



Operational Policy and Process  
Policy, Guidance and Casework Instruction

# CANCELLATION, CESSATION & REVOCATION OF REFUGEE STATUS

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# Section 1: Introduction

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## 1.1 Purpose of Instruction

The purpose of this instruction is to set out the position of the UK Border Agency (UKBA) in respect of:

- ▶ Article 1C of the Refugee Convention,
- ▶ Articles 11 and 14 of Council Directive 2004/83/EC (the 'Qualification Directive' (QD)),
- ▶ Articles 37 and 38 of Council Directive 2005/85/EC (the 'Procedures Directive' (PD)); and
- ▶ The corresponding applicable paragraphs of the Immigration Rules.

The guidance explains when and how individuals may have their refugee status reconsidered where they fall within the relevant provisions outlined throughout. The instruction also provides a brief explanation of the difference between terms and concepts "cancellation", "cessation" and "revocation" whilst providing fuller and more detailed explanations within the respective sections.

The guidance also makes clear that the cancelling, ceasing and / or revoking of refugee status is not an immigration decision and a separate consideration of the immigration status is required prior to being able to effect removal.

It also serves to provide guidance to UKBA staff who:

- ▶ may encounter individuals whom they have reason to suspect are liable to having their entitlement to refugee status reviewed; or
- ▶ are involved in the formal consideration process.

Section 2 provides an overview of cancellation, cessation and revocation of refugee status including the legislative basis on which these provisions are based.

Sections 3, 4 and 5 provide more specific advice on cancellation, cessation and revocation respectively.

Section 6 then explains other situations in which a review of refugee status may be undertaken.

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## 1.2 Enquiries

Any enquiries on the content or application of this instruction should be referred to Operational Policy and Process Improvement (OPPI).

UKBA staff should refer to a SCW in the first instance.

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## 1.3 Use of Terms

Within this instruction, the term:–

“**Case Owner**” refers to case owners or caseworkers within the Regional Asylum Teams, Detained Fast–Track (DFT), Criminal Casework Directorate (CCD) or the Case Resolution Directorate (CRD).

“**Senior Caseworker**” applies to Senior Caseworkers within the Regional Asylum Teams, CCD or DFT and to Technical Specialists within CRD.

“**Presenting Officer**” refers to Regional Asylum Team or DFT case owners, Regional Presenting Officers or Specialist Appeal Team members who are responsible for presenting cases at appeal.

“**Applicant**”, “**Individual**”, “**Person**” and “**Subject**” are all interchangeable terms referring to the refugee (*subject to the provisions outlined and described in this instruction relating to the withdrawal of that status*).

“**1951 Convention**” and “**Refugee Convention**” are used interchangeably when referring to the 1951 United Nations Convention relating to the Status of Refugees and the 1967 Protocol to that Convention.

An explanation of terms and abbreviations specific to this instruction are explained in [the Glossary](#).

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## Section 2: Background to Cancellation, Cessation and Revocation

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### 2.1 Purpose and Seriousness of Implications

Withdrawing a person's refugee status through cancellation, cessation or revocation (C/C/R) action is a serious matter and should not be undertaken lightly. Action to cancel, cease or revoke a person's refugee status should therefore only be undertaken by those with the required specialist knowledge.

However, all UKBA staff should familiarise themselves with the material contained within this instruction so that they are able to identify cases which may fall for cancellation, cessation or revocation of refugee status and bring them to the attention of a specialist caseworker.

Where a person's refugee status is cancelled, revoked or the cessation clauses are applied, it is normally with a view to removing the person concerned.

Where UKBA is considering cancellation, cessation or revocation it might also be necessary to interview the subject to establish the full facts of the case. An interview under caution is likely to be appropriate, particularly where removal action is likely to follow cancellation of refugee status.

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### 2.2 Difference between Cancellation, Cessation & Revocation

**Cancellation** of refugee status refers to situations where circumstances come to light that indicate a person should never have been recognised as a refugee in the first place.

Further information is contained in [Section 3: Cancellation of Refugee Status](#).

**Cessation** of refugee status refers to situations where, due to change(s) in the individual's situation brought about by themselves, and / or due to changes in the country where persecution is feared, the individual ceases to be a refugee.

Further information is contained at [Section 4: Cessation of Refugee Status](#).

**Revocation** of refugee status refers to situations where a refugee's subsequent conduct is so serious that it warrants the revocation of their status.

Further information is contained at [Section 5: Revocation of Refugee Status](#).

Where reference is made to a “**withdrawal**” of refugee status, or to it being “**withdrawn**”, it is designed to be a collective term meaning either cancellation, cessation or revocation where there is no distinction between the three.

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## 2.3 Relevant Immigration Rules

### 2.3.1 Paragraph 339A – Withdrawal of Status

Withdrawal of refugee status is covered by Paragraph 339A of the Immigration Rules. This provides that

*“...a person’s grant of asylum under paragraph 334 will be revoked or not renewed if the Secretary of State is satisfied that:*

- (i) he has voluntarily re-availed himself of the protection of the country of nationality;*
- (ii) having lost his nationality, he has voluntarily re-acquired it; or*
- (iii) he has acquired a new nationality, and enjoys the protection of the country of his new nationality;*
- (iv) he has voluntarily re-established himself in the country which he left or outside which he remained owing to a fear of persecution;*
- (v) he can no longer, because the circumstances in connection with which he has been recognised as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of nationality;*
- (vi) being a stateless person with no nationality, he is able, because the circumstances in connection with which he has been recognised a refugee have ceased to exist, to return to the country of former habitual residence;*
- (vii) he should have been or is excluded from being a refugee in accordance with regulation 7 of The Refugee or Person in Need of International Protection (Qualification) Regulations 2006;*
- (viii) his misrepresentation or omission of facts, including the use of false documents, were decisive for the grant of asylum;*
- (ix) there are reasonable grounds for regarding him as a danger to the security of the United Kingdom; or*
- (x) having been convicted by a final judgment of a particularly serious crime he constitutes danger to the community of the United Kingdom.*

