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<sup>1</sup> Only section 8.3 has been updated during the December 2006 revision. The majority of remaining content within this instruction dates back to 2001, although will be revised in the near future.



**CHAPTER 1  
SECTION 10****HUMAN RIGHTS**

*NB You should also see IDI Chapter 12: Appeals and ADI Chapter 5 Re: Asylum Cases*

**1. INTRODUCTION**

- 1.1. The European Convention on Human Rights (ECHR) was adopted in 1950 and came into force in 1953. It was designed to give binding effect to the guarantee of various rights and freedoms in the UN Declaration on Human Rights, adopted in December 1948. The Convention is a treaty of the Council of Europe, which was established after the end of the Second World War with the aim of protecting Europe against totalitarianism and a repeat of wartime atrocities. The Convention is also intended to protect human rights in countries which are democratic, by seeking to secure a fair balance between the general interest of society and the protection of the individual's fundamental rights. The rights contained within the Convention can be relied upon by any person, non-Governmental organisation or group of individuals and in some cases by companies and other bodies, but not by governmental organisations, such as local authorities, as the Convention is about protecting fundamental rights and freedoms against the power of the State.
- 1.2. An individual who wished to bring a claim against the UK government for non-compliance with the Convention could only do so before the European Court of Human Rights having demonstrated that there was no effective remedy in the United Kingdom courts. This process (the right of individual petition) is inevitably lengthy and expensive. Parliament decided that this was not acceptable and that the importance of maintaining basic human rights in this country meant that rights under the Convention should be enforceable in the United Kingdom. Thus the Human Rights Act 1998, which will come into force on 2 October 2000, was enacted and will allow cases concerning the rights given under the Convention to be brought in the United Kingdom courts.

**2. WHICH OF THE ECHR RIGHTS ARE ENFORCEABLE UNDER THE HUMAN RIGHTS ACT?**

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<sup>2</sup> Only section 8.3 has been updated during the December 2006 revision. The majority of remaining content within this instruction dates back to 2001, although will be revised in the near future.

- 2.1. 17 Articles of the Convention and its protocols are enforceable under the Human Rights Act (See *Annex BB*). Those which largely refer to the machinery for enforcing rights are not incorporated. There is a hierarchy of Convention rights:

- **Absolute Rights**

These rights cannot be derogated from, for example Article 3 cannot be derogated from even in times of war.

- **Rights with Defined Limitations and Qualified Rights**

Other rights such as the right to liberty (Article 5) the right to marry and found a family (Article 12) can be limited under explicit circumstances defined in the Convention itself. For example, Article 12 is qualified by the national laws governing this right. Qualified rights include the right to respect for private and family life (Article 8), the right to freedom of expression (Article 10) and the right to the peaceful enjoyment of property (Article 1 of Protocol 1). Interference with these rights is permissible subject to various qualifications. These include the qualification that any restriction must have its basis in law, be necessary in a democratic society and be related to the permissible aim as set out in the relevant Article.

### 3. HOW IND'S WORK WILL BE AFFECTED.

- 3.1. As a public authority, it would be unlawful for IND to act (or fail to act) in a way which is incompatible with a Convention right. However, it will not have acted unlawfully if, as the result of a provision of primary legislation, it could not have acted differently. IND's existing policies and procedures have been audited regularly in the run up to implementation of the Act in order to ensure, wherever possible, ECHR compatibility. The Immigration Rules have also been reviewed for the same purpose. Caseworkers should refer to the relevant chapter of the IDIs, ADIs etc for specific advice on individual policy areas when considering a human rights allegation.

### 4. ECHR RIGHTS MOST RELEVANT TO IND'S WORK

The following Convention rights are likely to most relevant to our work in IND:

- **Article 2**  
"The right to life"

This Article may be relevant where an applicant claims that they will attempt self-harm if their application is refused and/or they are removed from the United Kingdom. Where such circumstances arise, caseworkers should refer to the relevant policy worker in EPU, INPD or AAPD for specific guidance.

- **Article 3**  
"No one shall be subjected to torture or to inhuman or degrading treatment or punishment".

