchanged, but settlement is refused and limited leave is granted alongside the retention of refugee status (for example due to criminality), there is no right of appeal. The decision to refuse settlement is not an appealable decision under the Nationality, Immigration and Asylum Act 2002.

If the application is unsuccessful because the Home Office has decided to take revocation action, or an individual no longer needs protection, there will be a right of appeal against the decision to revoke refugee status (see Asylum Policy Instruction on Settlement Protection for further details on reasons where revocation of refugee status may be considered).

### **What if the situation in Syria/home country has not improved?**

This will be considered as part of the application process, as with all other settlement protection applications. Those who are still at risk in Syria/their home country will not be expected to return there.

### **What if the situation in Syria/home country has improved, will they need to prove why they don't want to/can't go back?**

Any changes to the country situation or individual's situation must be such that the reasons for becoming a refugee have ceased to exist (see Asylum Policy Instruction Settlement Protection for further details - <https://www.gov.uk/government/publications/settlement-protection-asylum-policy-instruction>). Those who do not qualify for settlement protection because they are no longer at risk in their country can apply to stay under other

provisions of the Immigration Rules that they may qualify for (for example as a student) or return home in safety.

**Why are applicants required to prove that it is not safe to return to Syria, when Syrians are still being resettled under the same scheme?**

Applicants are not required to prove that it is not safe. Settlement protection applications are carefully considered, in-line with the latest country information and will only be refused on grounds that it is safe to return where there have been significant changes in the country situation or personal circumstances of the individual such that they no longer need protection.

**What do refugees receive when ILR is granted?**

Refugees will receive a decision letter confirming the grant of settlement and a new BRP showing that they now hold ILR.

**LEGAL**

**Will families need legal representation to apply? Can funding be provided for this?**

Legal representation is not compulsory. Should any refugees choose to seek legal advice then representation should be from someone trained and registered to minimum OISC Level 2.

There is no funding to cover costs where incurred, but it is worth being aware that SET (P) applications are eligible for Legal Aid Funding.

**Although applying for ILR doesn't attract a cost, hiring someone who is OISC Level 2 will come at a cost, so how often will we need someone? Is it for every case or only exceptional cases?**

Legal representation is not compulsory. Should any refugees choose to seek legal advice, then representation should be from someone trained and registered to minimum OISC Level 2.

Organisations who hold a Legal Aid Contract and Non-Fee Charging OISC organisations, may be able to assist with these applications without cost to the applicant.

**Refugees will need to travel to major cities for immigration advice and there will still be a shortage. Will travel costs be covered?**

Legal representation is not compulsory. Should any refugees choose to seek legal advice then representation should be from someone trained and registered to minimum OISC Level 2. There is no funding to cover costs where incurred.

**The need for minimum OISC Level 2 advice is due to the requirement to provide information about why the refugee cannot return home. This will**

**take considerable work and is likely to be similar for many of the applicants. Can this be simplified in any way for this cohort?**

The process will be the same as all other settlement protection applications. Legal representation is not compulsory. Should any refugees choose to seek legal advice then representation should be from someone trained and registered to minimum OISC Level 2.

Applicants are not required to prove that it is not safe. Settlement protection applications are carefully considered, in-line with the latest country information and will only be refused on grounds that it is safe to return where there have been significant changes in the country situation or personal circumstances of the individual such that they no longer need protection.

### **RESOURCE**

**Is HO going to put more resource into the ILR team considering the large number of potential applications?**

The number of resettled refugees has been included in casework forecasting assumptions to ensure sufficient resource.

**What steps has the Home Office taken to ensure sufficient resources will be available to process without delay, the large number of applications from resettled families who will be eligible for ILR from 2020?**

The number of resettled refugees has been included in casework forecasting to ensure sufficient resource.

**Where are the biometrics centres located, when are they open and is there a cost attached to appointments?**

There are six biometric centres located in the UK. There are a mixture of free cost-attached appointments depending on the type of service required and when an individual is available to attend an appointment. Details of the centres and costs are below:

<b>Service point type</b>	<b>Locations currently open</b>	<b>Fee and service offered</b>
Core	Belfast, Birmingham, Cardiff Bay, Glasgow, London (Croydon) and Manchester	Free appointments between 10am and 4pm on weekdays
Enhanced	Throughout the UK	From £69.99 including document scanning and checking

<b>Service point type</b>	<b>Locations currently open</b>	<b>Fee and service offered</b>
Premium	Birmingham, London and Manchester	From £210 for a personalised service with access to business facilities

**Will there be extra appointments offered at the biometrics centres to cope with the additional demand?**

The number of resettled refugees has been communicated to allow sufficient forecasting of capacity.

**How do people with mobility issues who can't get to the biometrics centres apply?**

A mobile biometric enrolment service is available for customers who are unable to attend an enrolment centre due to incapacity or mobility issues. Customers will be asked to provide medical evidence to support their request to use the mobile service with their application.