*In considering (v) and (vi), the Secretary of State shall have regard to whether the change of circumstances is of such a significant and non-temporary nature that the refugee’s fear of persecution can no longer be regarded as well-founded.*

*Where an application for asylum was made on or after the 21st October 2004, the Secretary of State will revoke or refuse to renew a person’s grant of asylum where he is satisfied that at least one of the provisions in sub-paragraph (i)-(vi) apply.”*

**“Revocation”** in this context is designed to be a catch-all term relating to cancellation, cessation or revocation. A summary of how the subsections of Paragraph 339A trigger a review of refugee status is contained at [Annex A](#).

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### 2.3.2 Paragraph 339BA – Personal Interview

Consideration should also be given to Paragraph 339BA of the Immigration Rules which implements Article 38 of EC Directive 2005/85/EC (*The Procedures Directive*).

Paragraph 339BA of the Immigration Rules states that where revocation is being considered

*“... the person concerned shall be informed in writing that the Secretary of State is reconsidering his qualification for refugee status and the reasons for the reconsideration. That person shall be given the opportunity to submit, in a personal interview or in a written statement, reasons as to why his refugee status should not be revoked.”*

It will normally only be necessary to interview the subject where the case is particularly complex. Paragraph 339BA also states that if the refugee is given an opportunity to submit representations in an interview, the interview should be subject to the safeguards set out in the Rules.

For further guidance on conducting interviews and the safeguards outlined above, refer to the instruction on [Conducting the Asylum Interview](#) [\[Link\]](#).

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### 2.4 Consultation with UNHCR

It will also normally be appropriate to give the UNHCR an opportunity to comment on individual cases before a final decision is taken. There are certain situations where consultation on a case-by-case basis will not be necessary, but these are outlined in the appropriate place in this instruction.

UKBA's default position is that UNHCR will be approached on every case.

Immigration Rule 358C states that a representative of the United Nations High Commissioner for Refugees (UNHCR) or an organisation working in the United Kingdom on behalf of the UNHCR pursuant to an agreement with the government shall:

- (a) have access to applicants for asylum, including those in detention;*
  - (b) have access to information on individual applications for asylum, on the course of the procedure and on the decisions taken on applications for asylum, provided that the applicant for asylum agrees thereto;*
  - (c) be entitled to present his views, in the exercise of his supervisory responsibilities under Article 35 of the Geneva Convention, to the Secretary of State regarding individual applications for asylum at any stage of the procedure.*
- This paragraph shall also apply where the Secretary of State is considering revoking a person's refugee status in accordance with these Rules.*

Consultation should take place after the individual concerned has had an opportunity to comment so that the UNHCR can take those representations into account when it prepares its own response.

UNHCR should generally be allowed 15 working days within which to respond.

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## 2.5 Status, Leave & Rights of Appeal

The cancellation, cessation or revocation of refugee status does not in itself affect a person's leave to enter or remain and neither does it trigger a right of appeal because it is not an immigration decision within the meaning of s82(1) of the NIA Act 2002.

However, in practice, the decision to take away a person's refugee status will normally be accompanied by an immigration decision involving either:

- ▶ revocation of ILR under section 76 of the NIA Act 2002,
- ▶ removal via section 10 of the 1999 Act,
- ▶ removal under Schedule 2 to the 1971 Act; or
- ▶ A decision to deport

All of which would attract a right of appeal.

A table outlining the action required to withdraw any outstanding leave and the right of appeal that triggers is included at [Annex B](#).

In (*very rare*) cases where the decision to withdraw a person's refugee status is not accompanied by an immigration decision, there will be no right of appeal.

For further guidance on specific rights of appeal, refer to [Chapter 12 of the IDIs \[link\]](#).

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## 2.6 Dependants

For the purposes of this instruction, a dependant is defined as a spouse or civil partner or a minor child related to the person concerned at the time when it is considered whether refugee status and / or leave should be withdrawn.

Where a dependant gained refugee status and / or leave in the UK as a result of a main claimant's asylum claim being granted, and that individual is subject to cancellation, cessation or revocation action, it will usually be appropriate to treat the dependants in line with the main claimant and seek to remove the family group.

There may however be compelling reasons for not withdrawing refugee status and / or leave of a dependant in these circumstances. If it is considered that such compelling reasons may exist Operational Policy and Process Improvement (OPPI) should be consulted.

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## 2.7 Subsidiary Protection

This instruction deals only with situations where refugee status is being reviewed.

For further guidance on circumstances when it may be appropriate to curtail Exceptional Leave to Remain (ELR), advice should be sought from OPPI on a case by case basis.

For further guidance on the circumstances where it may be appropriate to revoke Humanitarian Protection (HP) or curtail Discretionary Leave (DL) or other limited leave, refer to the instructions on [Humanitarian Protection \[Link\]](#), [Discretionary Leave \[Link\]](#) and [Curtailement \[Link\]](#).

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## 2.8 Naturalisation & Citizenship

Where a person with refugee status has been naturalised as a British citizen they are no longer considered a refugee. Therefore, it is not possible to take cancellation, cessation or revocation of refugee status action in such cases.