- I. Article 3 is clearly relevant to the consideration of applications for asylum and

exceptional leave. For many years, asylum caseworkers have been applying the principles underpinning Article 3 when considering whether an applicant who does not qualify for refugee status under the 1951 UN Convention should nevertheless be permitted to remain in the United Kingdom exceptionally on humanitarian grounds. In future, IND asylum caseworkers will need to apply Article 3 explicitly, and to express decisions in ECHR terms. The applicant must show that there are substantial reasons to believe there is a real risk he will be treated in a manner contrary to Article 3. The Immigration Service will also need to bear in mind, in particular, Article 3 (and Article 8) when dealing with those facing removal from the United Kingdom. Further detail on asylum cases can be found in the chapter entitled **European Convention on Human Rights and Fundamental Freedoms** in the APIs.

- II. Another aspect of our work where Article 3 is important is where consideration is being given to the removal of a person undergoing medical treatment where the country to which we are removing them cannot offer comparable treatment to that which they enjoy in the United Kingdom. Recent case law (both at domestic and Strasbourg level) has confirmed that the circumstances in which an individual can resist removal on Article 3 related medical grounds will be exceptional. The Strasbourg Court has found that a person who is subject to removal cannot in principle claim any entitlement to remain in the territory of a Contracting State in order to continue to benefit from medical, social or other forms of assistance provided by the removing State. The Court of Appeal has found that where similar treatment may not be available to a person in their home country because of its cost, this does not amount to a claim of inhuman or degrading treatment. However to attempt to return someone to a country where there is a complete absence of treatment, facilities or social support which could result in an imminent and lingering death and cause acute physical and mental suffering would be very likely to engage our obligations under Article 3, where the UK is treated as having accepted responsibility for care. Further advice on HIV and AIDS cases is given in **Chapter 1 Section 8**.

- **Article 5**

“Everyone has the right to liberty and security of person”

This Article will also be relevant as it explicitly provides in Article 5(1)(f) that a person may be arrested or detained to prevent them effecting an unauthorised entry into the country, or of a person against whom action is being taken with a view to deportation or extradition.

It is important that in detaining a person we can show that he or she is being detained either for the purpose of preventing unauthorised entry or that detention is with a view to his or her removal (not necessarily deportation). Detention for other purposes (such as deterrent to others where detention is not *necessary* for the purposes of removal of the individual concerned) is not compatible with Article 5.

Article 5(4) states that everyone who is deprived of his liberty shall be entitled to take proceedings by which the lawfulness of his detention is decided speedily by a court. This Article is satisfied by detainees’ right to challenge the lawfulness of a decision to detain by way of writ of habeas corpus, or judicial review in Scotland.

- **Article 8**

“Right to respect for private and family life”

The right to family life enshrined in Article 8 is also relevant to the work of IND. We have taken Article 8 into account for many years when formulating policy in this area. Please see relevant chapter of the IDIs for specific guidance.

Detention

It may be necessary on occasion to detain the head of the household only, thus separating a family. Article 8 is a qualified right. Interference with the right to family life is permissible under Article 8(2) if it is in accordance with the law and is necessary in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others. A decision to detain legally taken under the 1971 Immigration Act does not breach the qualified right in Article 8 so long as such a decision is in accordance with the law and is *necessary* for the economic well-being of the country or the prevention of disorder or crime (or such other purpose under Article 8(2) as might apply in the circumstances). It would generally be disproportionate to detain an entire family (and thus interfere with family or private life under Article 8), when any risk that the family would not meet the conditions for temporary admission or release would be successfully countered by the detention of one person only (ie the head of household).

- **Article 14**

“Prohibition of discrimination”

Article 14 will be relevant to all fields of IND activity. It provides that the rights and freedoms provided in the ECHR shall be secured without discrimination on any ground, reflecting the Government's general emphasis on the elimination of unlawful discrimination. An individual may only introduce Article 14 grounds in contesting an action by IND if they can show that another Convention Right is involved; i.e. Article 14 must always be combined with another ECHR Article such as Article 3, 5 or 8. But for Article 14 to bite, it is not necessary for the individual to demonstrate that there has been an actual breach of another Article, merely that the action in question raises issues relating to another Convention right or freedom, such as the enjoyment of family life.

