



Guidance on further submissions

What the UK Border Agency would like to see from your client's further submission:

NEW, NOT OLD

Further submissions should include new material, not mere repetition of a previous claim or submission, unless there has been a change in legislation, in policy or in case law since your client's last submission. If material has previously been considered by UKBA or at appeal, it will have already been considered for the purposes of paragraph 353 of the Immigration Rules, and there will be no fresh claim. This means that your client will not have any right of appeal.

BE SIGNIFICANT

The new material should be significant. This means that there should be sufficient information in the new material for there to be a realistic prospect of the UK Border Agency or an immigration judge deciding either that your client:

- should be granted asylum, humanitarian protection or discretionary leave, or
- should be granted leave on the basis that removal would breach your client's human rights, or
- should be granted leave on the basis of compassionate circumstances.

Paragraph 353 of the Immigration Rules states that submissions will amount to a fresh claim if they are "significantly different" from the material that has already been considered. Submissions will only be significantly different if the content:

- has not already been considered; and
- taken together with the previously considered material, creates a realistic prospect of success.

If the material put forward in the further submissions does not warrant a grant of leave, but has not previously been considered, the case owner will then decide whether the new information, taken together with the material previously considered, raises a realistic prospect of success. Please note that the threshold with regard to a "realistic prospect of success" is a low one. The Court of Appeal has described the test as "somewhat modest". The test is described as somewhat modest for three reasons.

- Firstly, the question is whether there is a realistic

	<p>prospect of success in an application before an immigration judge, but not more than that.</p> <ul style="list-style-type: none"> • Second, the immigration judge him or herself does not have to reach a position of certainty, but only to think that there is a real risk of the applicant being persecuted on return. • Finally, since asylum is in issue, the consideration of all the decision-makers, the Secretary of State, the immigration judge and the court, must be informed by the anxious scrutiny of the material.
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<p>RELEVANT, NOT IRRELEVANT</p>	<p>The new material should be relevant to your client, and the further submissions should explain how the material is relevant to your client. Copies of reports from organisations such as Amnesty International or newspapers are not sufficient on their own without an explanation of the relevance to your client's own case. Where a report is in the public domain there is no need to submit a hard copy of the entire report. You could, for example, submit the title and date of a report and reference the part that applies to your client's own case.</p>
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<p>NOT PREVIOUSLY AVAILABLE</p>	<p>Material should not have been available prior to the most recent decision on your client's case, whether that decision is an initial decision, an appeal or a decision on previous further submissions unless there is a satisfactory reason why the material was not submitted earlier. If your client's further submissions do not meet this requirement, your client may be denied a right of appeal even if the further submissions create a realistic prospect of success.</p>
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<p>NOW, NOT LATER</p>	<p>Further submissions should be made as soon as is reasonably practicable. It should be noted that while the UK Border Agency will never discount material entirely on the basis that it could or should have been raised earlier, in assessing whether there is a realistic prospect of success, material may be treated with circumspection if it is raised late and could have been raised sooner. This is of particular relevance to submissions that are raised at the point of removal.</p>
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If you would like more information regarding further submissions, the full set of Asylum Policy Instructions (which set out the full policy, process and procedure we follow when we consider further submissions) are available at <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumpolicyinstructions/apis/furtherrepresentations.pdf?view=Binary>