Where a situation arises where a former refugee who has been naturalised is found to have obtained refugee status by deception and thus fall within the cancellation provisions or where they have engaged in conduct which would have brought them within the scope of the exclusion clauses, then UKBA may review that person's continuing entitlement to British Citizenship.

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## Section 3: Cancellation of Refugee Status

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### 3.1 Background to Cancellation

Although the 1951 Convention contains no specific provisions for cancellation of refugee status, the UNHCR Handbook envisages circumstances where it would be appropriate to do so.

Paragraph 117 offers the following examples of when cancellation might be appropriate; namely where:

- ▶ refugee status was obtained by misrepresentation of material facts,
- ▶ the refugee possesses another nationality; or
- ▶ the exclusion clauses would have applied had all the relevant facts been known

Subsections (vii) and (viii) of Paragraph 339A of the Immigration Rules are also applicable in cancellation cases.

Paragraph 339A (vii) relates to situations where the individual *should have been* excluded had all the relevant facts been known at the time he was granted refugee status. Cancellation will not be appropriate where facts subsequent to the grant of refugee status mean that the applicant is excluded from being a refugee. In these circumstances, revocation is appropriate.

For further information on the background to, and the application of the exclusion clauses, refer to the instruction on *Exclusion: Articles 1F and 33(2) of the Refugee Convention* [\[Link\]](#).

Paragraph 339A (viii) relates to situations where misrepresentation or omission of facts, including the use of false documents, were decisive for the grant of asylum, such that asylum status would not have been granted, had the true facts been known.

If someone is to be prosecuted for obtaining leave by deception, UKBA will generally await the outcome of the criminal proceedings. However, we are not precluded from cancelling refugee status pending such proceedings.

Cancellation of refugee status will not generally be considered in isolation. It will also be necessary to make a decision on the person's immigration status, namely the leave that they have to be in the UK, taking all the relevant issues into account. Where refugee status, and therefore leave, has been obtained by deception, cancellation of refugee status does not of itself cancel or curtail the leave.

However, a person who obtains leave to enter (*whether ILE/LLE*) by deception is an illegal entrant. If it is decided to take illegal entry action against him (*under Schedule 2 to the 1971 Immigration Act*) the leave can be invalidated.

Similarly, where leave to remain (*whether ILR/LLR*) has been obtained by deception, the subject is liable to removal under section 10 of the 1999 Immigration and Asylum Act (*for cases where the leave was granted after 1 October 1996*).

The Immigration Decision Notice, which notifies the individual that a decision has been made to remove him, invalidates any leave that has been given previously.

Conditions attached to the person's leave which may have given them certain entitlements (*e.g. to take employment or have recourse to public funds*) will also cease once leave is invalidated.

The policy on cancellation of refugee status applies equally to those refugees with Indefinite Leave to Enter or Remain and those with Limited Leave to Enter or Remain.

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## 3.2 Misrepresentation of Material Facts

Where cancellation is being considered because there is evidence to suggest that refugee status was obtained by a misrepresentation or omission of material facts (*i.e. deception*), UKBA must be satisfied that:

1. **clear and justifiable evidence of deception exists** *e.g. evidence that the refugee is not the nationality they claimed to be, or evidence that the documentation supplied in support of the claim is not genuine; and*
2. **that deception was material to the grant of refugee status** *i.e. were it not for the deception, that status would not have been granted*

Even where deception is admitted or proved, UKBA will consider whether the person still qualifies for refugee status or for leave to remain on another basis.

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## 3.3 Possession of another Nationality

In order for cancellation of refugee status to apply in these circumstances, the individual must have possessed another nationality and failed to disclose this to UKBA during the consideration of that claim *e.g. the subject claimed to be nationality X but it is subsequently discovered that they are, in fact, nationality Y.*

This can also include scenarios whereby an individual holds dual nationality and fails to declare both *e.g. the subject claimed to be nationality X but it is subsequently discovered that they are, in fact, nationality X **and** nationality Y.*

Obtaining a national passport and / or returning to the refugee's country of origin is covered under the re-availment provisions of the cessation clauses (*guidance on which can be found at [Section 4: Cessation of Refugee Status](#)*).

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## 3.4 Other Cancellation Scenarios

### 3.4.1 Applications for Family Reunion

Cases of deception may come to light as a result of a dependant's application for family reunion. In such circumstances UKBA will normally postpone consideration of the application in order to consider whether to take action to cancel refugee status.

When an applicant for family reunion provides information which suggests that the subject may have based their claim for asylum on a misrepresentation of material facts, careful consideration will be given as to whether the differing accounts are so dissimilar as to be incompatible.

Where the accounts are considered incompatible, consideration will be given to whether this amounts to a misrepresentation of facts material to the grant of refugee status, allowing for the fact that the two family members may not share between themselves full information about all relevant events.

A follow up interview will then be advisable in most cases.

Discrepancies in dates, lack of exact knowledge of political activities or mention of economic betterment should not of themselves be considered as sufficient grounds for cancellation.

If the two accounts are considered to be incompatible, the refugee should be asked to attend an interview in connection with the application for family reunion. The interview should be conducted under caution and should be subject to the safeguards set out in paragraphs 339NA-C of the Immigration Rules.

During this interview, the refugee should then be presented with the differing account and asked for an explanation. It will not normally be necessary to provide extra time for written submissions as the interview provides the opportunity to fulfil the obligations outlined in paragraph 339BA of the Rules.