Article 14 does not represent a blanket prohibition on discrimination. If the discrimination on any ground can be objectively justified, and is not prevented by other statutory provisions (such as race, sex or disability legislation), then the Strasbourg Court has held that the action in question is not unlawful by virtue of Article 14. The Immigration Rules have been revised to take Article 14 into account. Nevertheless, IND staff will need to be alive to discrimination issues in approaching their work. Nationality is the most frequent basis on which distinctions between groups and individuals in the immigration system are made. This is a necessary and legitimate aspect of the immigration system, which often requires the distinguishing of cases on some objective basis. Provided such distinctions can be objectively justified, in terms of maintaining an effective immigration control or of providing

exceptional treatment on compassionate grounds, IND should not be found in breach of Article 14.

Article 14 may cover indirect discrimination but the caselaw is not clear and no decisions have been made on it, it is also not clear that the Convention definition indirect discrimination is the same as that under domestic legislation.

This is by no means an exhaustive list of pertinent Articles or their application when considering a case.

## 5. CASE CONSIDERATION

- 5.1. The relevant Articles of the ECHR are already reflected in IND's policy and procedures. However, caseworkers will need to now consider, during the course of the decision-making process, whether:
- the individual's human rights are involved;
  - whether those rights are being interfered with;
  - if that is the case, can they be legitimately interfered with ie is/are the right/s involved qualified/absolute?
  - Is the decision justified and proportionate to the aim?
- 5.2. A claim on Human Rights grounds can be made at any time during an application, but will only attract a right of appeal where an allegation is made specifically in response to a decision by the Secretary of State relating to that person's entitlement to enter or remain in the United Kingdom (See IDI *Chapter 12 Section 2*).
- 5.3. In general, if we are asked to consider an application on human rights grounds alone:
- where possible we would consider the application under any applicable Rule or concession, and on an exceptional basis outside the Rules. In practice, a refusal would contain refusal under the Rules and the provisions of the ECHR in the refusal notice, and a covering letter stating that the application was considered outside the Rules as well.
  - if there is no applicable Rule or concession, the application is likely to be a 322(1) – HC395 – refusal (no category under the Rules), with human rights issues dealt with in the refusal, and a covering letter stating that the application was considered outside the Rules as well.

## 6. PROCEDURES

6.a. No mention of Human Rights (or facts which clearly raise Human Rights) in course of application whether in time or out of time.

While Human Rights must always be borne in mind, in this event there is no need to refer to them specifically when deciding an application.

6.b Refused in time application attracting a right of appeal – Human Rights cited by applicant during application or facts given which clearly raise a Human Rights issue.

Notify decision with right of appeal as normal, but Human Rights must be addressed in the refusal wording, as that element of the decision can, be reviewed by the appellate authorities.

The caseworker must detail the reasons for refusal in the normal way, citing under which paragraph of the Rules the decision is made. Specific reference must then be made to the relevant Article/s and full reason given as to why the Secretary of State does not consider that the provisions of that/those Articles should avail the applicant. A stock paragraph which can be tailored for use in individual cases appears at *Annex CC*.

In these cases there is no need to inform the applicant of a right to make an allegation that the decision is in breach of Human Rights to generate an appeal.

6.c. Refused out of time application or in time application with no right of appeal (mandatory refusal) – Human Rights cited by applicant during application or facts raised which clearly raise a Human Rights issue.

Again, the caseworker must detail the reasons for refusal in the normal way, citing under which paragraph of the Rules the decision is made. Specific reference must then be made to the relevant Article/s and full reason given as to why the Secretary of State does not consider that the provisions of that/those Articles should avail the applicant. A stock paragraph which can be tailored for use in individual cases appears at *Annex CC*.

In these cases applicant must be informed of a right to make an allegation that the decision is in breach of Human Rights to generate an appeal. The relevant forms have an option to include an appropriate wording.