### 3.4.2 Cancellation when the Refugee is Abroad

Information may come to light to suggest cancellation is appropriate whilst the refugee is abroad.

Where UKBA has consistent contact with the refugee in the country where they are (*e.g. through the entry clearance office*) action can be taken to invoke curtailment of leave despite the fact that the refugee is not in the UK at the time.

Paragraph 323 of the Immigration Rules provides that

*323. A person's leave to enter or remain may be curtailed*

...

*(iv) on any of the grounds set out in paragraph 339A (i)-(vi) and paragraph 339G (i)-(vi).*

However, the decision to curtail doesn't take effect while an appeal could be brought or is pending. UKBA would therefore be unable to prevent someone returning to the UK whilst their appeal was pending or until the time limit for appealing had passed as they would have continuing leave.

In exceptional cases (*e.g. where there has been a very deliberate intention to deceive or abuse the system in order to obtain status*) leave can be cancelled under powers in Article 13(7) of the Immigration (Leave to Enter or Remain) Order 2000 using grounds in 321A of the Immigration Rules. This provision does attract a right of appeal; however it will only generate a right of appeal if leave is cancelled while the subject is outside of the UK.

### 3.4.3 Cancellation Following a Successful Appeal

Situations may also arise where cancellation becomes relevant as a result of deception used at the appeal stage. Where such a situation comes to light prior to implementation of the allowed appeal, UKBA may make a fresh decision to remove by way of directions or, in a port case, a fresh refusal of leave to enter. Either action would generate a fresh right of appeal.

In order to be able to refuse to give effect to the determination and to make a fresh immigration decision,

- (a) the evidence of fraud must be relevant,
- (b) be shown to be credible; and
- (c) been previously unavailable with due diligence at the time of the appeal.

Where the information only comes to light after the individual has been recognised as a refugee and provided with their status papers, UKBA would then consider whether cancellation is

appropriate. UKBA would have to show that the appeal determination was obtained by fraud with the same requirements to be met as above.

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## Section 4: Cessation of Refugee Status

### 4.1 Background to Cessation

Paragraph 112 of the UNHCR Handbook states that

*“once a person’s refugee status has been determined, it is maintained unless he comes within one of the cessation clauses”*

Thus, the protecting country is entitled to cease the status of a refugee who comes within the terms of one of the six cessation clauses in Article 1C of the 1951 Convention and can therefore no longer be regarded as a refugee under this Convention.

Paragraph 339A (i)-(vi) of the Immigration Rules provides that a person’s grant of asylum shall be revoked or not renewed where that individual has ceased to be a refugee. These provisions mirror the cessation clauses of the 1951 Convention and implement the requirements of Article 11 of the EC ‘Qualification Directive’.

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### 4.2 The Six Clauses

The circumstances in which refugee status may be taken to have ceased are as follows:

#### 4.2.1 1C (1) Voluntary Re-availment of National Protection

A refugee who has retained his nationality will cease to be a refugee if he chooses to re-avail himself of the protection attached to that nationality.

Full details on re-availment are contained at section [4.4 Re-Availment](#).

#### 4.2.2 1C (2) Voluntary Re-acquisition of Lost Nationality

A refugee, having lost (*or been stripped of*) his nationality of the country in respect of which he was recognised as having a well-founded fear of persecution, voluntarily re-acquires such nationality. Having obtained it, he now comes under the protection of his former national authorities. The re-acquisition of nationality must be voluntary. The granting of nationality by operation of law or by decree does not imply voluntary re-acquisition, unless the nationality has been expressly or impliedly accepted.

#### 4.2.3 1C (3) Acquisition of a New Nationality and Protection

This situation occurs where the refugee acquires a new nationality and enjoys the protection of the country of his new nationality and has no fear of persecution in that country.

#### 4.2.4 1C (4) Voluntary Re-establishment in the Country where Persecution was Feared

“Voluntary re-establishment” means a return to the country from which protection was sought, with a view to taking up permanent residence. A lengthy stay would normally be involved. A short visit to the country in question is not likely to constitute “re-establishment.”

If, for example, the visit is undertaken for exceptional reasons which have been approved (*such as for a family funeral or to visit a sick relative*) it will not be treated as re-establishment.

Where approval has not been sought prior to travel the case should be considered on its own merits, taking into account factors such as the length and nature of the visit, and whether there have been any previous visits.

#### 4.2.5 1C (5) Nationals whose Reasons for Becoming a Refugee have Ceased to Exist

The circumstances in connection with which the refugee was recognised have ceased to exist, and he can no longer continue to refuse the protection of his country of nationality or because such protection has now become available where it once was not.

“Circumstances” refer to the circumstances of the individual refugee having changed in the country from which asylum was sought so that the refugee no longer has a well-founded fear of persecution. The changes must be of a significant and non-temporary nature for the refugee’s fear of persecution to be no longer regarded as well-founded.

“Significant” and “non-temporary” equates to changes which are “*fundamental*” and “*non-transitory*”.

See [4.5 Changes in Circumstances](#) for further guidance on the application of Article 1C(5).

#### 4.2.6 1C (6) Stateless Persons whose Reasons for Becoming a Refugee have Ceased to Exist

This is when a refugee who has no nationality can return to his country of former habitual residence, because the circumstances in which he was recognised as a refugee have ceased to exist.

This clause is identical to clause (5) except that the refugee in this case has no nationality and hence is stateless. The stateless person must be *able* to return to his country of former habitual residence *i.e. the country must allow the individual to return*. This is not always possible if someone is stateless.

It should be noted that 1C(5) and 1C(6) both contain a “compelling reasons” proviso which states that these clauses:

*“...shall not apply to a refugee falling under A(1) of [the Refugee Convention] who is able to invoke compelling reasons arising out of previous persecution for refusing to avail himself of the country of nationality/former habitual residence”*

The proviso is not relevant to refugees granted their status under the 1951 Convention and so should not be taken into account by UKBA in determining whether the cessation clause applies. It is concerned with refugees granted status under instruments prior to the 1951 Convention.

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### 4.3 General Application of the Cessation Clauses

Where an application for asylum was made on or after the 21 October 2004, the Secretary of State will revoke or refuse to renew a person’s grant of asylum where he is satisfied that at least one of the provisions in sub paragraphs (i)-(vi) of immigration rule 339A apply.

The first four provisions ((i) – (iv)) reflect a change in the refugee’s situation which has been brought about voluntarily.

However, where the provisions in sub paragraphs (v) and (vi) apply, action to revoke or refuse to renew a person's grant of asylum will normally only be taken where a Ministerial Statement has been issued announcing that significant and non-temporary changes have occurred in a country or where there are other factors involved, for example:

- ▶ where a person is subject to extradition proceedings (see [6.2 Extradition](#)), or
- ▶ where UKBA is seeking to remove a person under immigration powers (see [4.5 Changes in Circumstances](#)).

For applications made prior to 21 October 2004, revocation or refusal to renew a grant of asylum may also take place if the provisions in (i)-(vi) apply, but the consideration of action on the basis of sub paragraphs (v) and (vi) should be taken in line with the policy outlined at [4.5 Changes in Circumstances](#).

In practice, UKBA would normally only consider ceasing the refugee status of a person with ILR in cases where Articles 1C(1)-(4) apply and where that person had been granted asylum in the UK less than 5 years ago.

Where Articles 1C(5) and (6) apply (*or 1C(1)-(4) apply and the person has been granted asylum over 5 years ago*) UKBA would only withdraw the refugee status of a person with ILR where there are other factors. For example:

- ▶ where a person is subject to extradition proceedings (see [6.2 Extradition](#)) or
- ▶ where removal is envisaged or where UKBA would like to remove in light of an individual's actions but removal is not possible at the present time (see [4.5 Changes in Circumstances](#) for further details).

There will be circumstances where it will be appropriate for UKBA to apply Articles 1C(5) and (6) (*as well as 1C(1) to (4)*) to refugees granted limited leave from 30 August 2005 onwards.

For further guidance on the application of the cessation provisions to refugees with limited leave, refer to the instruction on [Refugee Leave](#) [\[Link\]](#).

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## 4.4 Re-Availment

### 4.4.1 General

Consideration of cessation is most likely to arise under Article 1C (1) ("[He has voluntarily re-availed himself of the protection of the country of his nationality](#)") and 1C (4) ("[Voluntary Re-establishment in the Country where Persecution was Feared](#)")

This will occur in cases where the refugee chooses to return to his own country and/or to obtain or use a passport issued by that country. For example, a refugee may consider that the situation has eased in his country of origin/habitual residence, and so he no longer feels at risk. He may decide to make a short trip to visit relatives, who perhaps could not afford the cost of travel to the UK. Some refugees may wish to return for a longer period or perhaps permanently.

Paragraph 121 of the UNHCR Handbook states that "*if a refugee applies for and obtains a national passport or its renewal, it will, in the absence of proof to the contrary, be presumed that he intends to avail himself of the protection of his country of nationality.*" [Emphasis added]

Obtaining a national passport or an extension of its validity, and then using it for travel, should not automatically lead to termination of refugee status.

A refugee might have to obtain a passport and travel to his country of origin/habitual residence for a valid reason, such as the need to apply for divorce papers. In such a case they may have no alternative but recourse to a measure of protection from that country and such action would not of itself be regarded as re-availment, although all the circumstances of the case would need to be assessed.

If information on these lines becomes available, UKBA would assess whether the action would constitute re-availment, with consideration given to any exceptional compassionate circumstances. For example:

- ▶ the purpose of the visit;
- ▶ whether the request to travel has been made prior to the visit; and
- ▶ whether the length of the visit is commensurate with the nature of that visit

#### 4.4.2 Re-Entry to the UK

There may be cases where a refugee makes a visit to his country of nationality or habitual residence and seeks to return to the UK. Refugees who return within the period of their previous leave will normally be re-admitted to the United Kingdom provided they can satisfy the immigration officer about their status.

However, there is no right of re-admittance and there may be exceptional circumstances in which an immigration officer gives notice that he is suspending leave e.g. *an immigration officer would not normally suspend leave purely on the basis of evidence of travel to the country from which a person sought asylum, but where there was also evidence of some sort of criminal activity for example, he may consider it appropriate.* The suspension could result in the leave being cancelled.

#### 4.4.3 Travel Documents

Where UKBA encounters a refugee who has travelled on a national passport or a Convention Travel Document (CTD) which indicates a return to the country of origin, UKBA will normally provide the individual with a choice of which document they wish to retain and impound the document that the individual opts to surrender.

Where the subject elects to maintain the passport, UKBA retains the CTD as it is the possession of the UK government; where the subject elects to maintain the CTD, they must surrender the passport as not keeping one in their possession is a condition of issue (of the CTD).

Where the individual only holds a CTD and there is no evidence to suggest a national passport is held, the CTD cannot be impounded until a decision is taken on whether cessation is appropriate. If such action is considered appropriate, the travel document will be destroyed.