6.d. Refused application with no right of appeal as person not required to leave within 28 days – Human Rights cited by applicant during application or facts raised which clearly give rise to a Human Rights issue.

Again, the caseworker must detail the reasons for refusal in the normal way, citing under which paragraph of the Rules the decision is made. Specific reference must then be made to the relevant Article/s and full reason given as to why the Secretary of State does not consider that the provisions of that/those Articles should avail the applicant. A stock paragraph which can be tailored for use in individual cases appears at *Annex CC*.

In these cases applicant must be informed of a right to make an allegation that the decision is in breach of Human Rights to generate an appeal. The relevant form has an option to include an appropriate wording.

## 7. FURTHER REPRESENTATIONS

Further representations may be submitted at any point following a decision to refuse or the lodging of an appeal.

NB The original decision should not be withdrawn pending consideration of further representations.

- 7.1. In considering whether to treat representations as a fresh claim, material should be disregarded which:
- i) is not significant
  - ii) is not credible
  - iii) was available to the applicant at the time when the previous application was refused or when any appeal was determined.

A stock paragraph for use where representations do not constitute a fresh application appears in *Annex CC*.

If after consideration of the further representation the refusal of the application is **maintained**, the Home Office will have to be able to demonstrate to the Immigration Appellate Authority (IAA) that it has decided to maintain its decision only after considering all the relevant evidence submitted to it by the applicant both before and after the initial decision.

Where a fresh application is made, any new grounds not previously taken into account and which throw new light on the case should be given full consideration in the light of all earlier information. Early consideration of new evidence may avoid having an appeal hearing adjourned by the appellate authority for further consideration.

Please ensure that an ACID Notification form is completed in all cases where Human Rights are raised.

Any queries with regard to the application of the ECHR should in the first instance be referred to a Senior Caseworker and thereafter via the contact points in AJRU, INPD, APU, EPU and IS. Telephone numbers for these contacts will be made available to all Senior Caseworkers separately.

## 8. POLICY ON SUICIDE THREATS

- 8.1 All threats of suicide or self harm by persons subject to immigration control will be given careful consideration by IND, taking full account of its obligations under section 6 of the Human Rights Act 1998, under which it is unlawful for a public authority to act in a way which is incompatible with a Convention right. A claim that removal will give rise to a real risk of suicide or self-harm may engage the UK's obligations under the European Convention on Human Rights (ECHR). Articles 3 and/or 8 will be the ones principally engaged.

- 8.2 This document is intended to provide guidance on how to deal with allegations that a claimant will commit suicide or self-harm as a consequence of actions IND may take to remove. This document covers two issues:
- the approach to be taken to decision making, in particular in considering whether the risk of harm or loss of life is sufficient to preclude removal; and
    - where caseworkers are satisfied that there are substantial grounds for believing that there is a real risk, as alleged, the steps that should be taken to minimise the risk, and which are likely to bring the risk below the ECHR threshold thereby making removal possible.
- 8.3. This guidance should be read in the light of the Court of Appeal judgment in the case of *J v SSHD* (2005).
- 8.4. A claim that removal will lead to a risk of suicide or self-harm will not inevitably preclude removal or result in a grant of leave. However, where it is accepted that there are substantial grounds for believing that removal would expose a person to a real risk of serious harm or loss of life through suicide or self harm, caseworkers should look at all the circumstances and, in particular, consider what steps can be taken to minimise that risk. It is not necessary for the steps to eliminate the risk entirely but all reasonable steps must be taken. Removal will not be precluded, notwithstanding evidence of the risk of suicide or self harm, where the risk does not meet the threshold for the relevant ECHR-protected right.