UKBA will normally admit the individual on continuing leave whilst it considers whether to withdraw refugee status. In exceptional cases, an Immigration Officer may suspend the leave of an individual subject to cessation investigation where there are other serious considerations which would merit the suspension of leave.

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#### 4.4.4 No Time Limit (NTL) Stamp Requests

Where a refugee has obtained or renewed a passport and subsequently makes a request for an NTL stamp, serious consideration will be given as to whether these actions constitute re-availment.

However, where a refugee has requested an NTL stamp be inserted into a passport which they held prior to recognition as a refugee they should normally be reminded that it is inconsistent with their status as a refugee to travel on a national passport and that if they want to travel abroad they can apply for a CTD. Such a request does not necessarily mean that the refugee is intending to travel back to the country from which they sought asylum; they may just be unaware that they could travel outside of the UK on a CTD.

Where a refugee states that they require the NTL stamp for ID purposes, they should be informed that, as above, a CTD would fulfil that requirement without jeopardising their refugee status in the UK. Alternatively, the individual should be informed that they could and should use their Immigration Status Document (ISD) and national passport in combination to fulfil this requirement.

Where a refugee continues to insist on their request for an NTL stamp following the issue of such a letter, and the reasons for that request calls into question their continued need for protection, cessation action will be considered.

#### 4.4.5 Prior Warnings

A refugee's decision to take steps that could be construed as re-availment is a personal matter. It is not UKBA's function to comment adversely or otherwise where a refugee wishes to return to their own country.

However, in cases that come to notice before departure from the UK, UKBA will have regard to the following:

- if UKBA believes the refugee would be at risk, it is important to ensure the subject is aware of the possible dangers in the destination country and of the likely review of refugee status on return to the UK; (see [4.4.1 Re-Availment - General](#))
- if UKBA believes the refugee would not be at risk, they should still be informed that refugee status will be called into question if they travel to their own country. The subject should also be advised, as far as possible, of any restrictions that could apply to their return to the UK (see *the final paragraph of* [4.4.2 Re-Entry to the UK](#)).

#### 4.4.6 Mass Occurrences

If UKBA becomes aware that one particular nationality is generating cases of abuse of refugee status, e.g. *recently recognised refugees returning to their own country in numbers, without any intention of permanent re-establishment*, then this may be referred to UNHCR as appropriate following consultation with Operational Policy and Process (OPPI) and the Country Specific Asylum Policy Team (CSAPT).

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#### 4.4.7 Compassionate Circumstances

Any refugee who contacts UKBA before leaving the United Kingdom and can produce evidence of a compelling or compassionate reason for temporarily returning to their own country should be allowed to do so without fear of losing refugee status.

However, UKBA expects the length of the visit to be commensurate with the purpose of that visit and the individual should be informed of this. Travel Documents Section should be contacted where a case such as this arises.

Cessation action should not be taken where it is established that a person has returned to their home country under Explore and Prepare programmes, and has acted in accordance with the terms of that programme.

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### 4.5 Changes in Circumstances

#### 4.5.1 Change(s) in the Country Situation for Refugees with Indefinite Leave to Enter or Remain

Applying the cessation clause under 1C(5) or (6) will only normally be considered for those with indefinite leave where removal is envisaged or where UKBA would like to remove in light of an individual's actions even where removal is not possible at the present time.

For example, when looking at potential Article 33(2)/1F cases the possibility that a person may no longer be a refugee should be part of an initial consideration of whether removal is permitted. If they are considered not to be a refugee because 1C(5) or (6) applies, the person's grant of asylum may be withdrawn and removal effected. This could form an additional or alternative basis to action under Article 1F or 33(2).

It may also be appropriate to consider whether a person is still a refugee where they are subject to extradition proceedings. It will normally only be necessary to consider applying 1C(5) where the country seeking extradition is the country of origin or where it is a third country which it is considered may return the individual to the country of origin. In such cases 1C(5) can be applied if it is considered applicable.

For further guidance on when Exclusion under either Article 1F or 33(2) is applicable, refer to the instruction on [Exclusion: Articles 1F and 33\(2\) of the Refugee Convention](#) [Link].

Consideration as to whether a person is still a refugee will also be taken when looking at deporting an individual from the UK. In some cases, revocation may arise when someone engages in a behaviour that leads the Secretary of State to consider deporting the individual on the grounds that their presence in the UK is non-conducive to the public good.

Situations such as in the three examples above where we wish to effect removal of an individual may, of themselves, be enough to allow UKBA to take away refugee status. For example, evidence arising from extradition requests or non conducive behaviour may bring them within the scope of Article 1F of the Refugee Convention. Whether or not this is the case, an assessment of whether the cessation provisions apply should be carried out.

In a case where refugee status was granted on the grounds of non-state agent persecution there may not need to have been a significant and non-temporary change in the general situation for 1C(5) or 1C(6) to apply; it may be that the government has merely altered to the extent that it now has a programme to effectively deal with a particular issue and is therefore able to provide sufficient protection.

Where an individual with ILR made their asylum application on or after 21 October 2004 the person's grant of asylum will be revoked or not renewed where a Ministerial Statement has

been issued and Article 1C(5) or (6) apply. In practice this would normally constitute withdrawal of refugee status only as no provision exists to revoke the ILR of an individual to whom these two clauses apply.

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#### 4.5.2 Change(s) in the Country Situation for Refugees with Limited Leave to Enter or Remain

Where a refugee has limited leave, consideration to applying Articles 1C(5) or 1C(6) will be appropriate in the circumstances described above for those with ILR. Paragraph 323(iv) of the Immigration Rules provides that curtailment action can be taken on any of the grounds (*including cessation*) covered by paragraph 339A.

In addition, it will also be appropriate for those refugees who are within a category covered by a Ministerial Statement announcing that significant and non-temporary changes have occurred in a country or part of a country affecting the whole population or part of it.

For further information, refer to the instruction on *Refugee Leave* [[Link](#)].

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#### 4.5.3 Change(s) in Personal Circumstances

Situations may come to light which indicate that an individual has been recognised as a refugee based on membership of a particular social group but if the individual ceases to belong to such a group, it may be that the circumstances in connection with which the individual was granted refugee status have ceased to exist such that he/she no longer has a well-founded fear of persecution and cannot continue to refuse to avail himself of the protection of the country of his nationality.

Individual re-considerations of refugee status based on changes in circumstances will not normally be contemplated, save in specific cases where other factors are involved (see [4.1 Background to Cessation](#)).

UKBA applies a strict interpretation to Article 1C(5), for both cases involving a change of personal circumstances and those involving changes in the situation of a particular country.

Cases where application of Article 1C(5) may be appropriate must still be subject to an assessment on their individual merits.

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## Section 5: Revocation of Refugee Status

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### 5.1 Background to Revocation

Revocation of refugee status may be appropriate where a refugee's conduct is so serious that it warrants withdrawal of their status.

Subsections (vii), (ix) and (x) of Paragraph 339A of the Immigration Rules are applicable in revocation cases.

Paragraph 339A (vii) relates to situations where the individual *is or should now be* excluded from being a refugee. Revocation will not be appropriate where the applicant *should have been* excluded had all the relevant facts been known but was not. In these circumstances, cancellation would be more appropriate.

Where there are serious reasons for considering that a person has committed a crime or act that falls within the scope of Article 1F(a) or (c) of the Refugee Convention, subsequent to the grant of asylum, it will be appropriate to revoke a person's refugee status. The fact that the person may not be a danger to the UK is immaterial.

Paragraph 339A (ix) relates to situations where there are reasonable grounds for regarding the subject as a danger to the (national) security of the United Kingdom.

Paragraph 339A (x) relates to situations where, having been convicted by a final judgment of a particularly serious crime, the subject constitutes danger to the community of the United Kingdom.

The possibility of revocation does not arise in respect of 1F(b), but where a person is convicted of a crime after they have been granted refugee leave (*which would normally be a crime in the UK but could be a crime outside the UK*) Article 33(2) of the Refugee Convention may be relevant.

If Article 33(2) applies, the refugee may be removed from the country in spite of the fact that he is a refugee or, if that is not possible due to ECHR barriers, the refugee leave (*refugee leave is not the same as refugee status*) may be revoked and replaced with a shorter period of Discretionary Leave.

In some circumstances information may come to light during other proceedings (*e.g. extradition action*) which brings an individual within the scope of Article 1F(a) or 1F(c).

For further guidance on the Exclusion clauses, refer to the instruction on [Exclusion: Articles 1F and 33\(2\) of the Refugee Convention](#) [\[Link\]](#).

The policy on revocation of refugee status applies equally to those refugees with Indefinite Leave to Enter or Remain and those with Limited Leave to Enter or Remain.

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## Section 6: Other Circumstances which May Cause a Review of Refugee Status

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### 6.1 C/C/R is Conducive to the Public Good

Information may come to light which may or may not of itself mean that individual is no longer a refugee, but which will in any event be of significant seriousness to trigger a review of that person's status.

Such a review would, for example, be triggered where Ministers consider that a refugee's presence in the UK is not conducive to the public good, in particular where they have engaged in one or more unacceptable behaviours. Consideration should be given as to whether this information in itself justifies the withdrawal of refugee status (*be it through cessation, cancellation or revocation*).

Further to that, an assessment should be made, regardless of whether the individual is from a country subject to a Ministerial statement, as to whether the cessation provisions in 1C(5) or (6) apply.

For further information and guidance, refer to [4.5 Changes in Circumstances](#) and to the instruction on [Refugee Leave](#) [\[Link\]](#).

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### 6.2 Extradition

There may be a request for the extradition of the person in respect of an individual. Such a request could be from either the country of origin, the last habitual residence or from a third country. UKBA will consider whether such a request would cause a review to see whether cancellation, cessation or revocation of status should be considered.

Extradition requests are sent to JCU (Judicial Co-operation Unit). JCU will maintain its current practice of running checks with UKBA where it receives a request and where it thinks it appropriate to do so.

UKBA will always check with Extradition Section for the existence of an extradition request whenever cancellation, cessation or revocation action is being contemplated on the basis of criminal conduct. JCU will be able to advise quickly from its own records and from others held by the Serious Organised Crime Agency (SOCA).

For further information on handling extradition requests of recognised refugees, refer to the instruction on [Extradition & Asylum](#) [\[currently under development\]](#).