## I APPROACH TO DECISION MAKING

### Article 3 of the ECHR

- 8.5. Article 3 states that “no one shall be subjected to torture or to inhuman or degrading treatment or punishment”. It is an absolute right, i.e. unlike some of the rights protected by the ECHR, it cannot be balanced against other competing interests such as the maintenance of an effective immigration control. Article 3 has a high threshold and a minimum level of severity is required for Article 3 to be breached. The European Court of Human Rights (ECtHR) has referred to treatment contrary to Article 3 being ill-treatment that “involves actual bodily injury or intense physical or mental suffering... in respect of Article 3”. In addition, the ECtHR has emphasised that Article 3 will only be violated in ill health removal cases in exceptional circumstances. For example, the court considered Article 3 in the case of *Bensaid*, which involved a serious long-term schizophrenic who had been in the UK for 11 years, was in need of regular drug treatment which would not be available free of charge in the receiving state, and the medical evidence indicated that removal would give rise to a substantial risk that the claimant would harm himself and others. The court did not “*find that there was a sufficiently real risk that the applicant’s removal in these circumstances would be contrary to the standards of Article 3. It does not disclose the exceptional circumstances of D v UK ... where the applicant was in the final stage of a terminal illness, AIDS, and had no prospect of medical care or family support on expulsion to St Kitts*”.

- 8.6. Where a person alleges that removal will lead to a risk of suicide or self-harm that breaches Article 3, Caseworkers should consider whether there are substantial grounds for believing that the removal would expose the claimant to a real risk of serious harm or loss of life through suicide or self harm and, if so, at which of the stages identified above the risk will arise. When assessing the risk, caseworkers should take any acceptable medical evidence (as discussed in paragraphs 13-15 below) in support of the risk into account. If it is alleged that the risk resulting from IND's actions has arisen by the time of consideration, caseworkers should also take account of any ongoing treatment for mental health issues or, where the person is detained, any assessment of the person's suicide risk.
- 8.7. If the risk of suicide or self-harm exists before the person is subject to removal, caseworkers should consider whether the suicide risk would be affected by the decision to remove. This is a question of causation. The test to be applied is whether there are substantial grounds for believing that there is a real risk of a *significantly increased* risk of serious harm or loss of life through suicide or self harm. If the risk is unaffected by the prospect of removal, the risk will not result from IND's actions.
- 8.8. Where it is accepted that there are substantial grounds for believing that removal would expose a person to a real risk of serious harm or loss of life through suicide or self harm and would breach the UK's obligations under Article 3, the person will be eligible for a grant of Discretionary Leave (see API on Discretionary Leave).

### **Article 8 of the ECHR**

- 8.9. Article 8 provides that "everyone has the right to respect for his private and family life, his home and his correspondence". Unlike Article 3, it is a qualified right, which means that there are a number of exceptions which allow the right to be limited or interfered with in the interests of the permissible aims of the State (see ECHR API – Article 8(2)), including the legitimate aim of maintaining an effective immigration control. Any interference with the rights protected by Article 8 must be justified under Article 8(2) as being necessary and proportionate in pursuit of one of the aims set out in Article 8(2). In the case of *Razgar* (2004) the House of Lords confirmed that the threshold of health claims brought in reliance on Article 8 is very high: "*legitimate immigration control will almost certainly mean that derogation from the rights will be proper and not disproportionate*" and "decisions taken pursuant to the lawful operation of immigration control will be proportionate in all save a small minority of exceptional cases".
- 8.10. This is consistent with the ECtHR's approach to Article 8 in health claims. For example, in *Bensaid* the court referred to a possibility of there being an Article 8 breach

*“where there are sufficiently adverse effects on physical and moral integrity”* but did not accept that *“his moral integrity would be substantially affected to a degree falling within the scope of Article 8 of the Convention”*. However, the court found that even if Article 8(1) was engaged, Article 8(2) would apply and there would be no breach of Article 8 in this case: *“even assuming that the dislocation caused to the applicant by removal from the United Kingdom where he has lived for the last 11 years was to be considered in itself as affecting his private life ... the court considers that such interference may be regarded as complying with the requirements of the second paragraph of Article 8, namely as a measure ‘in accordance with the law’, pursuing the aims of the protection of the economic well-being and the prevention of disorder and crime, as well as being ‘necessary in a democratic society’ for those aims”*.