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## Annex A – Trigger Points for Review of Refugee Status

339A	Trigger	Type of Action to Pursue	
(i)	he has voluntarily re-availed himself of the protection of the country of nationality	Cessation	
(ii)	having lost his nationality, he has voluntarily re-acquired it	Cessation	
(iii)	he has acquired a new nationality, and enjoys the protection of the country of his new nationality;	Cessation	
(iv)	he has voluntarily re-established himself in the country which he left or outside which he remained owing to a fear of persecution	Cessation	
(v)	he can no longer, because the circumstances in connection with which he has been recognised as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of nationality	Cessation	
(vi)	being a stateless person with no nationality, he is able, because the circumstances in connection with which he has been recognised a refugee have ceased to exist, to return to the country of former habitual residence	Cessation	
(vii)	he should have been or is excluded from being a refugee in accordance with regulation 7 of The Refugee or Person in Need of International Protection (Qualification) Regulations 2006	For “ <i>should have been excluded</i> ”	Cancellation
		For “ <i>is now excluded</i> ”	Revocation
(viii)	his misrepresentation or omission or facts, including the use of false documents, were decisive for the grant of asylum	Cancellation	
(ix)	there are reasonable grounds for regarding him as a danger to the security of the United Kingdom	Revocation	
(x)	having been convicted by a final judgment of a particularly serious crime he constitutes danger to the community of the United Kingdom	Revocation	

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## Annex B – Consideration of Leave and Rights of Appeal

### Cancellation Action Applies

Type of Leave Held	Legal / Practical Barriers to Removal?	Action Required	RoA
Indefinite Leave to Enter (ILE)	Yes	Revocation of ILE under s76(2) NIA 2002	82(2)(f) of NIA Act 2002
Indefinite Leave to Remain (ILR)	Yes	Revocation of ILR under s76(2) NIA 2002	82(2)(f) of NIA Act 2002
Indefinite Leave to Enter (ILE)	No	Illegal Entry Action under paras 8-10 of Schedule 2 of 1971 Act	82(2)(h) of NIA Act 2002
Indefinite Leave to Remain (ILR)	No	Leave Voided / Cancelled by setting of RDs via s10 of 1999 Act	82(2)(g) of NIA Act 2002
Limited Leave to Enter (LLE)	n/a	Illegal Entry Action under paras 8-10 of Schedule 2 of 1971 Act	82(2)(h) of NIA Act 2002
Limited Leave to Remain (LLR)	n/a	Leave Voided / Cancelled by setting of RDs via s10 of 1999 Act	82(2)(g) of NIA Act 2002

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### Cessation Clause 1C(1), (2), (3) or (4) Applies

Type of Leave Held	Legal / Practical Barriers to Removal?	Action Required	RoA
Indefinite Leave to Enter (ILE)	n/a	Revocation of ILE under s76(3) NIA 2002	82(2)(f) of NIA Act 2002
Indefinite Leave to Remain (ILR)	n/a	Revocation of ILR under s76(3) NIA 2002	82(2)(f) of NIA Act 2002
Limited Leave to Enter (LLE)	n/a	Curtailment of Limited Leave under s3(3)(a) of 1971 Act	82(2)(e) of NIA Act 2002
Limited Leave to Remain (LLR)	n/a	Curtailment of Limited Leave under s3(3)(a) of 1971 Act	82(2)(e) of NIA Act 2002

### Cessation Clause 1C(5) or (6) Applies

Refer to OPPI

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## Revocation Action Applies

Type of Leave Held	Legal / Practical Barriers to Removal?	Action Required	RoA
Indefinite Leave to Enter (ILE)	Yes	Revocation of ILR under s76(1) NIA 2002	82(2)(f) of NIA Act 2002
Indefinite Leave to Remain (ILR)	Yes	Revocation of ILR under s76(1) NIA 2002	82(2)(f) of NIA Act 2002
Indefinite Leave to Enter (ILE)	No	Serving Deportation Order invalidates leave	82(2)(j) of NIA Act 2002
Indefinite Leave to Remain (ILR)	No	Serving Deportation Order invalidates leave	82(2)(j) of NIA Act 2002
Limited Leave to Enter (LLE)	n/a	Curtailment of Limited Leave under 3(3)(a) of 1971 Act	82(2)(e) of NIA Act 2002
Limited Leave to Remain (LLR)	n/a	Curtailment of Limited Leave under 3(3)(a) of 1971 Act	82(2)(e) of NIA Act 2002

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## Glossary

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Term	Meaning
1C or Article 1C	<b>Article 1C of the Refugee Convention</b> ; refers to the cessation provisions contained within the 1951 Convention
C/C/R	Collective term for Cancellation, Cessation and / or Revocation of Status
OPPI	<b>Operational Policy and Process</b> ; unit within the Directorate of Central Operations and Performance of UKBA responsible for policy and process advice connected with this instruction
UKBA	<b>United Kingdom Border Agency</b>
UNHCR	<b>United Nations High Commissioner for Refugees</b>

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# Document Control

## Change Record

Version	Authors	Date	Change Reference
2.1 (Draft)	MS	01/08/07	Merger of Policy and Process; General Updating
2.2 (Draft)	MS	25/09/07	Revision
2.3 (Draft)	MS	26/09/07	General Updating and Finalising of Draft
2.4 (Draft)	MS	12/11/07	Revision Following update of Policy (implementing the Qual. Dir.)
2.5 (Draft)	MS	03/03/08	Revision; restructuring and streamlining of separate policy and process
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2.7 (Draft)	MS	03/04/08	Revision following circulation of v2.6 for comment; BIA to UKBA in light of Agency name change
2.8 (Draft)	JR	14/05/08	Revision of Processes and Procedures Section 7
2.9 (Draft)	JR	29/05/08	Final Revisions; Draft Prepared for Submitting to UNHCR to Review
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2.11 (Draft)	MS	29/07/08	Updated. (1) Changes to Hyperlinks so as to make them POISE   TBC; (2) "AOPU" Replaced by "OPPI" (3) replacement of "AI" to more generic "Instruction" to reflect restructure; (4) Removal of Section 2.8 re: Burden & Standard of Proof;
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