- 8.11. When considering an allegation that Article 8 will be breached where the risk of suicide or self harm arises in the receiving state after removal, caseworkers should consider whether there will be a flagrant denial of the claimant’s Article 8 rights in the receiving state.
- 8.12. In the light of the legitimate aim of maintaining an effective immigration control, any interference with the claimant’s Article 8 rights (given the facts of the individual case) may be proportionate and justified, unless the risk makes the case “truly exceptional” and thereby disproportionate as defined by the Court of Appeal in *Huang*. In practice, Article 8 is unlikely to prevent removal where a claim fails under Article 3.

### **Medical evidence**

- 8.13. Caseworkers should normally expect medical evidence to be provided in support of a claim of risk of self-harm or suicide. They should generally consider any medical evidence as to a claimant’s risk of suicide/self-harm and should then consider whether that risk engages the UK’s obligations under Article 3 and/or 8.
- 8.14. However, caseworkers should take into account whether the expert is a qualified psychiatrist and whether and for how long the expert has been treating the claimant. It may also be relevant to take into account any ongoing psychiatric treatment the claimant may be receiving and/or any suicide assessment that has been carried out. Other factors to consider would include previous history of self-harm and/or suicide attempts, length of time spent in the UK before the self-harm issue materialised and whether the claimant has ever been an in-patient (or has been sectioned) for reasons associated with the supposed risk. Reference to the diagnostic criteria DSM IV (Diagnostic and Statistical Manual of Mental Disorders) and ICD 10 (Composite International Diagnostic Interview) may also encourage a greater understanding of the diagnostic bases for the majority of claims.

8.15. In some cases, caseworkers may have objective evidence or there may be an adverse credibility finding which undermines the claimant's version of events as told to the medical expert and upon which the medical opinion is based. Such evidence is likely to be a relevant consideration when caseworkers are considering the weight to give to the medical report, bearing in mind that it is not the role of the medical expert to test the claimant's version of events.

## **II STEPS TO MINIMISE THE RISK OF SUICIDE OR SELF HARM**

### **BEFORE REMOVAL**

#### ***DETAINED PERSONS***

- 8.16. Any person in detention will be assessed by a nurse for risk of self-harm or suicidal behaviour within two hours of admission, and seen by a doctor within 24 hours.
- 8.17. If the claimant is in detention, IND staff and detention contractors are required to comply with IND's operating standard on suicide and self-harm prevention. Amongst other things, the standard requires that detainees will be assessed for suicide risk on arrival. There must be awareness of the possibility of suicide risk, and all staff must be appropriately trained to recognise suicide risk. Appropriate procedures have been laid down and are to be followed. In particular Removal Centre staff are to receive training, including refresher training, in suicide awareness and in approved Prison Service suicide and self-harm procedures (F 2052 SH) to deal with potential or actual self-harm. Suicide Prevention Committees, including detainee representatives must be set up and meet monthly, with a member of the Independent Monitoring Board being invited to attend. Care plans must be developed for those identified as being at risk, and emergency first aid kits containing specified equipment provided to staff and appropriately maintained. Detention contractors should ensure that the Detainee Custody Officers they employ deal sensitively and supportively with such cases, to ensure the continued wellbeing of the person being removed until such time as their duty of care has been properly discharged, in accordance with established suicide and self-harm prevention procedures.
- 8.18. Service of Notice of Decision to Remove will only take place when the risk of self-harm has been taken into account. A member of the health care team should be advised and, if considered necessary, be present at the time of notification; and in some cases a Detainee Custody Officer will also be present. Staff should be made aware that there has been a change in circumstances and will monitor the detainee's behaviour in accordance with the procedures set out above.

#### **NON DETAINED PERSONS**

- 8.19. If individuals who are not detained produce credible evidence that they will be at risk of suicide in the UK when notified that they will be removed, caseworkers should arrange personal service of the notification and provide advance notice to the individual's legal representatives with the suggestion that steps are taken to ensure that

the individual is accompanied at the time of service with a view to minimising the risk. Where the claimant will not be accompanied by family members/ reps and there are substantial grounds for believing that there is a real risk of suicide/self harm on notification, IND will arrange for a medically qualified person to be present when notification is served.

- 8.20. They may then be liable to detention, in which case the above detention safeguards apply pending removal.
- 8.21. If they are not detained, IND caseworkers should contact the claimant's representatives or family to recommend that they should be referred for appropriate treatment, which is available under the National Health Service for those at risk of suicide. If a claimant living in the community makes a threat of suicide or self-harm they should be encouraged directly or with the assistance of their representative, family member or carer to seek appropriate treatment or support. In the first instance this should be through their GP. NHS Direct (0845 4647), which is available 24 hours a day, can also provide information on appropriate local services and how the individual can access them. If it is known that the claimant is already receiving treatment for self-harm or a previous suicide attempt, then IND should report any further threats made to the service providing the treatment, telling the claimant that they are doing so. If the situation is critical and an individual is clearly showing signs of intent and there appears an imminent risk of suicide an ambulance (and the police if appropriate) should be called.
- 8.22. Asylum seekers in induction or accommodation centres should be informed of available NHS services and how to access them as part of their induction process.
- 8.23. Each GP practice is required under contractual arrangements to produce and keep up to date a practice leaflet for its patients. As well as details of the services the practice provides this also contains the name, address and telephone number of the local Primary Care Trust from whom details of primary medical services in the area may be obtained. Some local primary healthcare teams in areas that receive large numbers of asylum seekers have issued their own "welcome packs" to tell asylum seekers about their entitlements and what services are available to them. Examples of these can be found in Sheffield, Leicester, Leeds and Lambeth in London. These are normally translated in to the main asylum seeker languages. Details on what to do if someone is experiencing extreme distress and are at risk of harming themselves or wanting to take their own life are normally included.
- 8.24. NASS housing providers have also provided information in the past on local NHS services on behalf of the NHS. The Department of Health is developing a best practice leaflet for housing providers to issue and this will be translated into a range of languages. This will include key information about the operation of the NHS including the use of HC2s (document entitling destitute asylum seekers to free prescriptions) etc, how and when to contact the emergency services, out-of-hours services, and how to use NHS Direct. Emergencies or treatment which is immediately necessary should be provided free of charge within primary care to anyone, where in the clinical opinion of a health professional this is required. For secondary care, immediately necessary treatment to save life or prevent a condition from becoming life-threatening should always be given to failed asylum seekers without delay, irrespective of their eligibility for free treatment or ability to pay. However if they are found to be chargeable, the charge will still apply, and recovery should be pursued as far as the NHS Trust considers reasonable.

**DURING REMOVAL**

- 8.25. Where there are substantial grounds for believing that there is a real risk of serious harm or loss of life through suicide or self harm during removal, IND will inform the contractor effecting removal of this risk.
- 8.26. Where the removal contractor is informed or has any reason to suspect that a detainee may have suicidal or self-harming tendencies, this will be noted and a suitable escort will be provided, including a medical escort if necessary.
- 8.27. The contractor will conduct a full risk and special needs assessment prior to removal. Escorting personnel will be certified detainee custody officers who have received suicide and self harm awareness and prevention training. In addition, medically qualified support will be provided when assessed as necessary. Escorts will accompany the persons at risk to the point of arrival in the country of return.

**AFTER REMOVAL**

- 8.28. Where there are substantial grounds for believing that there is a real risk of serious harm or loss of life through suicide or self harm in the receiving state after removal, caseworkers should endeavour to ensure that appropriate people in the country to which the person is being removed, whether a third country or the country of origin, are aware of the arrival of the person and the risk of suicide or self harm and have agreed to have adequate reception arrangements in place. Where the person is a former asylum seeker, caseworkers should refer to the API on Disclosure and Confidentiality. If caseworkers are unable to ensure proper reception arrangements, they will have to consider if conditions in that country as they understand them would create a breach of Article 3 or Article 8 as defined in paragraphs 5-12 above.
- 8.29. Caseworkers should in all cases consider the claimant's circumstances, including the treatment and support available in the receiving country, in the context of whether removal would be a breach of Article 3 or Article 8. The fact that the standard of care available may fall short of what is available in the UK and may not be free at point of delivery would not of itself prevent removal.